

SUBCHAPTER F—SPECIAL CATEGORIES OF CONTRACTING

PART 3536—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

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Subpart 3536.1—General

3536.101 Applicability.

(a) Construction, which includes alteration, maintenance, and repair of real property, and architect-engineer contracts are subject to the requirements in other parts of this regulation, which shall be followed when applicable.

(b) When a requirement in this part is inconsistent with a requirement in another part of this regulation, this part 3536 shall take precedence if the acquisition of architect-engineer services is involved.

3536.103 Methods of contracting.

(a) Notwithstanding the exception in FAR 36.103(a) for contracts to be performed outside the United States, construction in Panama shall be acquired using sealed bid procedures, unless one of the four conditions in FAR 6.401(a) cannot be met. In that event, the contracting officer shall document the contract file in accordance with FAR 6.401.

(b) Contracting officers shall acquire architect-engineer services by negotiation, and select sources in accordance with applicable law, FAR subpart 36.6, and subpart 3536.6 of this regulation.

Subpart 3536.2—Special Aspects of Contracting for Construction

3536.201 Evaluation of contractor performance.

(a) *Preparation of performance evaluation reports.* The authorized representative of the contracting officer (COR) shall prepare the contractor performance report prescribed in FAR 36.201 within two weeks after final acceptance of the work or contract termination. Prior to submitting any report of unsatisfactory performance to the reviewing official, the COR shall advise the contractor of any proposed unsatisfactory rating and include any written comments from the contractor regarding such rating in the report (see FAR 36.201(a)(3)).

3536.203

(b) *Review of performance reports.* The contracting officer shall review each performance report.

(c) *Distribution and use of performance reports.* Information from the performance report shall not be released outside of the Commission, except to other Government agencies at their written request, and on condition that the information will not be made available outside the Government. Requests from non-Government sources for information from performance reports shall be processed in accordance with 35 CFR part 9.

3536.203 Government estimate of construction costs.

(c) The overall amount of the Government's estimate shall not be disclosed prior to award under any circumstance to persons other than Commission personnel whose official duties, as determined by the contracting officer, require knowledge of the estimate.

3536.207 Pricing fixed-price construction contracts.

3536.207-70 Use of indefinite-delivery contracts.

Any of the forms of indefinite-delivery contracts described in FAR subpart 16.5 may be used to contract for construction when deemed appropriate by the contracting officer.

3536.209 Construction contracts with architect-engineer firms.

No contract for construction shall be awarded to the firm, or its subsidiaries or affiliates, that designed the project except with the approval of the Head of Contracting Activity.

3536.270 Special aspects of contracting for construction in Panama.

3536.270-1 General.

In contracts which are entered into with Panamanian or other foreign contractors for performance in Panama, the term "United States" shall appear before the word "Government."

3536.270-2 Special contract considerations.

When construction is to be performed in the Republic of Panama by des-

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ignated United States contractors, Panamanian contractors, or others, the solicitation and contract should include references to the applicable laws, regulations, treaties, and agreements of the United States and the Republic of Panama (see subpart 3525.8) relating to:

(a) The duty-free importation of material and equipment;

(b) The payment of taxes applicable to contractors, personnel, materials, and equipment (see parts 3525 and 3529);

(c) The applicability of workmen's compensation laws and other labor laws to citizens of the United States, citizens of Panama, and citizens of other countries (see subpart 3528.3);

(d) The provision of utility services;

(e) The provision of Commission or Government-owned materials or services;

(f) The disposition of surplus materials and equipment;

(g) The need for civil liability insurance for employees of contractors and subcontractors (see 3528.301);

(h) The handling of claims and litigation;

(i) The requirements for bid or proposal guarantees, performance bonds, and payment bonds (see subpart 3528.1);

(j) Acceptability of sureties not listed in Treasury Department Circular 570 (see subpart 3528.2);

(k) Consideration of Panamanian preference in accordance with part 3570;

(l) Any other special solicitation provisions prescribed in subpart 3536.3; and

(m) Any other problems which can be foreseen and appropriately resolved contractually.

Subpart 3536.3—Special Aspects of Sealed Bidding in Construction Contracting

3536.303 Invitations for bids.

3536.370 Additive items.

Prior to the issuance of an invitation for bids, the contracting officer shall ascertain that adequate funds have been certified as being available for the proposed acquisition. However, if funds