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(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

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appear to be insufficient for all features of the Government's requirement, the contracting officer shall insert in the invitation a solicitation provision for a base bid and one or more additive items, as prescribed at 3536.371(a) (7) or (8).

### 3536.371 Solicitation provisions.

(a) The contracting officer shall insert the following provisions in invitations for bids for construction when applicable:

(1) The provision at 3552.214-70, Price—Sealed Bidding, as prescribed at 3514.201-6(a)(1);

(2) The provision at 3552.214-71, Additional Data To Be Submitted, as prescribed at 3514.201-6(b)(1);

(3) The provision at 3552.214-72, Rejection of Bids, as prescribed at 3514.201-6(b)(2);

(4) The provision at 3552.214-73, Caution—Sealed Bidding, as prescribed at 3514.201-6(a)(2);

(5) The provision at 3552.214-75, All or None Award—Sealed Bidding—Construction, as prescribed at 3514.201-6(d);

(6) The provision at 3552.236-70, Mailing of Correspondence and Bids, in all invitations for bids for construction;

(7) The provision at 3552.236-71, Additive Items, in invitations for bids for construction that contain one or more additive bid items to be awarded with the base bid item in the numerical order of priority that the additive bid items appear in the bid schedule within the funds available;

(8) The provision at 3552.236-71, Additive Items—Alternate I, in invitations for bids for construction that contain one or more additive bid items to be awarded with the base bid item in any combination within the funds available; and

(9) The provision at 3552.236-72, Cost Limitation, in invitations for bids for construction that contain one or more items subject to statutory cost limitations, except when a waiver has been granted pursuant to FAR 36.205.

(b) The contracting officer shall insert the following provisions in negotiated solicitations for construction when applicable:

(1) The provision at 3552.215-70, Price, as prescribed at 3515.407(a)(1);

(2) The provision at 3552.215-71, Caution, as prescribed at 3515.407(a)(2); and

(3) The provision at 3552.215-72, All or None Award, as prescribed at 3515.407(b).

(c) The contracting officer shall insert the provision at 3552.209-70, Organizational Conflict of Interest Certification/Disclosure, in invitations for bids and negotiated solicitations for construction when applicable, as prescribed at 3509.508-1.

## Subpart 3536.5—Contract Clauses and Form

### 3536.570 Special Panama Canal Commission contract clauses.

The contracting officer shall insert the following clauses in solicitations and contracts for construction when applicable:

(a) The clause at 3552.225-70, Language, as prescribed at 3525.801-76(a);

(b) The clause at 3552.225-71, Notice of Applicability of United States Federal Law, as prescribed at 3525.801-76(b);

(c) The clause at 3552.225-72, Designated Contractors, as prescribed at 3525.801-76(c);

(d) The clause at 3552.225-73, Responsibility for Observance of Laws, Orders, and Regulations, as prescribed at 3525.801-76(d);

(e) The clause at 3552.228-70, Bid Guarantee Amount, or the clause at 3552.228-75, Proposal Guarantee, as prescribed at 3528.101-3(a). If the proposal guarantee clause is used, the bid guarantee clause at FAR 52.228-1 shall not be used (see 3528.101-3(b));

(f) The clause at 3552.228-71, Bonds and Insurance, as prescribed at 3528.102-3;

(g) The clause at 3552.228-72, Bonds, as prescribed at 3528.102-3;

(h) In addition to FAR clause 52.228-3, Workers' Compensation Insurance (Defense Base Act), the clause at 3552.228-73, Non-U.S. Workers' Compensation Insurance, as prescribed at 3528.309(a);

(i) The clause at 3552.228-74, Special Panama Insurance, as prescribed at 3528.370;

(j) In addition to FAR clause 52.232-5, Payments Under Fixed-Price Construction Contracts, the clause at 3552.232-70, Contract Payments, as prescribed at