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and suppliers to determine reasonably whether the work is of a nature and volume to warrant their buying plans;

(b) Specify the date by which bidders should return the request card in order to receive a complete bid set;

(c) State the various locations (offices) where plans will be on public display, available for inspection without charge; and

(d) Include for construction contracts a statement as to the approximate value of the proposed construction. That statement of value shall be in increments as follows: (1) Less than \$25,000; (2) the nearest multiple of \$25,000 up to \$100,000; (3) the nearest multiple of \$100,000 from \$100,000 to \$1 million; (4) the nearest multiple of \$500,000 for from \$1 million to \$10 million; (5) over \$10 million for all projects of greater estimated value.

Information on several projects for which invitations are scheduled to be issued may be grouped in one advance notice provided that information on any project or projects is not unduly delayed in order to be grouped with others. When an advance notice is used to circularize bidders, copies of the invitation, when issued, will be furnished only to those prospective bidders who have returned a request card indicating a desire to submit a bid.

[26 FR 11732, Dec. 7, 1961]

§210.2 Notice of award.

The successful bidder will be notified in writing of the acceptance of his bid. Under construction contracts, this notice may accompany the contract papers which are forwarded for execution. To avoid error, or confusing the notice of award with a notice to proceed, the notice of award will be substantially in the following format:

You are hereby notified that your bid dated _____ in the sum of \$ _____ covering _____ is accepted. A formal contract will be prepared for execution. Acceptable performance and payment bonds (if required) must be furnished upon execution of the formal contract. If approval of the contract is required by its express terms, the contract is not fully executed until such approval is obtained.

Under supply contracts a written award mailed (or otherwise furnished)

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to the successful bidder either on Standard Form 26 or Standard Form 33, results in a binding contract without further action by either party.

[26 FR 11732, Dec. 7, 1961]

§210.3 Notice to proceed.

(a) *General.* When the contract specifies the time when the contractor is to proceed with the work under the contract, a notice to proceed will not be required. However, in any case where the contract requires the issuance of a notice to proceed the notice will fix the time for the commencement of the work and also, if appropriate, will fix the time for the completion of the work. The notice to proceed should be issued on a form letter, reproduced on local letterhead paper from a master copy, which will preclude repetitive typing of stereotype data. The notice to proceed will be executed in a sufficient number of copies to meet the contract distribution requirements in paragraph 30-206, Engineer Contract Instructions (ER 1180-1-1), and will bear the contract number in the upper right-hand corner of the notice.

(b) *Contractor's acknowledgment.* When a notice to proceed is issued, the contractor will acknowledge receipt thereof by signing and dating all copies of the acknowledgment and returning all but one copy to the contracting officer.

(c) *Proceeding before approval of bonds.* It is not necessary to delay commencement under the contract pending approval of bonds by The Judge Advocate General. Such action will be at the discretion of the contracting officer. In the event exceptions are taken to the bonds the contractor will immediately take steps to remove such exceptions or submit new bonds.

(d) *Commencing performance.* Contractors in no case will be required to commence performance prior to the commencement date fixed in the contract or in the notice to proceed. If they voluntarily do so and the contract is not ultimately signed, or approved when required, such action is at their own risk and without liability on the part of the Government. Contractors will not be required to commence performance until:

(1) Performance and payment bonds have been furnished, when required;

(2) The award has been approved when approval is required; and

(3) Notice to proceed has been forwarded to the contractor where required.

[26 FR 11732, Dec. 7, 1961]

§210.4 Rules of the Corps of Engineers Board of Contract Appeals for cases not subject to the Contract Disputes Act of 1978.

(a) *Preface to rules.* (1) The Corps of Engineers Board of Contract Appeals is the authorized representative of the Chief of Engineers for the purpose of hearing, considering and determining, as fully and finally as he might, appeals by contractors from decisions of contracting officers or their authorized representative or other authorities on disputed questions, taken pursuant to the provision of contracts requiring the determination of such appeals by the Chief of Engineers or his duly authorized representative or Board.

(2) When an appeal is taken pursuant to a disputes clause in a contract which limits appeals to disputes concerning questions of fact, the Board may in its discretion hear, consider and decide all questions of law necessary for the complete adjudication of the issue. In the consideration of an appeal, should it appear that a claim is involved which is not cognizable under the terms of the contract, the Board may make findings of fact with respect to such a claim without expressing an opinion on the question of liability.

(3) Emphasis is placed upon the sound administration of these rules in specific cases, because it is impracticable to articulate a rule to fit every possible circumstance which may be encountered. These rules will be interpreted so as to secure a just and inexpensive determination of appeals without unnecessary delay.

(4) Preliminary procedures are available to encourage full disclosure of relevant and material facts, and to discourage unwarranted surprise. The parties are expected to cooperate and to voluntarily comply with the intent of such procedures without resort to the Board except on controversial questions. The Board may order exchange of complicated exhibits prior to hearing in order to expedite the hearing.

(5) All time limitations specified for various procedural actions are computed as maximums, and are not to be fully exhausted if the action described can be accomplished in a lesser period. These time limitations are similarly eligible for extension in appropriate circumstances, on good cause shown.

(6) Whenever reference is made to contractor, appellant, contracting officer, respondent and parties, this shall include respective counsel for the parties, as soon as appropriate notices of appearance have been filed with the Board.

(b) *Rule 1, Appeals, how taken.* Notice of an appeal must be in writing and the original, together with two copies, may be filed with the contracting officer from whose decision the appeal is taken. The notice of appeal shall be mailed or otherwise filed within the time specified therefor in the contract or allowed by applicable provision of directive or law.

(c) *Rule 2, Notice of appeal, contents of.* A notice of appeal should indicate that an appeal is thereby intended, and should identify the contract (by number) and the decision from which the appeal is taken. The notice of appeal should be signed personally by the appellant (the contractor making the appeal), or by an officer of the appellant corporation or member of the appellant firm, or by the contractor's duly authorized representative or attorney. The complaint referred to in Rule 6 may be filed with the notice of appeal, or the appellant may designate the notice of appeal as a complaint, if it otherwise fulfills the requirements of a complaint.

(d) *Rule 3, Forwarding of appeals.* When a notice of appeal in any form has been received by the contracting officer, he shall endorse thereon the date of mailing (or date of receipt, if otherwise conveyed) and within 10 days shall forward said notice of appeal, together with a copy of the decision appealed from, to the Board. Following receipt by the Board of the papers described in the next rule (Rule 4), the contractor will be promptly advised of its receipt and that the appeal is then considered docketed, and the contractor will be furnished a copy of these rules.