

Environmental Protection Agency

1536.201

Fungicide, and Rodenticide Act, Confidential Business Information, when the contract involves access to confidential business information related to the Federal Insecticide, Fungicide, and Rodenticide Act, and the Treatment of Confidential Business Information clause (48 CFR 1552.235-71) and the Screening Business Information for Claims of Confidentiality clause (48 CFR 1552.235-70) are included.

(e) The Contracting Officer shall insert the clause at 48 CFR 1552.235-78, Data Security for Toxic Substances Control Act Confidential Business Information, when the contract involves access to confidential business information related to the Toxic Substances Control Act, and the Treatment of Confidential Business Information clause (48 CFR 1552.235-76) and Screening Business Information for Claims of Confidentiality clause (48 CFR 1552.235-70) are included.

(f) Contracting Officers shall insert the clause 48 CFR 1552.235-79, Release of Contractor Confidential Business Information, in all solicitations and contracts in order to authorize the Agency to release confidential business information under certain circumstances.

(g) Contracting officers shall insert the clause at 1552.235-80, Access to Confidential Business Information (CBI), in all types of contracts when it is possible that it will be necessary for the contractor to have access to CBI during the performance of tasks required under the contract.

[49 FR 8862, Mar. 8, 1984; 49 FR 24734, June 15, 1984, as amended at 61 FR 14265, Apr. 1, 1996; 61 FR 57339, Nov. 6, 1996; 65 FR 58923, Oct. 3, 2000]

PART 1536—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

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AUTHORITY: 5 U.S.C. 301; Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c); and 41 U.S.C. 418b.

SOURCE: 49 FR 8863, Mar. 8, 1984, unless otherwise noted.

Subpart 1536.2—Special Aspects of Contracting for Construction

1536.201 Evaluation of contracting performance.

(a) The Contracting Officer will obtain input from the Project Officer on the contractor's performance. The Contracting Officer will prepare the contractor performance report as prescribed in FAR 36.201 within two weeks after final acceptance of the work or contract termination.

(b) Prior to submitting any report or unsatisfactory performance to the reviewing official, the Contracting Officer will advise the contractor of any proposed unsatisfactory rating (see FAR 36.201(a)(3)).

(c) The official at one level above the Contracting Officer will review each performance report.

(d) The Contracting Officer will forward the original of the performance report to the Quality Assurance Branch, Office of Acquisition Management. The Quality Assurance Section will file the form in the contractor performance evaluation files which it maintains.

(e) The Quality Assurance Branch will review the report when it is received and compare it with recent evaluations of that contractor. If the Quality Assurance Section discerns a pattern of unsatisfactory performance, it will notify the Contracting Officer for possible action, which may include referral of the matter to the Compliance Staff or to the Inspector General for investigation.

(f) Information from the performance report shall not be released outside of the Agency, except to other Government agencies at their written request, and on condition that the information

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will not be made available outside the Government. Requests from non-Government sources for information from performance reports shall be processed in accordance with EPA's Freedom of Information Act procedures at 40 CFR part 2.

[49 FR 8863, Mar. 8, 1984, as amended at 59 FR 18977, Apr. 21, 1994]

1536.209 Construction contracts with architect-engineer firms.

(a) The provisions of FAR 36.209 do not apply to subcontractors performing treatability studies.

(b) The provisions of FAR 36.209 also do not apply to subcontractors whose input during the design phase does not substantially affect the course of the design work.

(c) Approval under FAR 36.209 is not required for subcontractors under paragraph (a) or (b) of this section. Approval for all other subcontractors and prime contractors may be granted by the CCO. In reviewing requests for approval, the RAD shall consider factors such as the availability of other firms to perform the necessary construction or Superfund remedial action work, the estimated cost to the Government, and the policy of the Agency to promote the use of innovative technology.

[55 FR 49283, Nov. 27, 1990, as amended at 59 FR 18977, Apr. 21, 1994]

Subpart 1536.5—Contract Clauses

1536.521 Specifications and drawings for construction.

The Contracting Officer shall insert the clause at 1552.236-70, Samples and Certificates, in solicitations and contracts when a fixed price construction contract is expected to exceed the small purchase limitation. The clause may be inserted in solicitations and contracts when the contract is expected to be within the small purchase limitation.

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Subpart 1536.6—Architect-Engineer Services

1536.602 Selection of firms for architect-engineer contracts.

1536.602-2 Establishment of evaluation boards.

(a) The Environmental Protection Agency Architect-Engineer Evaluation Board is established as a central permanent Board located at Headquarters EPA under authority delegated to the Director, Office of Acquisition Management. The Board shall perform all architect-engineer evaluations on an agency-wide basis. The Agency Board shall be composed of not less than three nor more than five voting members and one non-voting advisory member from the contracting office. The following constitutes the minimum composition of the Architect-Engineer Evaluation Board:

(1) *Member and Chairperson.* Chief, Engineering, Planning, and Architecture Branch, Facilities Management and Services Division or his/her designee;

(2) *Member.* A professional engineer or architect from EPA to be designated by the Chairperson;

(3) *Member.* A program official initiating the requirement or a designated representative; and

(4) *Advisory Member.* A Contracting Officer or his/her representative.

(b) The Service Center Manager (SCM) is delegated the authority to appoint either one or two additional voting members as may be appropriate for a particular project.

(c) In the event of an emergency or extended absence, a member may designate, in writing, with the concurrence of the Chairperson, an alternate experienced in architecture, engineering, or construction to serve in his/her absence.

(d) The duties of the advisory member shall include, but not be limited to, the following:

(1) Assuring that the criteria set forth in the public notice are applied in the evaluation process; and