**Construction Law multiple-choice questions [emphasis on construction contract basics]**

**Notes: These questions are primarily intended for use in law school courses; for courses in other programs, some of these questions may require clarifications or modifications to adjust for the students’ more limited exposure to some legal concepts. Because these questions are offered for review purposes, an answer key is included at the end of the questions.**

1. In which one of the following circumstances is an owner more likely to use the design-bid-build project delivery system rather than the design-build project delivery system?
   1. In a public-private partnership.
   2. When the owner’s primary concerns are establishing a reliable budget and maintaining a level of owner involvement throughout the project.
   3. When the owner’s primary concern is achieving the earliest possible completion date.
   4. In a fast-track project.
2. Which one of the following statements is true with respect to federal construction contracts?
   1. Federal construction contracts are normally governed by federal procurement laws and are subject to federal regulations, such as the Federal Acquisition Regulation.
   2. Federal construction contracts are normally governed by state contract law for the state in which the project is located.
   3. The local courts in the state or other jurisdiction in which the project is located generally have jurisdiction to resolve disputes that arise between the government and a general contractor under a federal construction contract.
   4. A well-established doctrine of the U.S. Court of Appeals for the Federal Circuit provides that a contractor under a federal construction contract is entitled to rely on orders and decisions communicated to the contractor by a resident engineer who is physically stationed at the project site provided that the engineer is a federal employee.
3. What does the term “contract documents” mean as that term is commonly used in construction contracts?
4. It refers to all documents, including drawings and technical specifications and other documents describing the work to be performed pursuant to the contract or relating to the terms and conditions governing the performance of the parties to the contract.
5. It refers to the final design documents issued by the project’s lead design professional, plus the contractor’s clarifications and allowances.
6. It refers to all contracts entered into between any two or more participants in the project, such as the owner-design professional agreement, the owner-contractor agreement, consulting agreements entered into by the lead design professional, and all subcontracts, and agreements and purchase orders for equipment and materials to be incorporated into the project.
7. It refers to all documents relating to design and construction of the project that fall within the parol evidence rule.
8. Which one of the following statements is true about industry form contracts?
9. Practically all industry form contracts have been developed by an organization in which architects, engineers, general contractors, subcontractors, and suppliers have equal representation.
10. Although using industry form contracts will often save costs, experienced construction lawyers rarely use them.
11. Although some standard industry form contracts commonly in use may have a bias toward the industry group that publishes and promotes those forms, using them is often efficient because they are likely to be understood by experienced industry participants and their legal counsel.
12. It is rarely appropriate for a lawyer to make changes to standard industry form contracts; a lawyer who is not fully satisfied with an industry form should prepare a manuscript document.
13. Which one of the following statements correctly describes a key distinction between design specifications and performance specifications?
14. Design specifications are normally used only in design-build projects, while performance specifications are normally used when an owner retains a construction manager as agent.
15. Design specifications are based mostly on published reference standards, while performance specifications are tailored so that they can be satisfied only if a particular manufacturer’s equipment is used.
16. Design specifications describe with a great degree of specificity such details as the quantity and quality of the work to be performed and the materials to be used, while performance specifications specify the end result required rather than the means to that end.
17. Design specifications are provided by the owner’s design team, while performance specifications are provided by the construction team.
18. In a design-build project, what is the most common reason that a guaranteed maximum price (GMP) for the work to be performed by the design-builder will not be established at the time the contract between the owner and the design-builder is signed?
19. Design-build projects are almost always priced on a cost-plus basis without any cap on the final price the owner will be obligated to pay.
20. In a design-build project that contemplates a GMP, the design-builder will normally be unwilling to estimate costs of the work until the owner has approved the final plans and specifications for the project.
21. In a design-build project that contemplates a GMP, the owner will normally decline to accept a GMP proposal from the design-builder until the owner has approved the final plans and specifications for the project.
22. In a design-build project that contemplates a GMP, the design-builder will normally base its GMP proposal on owner-approved design details for the project that are more complete than the design details established at the time the contract between the owner and the design-builder is signed.
23. On a project for construction of a commercial building, the project owner supplied to the general contractor a complete set of plans and specifications for the building prepared by an architect hired by the owner. Those plans and specifications proved to be seriously defective. As a result of the problems with the plans and specifications, the general contractor’s progress was significantly delayed, which caused the contractor to incur additional expenses to complete the work. The general contractor is a relatively new business. Some of the defects in the plans and specifications would probably have been obvious to a more experienced general contractor. Under these circumstances, which one of the following statements is correct?
24. While the owner cannot use the Spearin Doctrine as a valid basis for a potential claim against the architect for any damages the owner incurred that are attributable to the defective design, the Spearin Doctrine may provide a valid basis upon which the contractor could base a claim against the owner for the contractor’s damages attributable to the defective design, although an exception to the protection afforded to the contractor under the Spearin Doctrine may apply with respect to design defects that would have been obvious to a more experienced contractor.
25. The Spearin Doctrine may provide to both the owner and the contractor a valid basis for a potential claim against the architect for damages attributable to the defective design, although an exception to the protection afforded to the contractor under the Spearin Doctrine may apply with respect to design defects that would have been obvious to a more experienced contractor.
26. The Spearin Doctrine may provide to the contractor a valid basis for a potential claim against the owner for damages attributable to the defective design, and the fact that certain of the design defects might have been obvious to a more experienced contractor has no relevance to the potential application of the Spearin Doctrine.
27. Under the Spearin Doctrine, the potential liability of the architect to either the owner or the contractor for damages attributable to the design defect will depend on whether the owner or the contractor can prove through expert testimony that any of the design defects breached the architect’s professional standard of care.
28. Which one of the following is an example of a contract administration service that an architect commonly provides in connection with a design-bid-build project?
29. Establishing a guaranteed maximum price for construction of the project,
30. Reviewing the contractor’s progress payment requests and making recommendations to the owner with respect to those requests.
31. Advising the contractor whether to terminate a subcontract due to the subcontractor’s default.
32. Assisting the owner in securing construction financing for the project.

**Answer key**

**1 = b**

**2 = a**

**3 = a**

**4 = c**

**5 = c**

**6 = d**

**7 = a**

**8 = b**