

18 January 1954

Chief, Legal Office, OTSG

MD-63 - Dr. Oughterson

Contract MD-63 by its very terms expired on 31 March 1953. Any proposed modification now, combining the previously suggested modifications 4 and 5, would have no legal effect on the expired contract.

Ordinarily a contractor dealing with the government can rely only on written instruments. Here, it appears that an informal commitment to support Dr. Oughterson's work at cost through completion of his book was made. Fortunately relief may be afforded Dr. Oughterson under the provisions of Title II, First War Powers Act through the authority provided to formalize informal commitments. This authority may be exercised whether the informal commitment occurred before March 31, 1953 and consisted of an understanding that the term of the expiring contract would be extended, or after March 31, 1953, if it consisted of an understanding that there was to be an entirely new contract.

The conditions under which an informal commitment may be formalized and the procedure to be followed in formalizing an informal commitment is set forth in APP 1-909. In view of the fact that OTSG's informal commitment (assumed) emanated from the R&D Division, it is suggested that the R&D Division obtain the completed papers required by APP 1-909.2 to process the application.

The services of this office are of course available to lend assistance on any difficulties encountered.

cc: Contracting Officer

DAVID E. MARCHUS  
Major, MSC  
Chief, Legal Office

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