Part 536 - Construction and Architect-Engineer Contracts

Subpart 536.1 - General

536.101 Applicability.

536.102 Definitions.

Subpart 536.2 - Special Aspects of Contracting for Construction

536.270 Options in construction contracting.

536.270-1 Use of options.

536.270-2 Solicitations.

536.270-3 Evaluation.

536.270-4 Exercise of options.

536.270-5 Solicitation provisions and contract clauses.

Subpart 536.5 - Contract Clauses

536.506 Superintendence by the contractor.

536.511 Use and possession prior to completion.

536.515 Schedules for construction contracts.

536.521 Specifications and drawings for construction.

536.570 Authorities and limitations.

536.571 Contractor responsibilities.

536.572 Submittals.

536.573 Subcontracts.

Subpart 536.6 - Architect-Engineer Services

536.602 Selection of firms for architect-engineer contracts.

536.602-1 Selection criteria.

Subpart 536.70 - Art in Architecture.

Subpart 536.71 - Construction-Manager-as-Constructor Contracting

536.7101 Scope of Subpart.

536.7102 Definitions.

536.7103 Construction Contract Solicitation Procedures.

536.7104 Construction Contract Award.

536.7105 Construction Contract Administration.

536.7105-1 Responsibilities.

536.7105-2 Guaranteed Maximum Price.

536.7105-3 Accounting and Auditing Requirements.

536.7105-4 Value Engineering.

536.7105-5 Shared Savings Incentive.

536.7105-6 Allowances.

536.7105-7 Early Work Packages.

536.7105-8 Conversion to Firm-Fixed-Price.

536.7106 Construction Contract Closeout.

536.7107 Contract Clauses (FAR DEVIATION).

Parent topic: General Services Administration Acquisition Manual

Subpart 536.1 - General

536.101 Applicability.

This part supplements FAR 36 policies and procedures applicable to contracting for construction and architect engineer services. Contracts for construction management services are covered by FAR 37 and GSAM part_537. part_536 shall take precedence when the acquisition involves (1) construction or architect-engineer services, and (2) when the requirement is inconsistent with another part of the GSAR.

536.102 Definitions.

“Construction activity” means the organizational level of the agency that has authority and responsibility for the architectural, engineering, and other technical or administrative aspects of design and construction.

“Construction-Manager-as-Constructor” (CMc) means the project delivery method where design and construction are contracted concurrently through two separate contracts and two separate contractors. Unlike the traditional design-bid-build delivery method, under the CMc delivery method, the Government awards a separate contract to a designer *(i.e.*, architect-engineer contractor) and to

a construction contractor (*i.e.*, CMc contractor) prior to the completion of the design documents. The Government retains the CMc contractor during design to work with the architect-engineer contractor to provide constructability reviews and cost estimating validation. The CMc contract includes design phase services at a firm-fixed-price and an option for construction at a guaranteed maximum price.

“Statutory cost limitations” means the cost limits included in the agency’s statutory authorization or annual appropriations act (by law).

Subpart 536.2 - Special Aspects of Contracting for Construction

536.270 Options in construction contracting.

536.270-1 Use of options.

(a) Subject to the limitations in this section, contracting officers may include options in contracts when it is in the Government's interest.

(b) The scope of work in the base contract at award shall require the contractor to provide a discrete and fully functional deliverable. Options shall not be used to incrementally deliver work required to fulfill the requirements of the scope of work for the base contract.

(c) Contracting officers shall justify in writing the use of options.

(d) Including an option may be in the Government's interest when, in the judgment of the contracting officer:

(1) Additional work beyond the base contract is reasonably foreseeable

(2) It would not be advantageous to award a separate contract;

(3) It would not be advantageous to permit an additional contractor to work on the same site;

(4) Services arising out of or relating to the underlying construction contract may be required during or after substantial completion of the scope of work. For instance, if building equipment (*e.g.*, mechanical and electrical equipment) will be installed under the construction contract, it may be advantageous to have the construction contractor maintain and service the equipment. In such an instance, the services performed may be included as an option to the underlying construction contract. Contracting officers shall ensure that the applicable clauses are included in any such option (*e.g.*, Service Contract Act); or

(5) It is otherwise justified.

(e) Options for construction work may provide for an economic price adjustment based on cost or price indexes of labor or materials (see FAR 16.203-4(d)). Subject to the approval of the Head of the Contracting Activity (HCA), the contracting officer may develop and insert a project-specific price adjustment clause into the solicitation.

536.270-2 Solicitations.

Solicitations containing options shall:

(a) Include appropriate option provisions and clauses when resulting contracts will provide for the exercise of options (see 536.270-5);

(b) State the period within which the options may be exercised; and

(c) State whether the basis of evaluation is inclusive or exclusive of the options (if exclusive, see 536.270-4(c)).

536.270-3 Evaluation.

For sealed bidding that includes options:

(a) The low bidder for purposes of award is the responsible bidder offering the lowest aggregate price for the base bid and all options designated to be evaluated.

(b) Before opening bids that include options, the contracting officer must determine, and record in the contract file, the amount of funds available for the project. The amount recorded must be announced at the beginning of the bid opening. This amount may be increased later when determining the items to be awarded to the low bidder if the following condition is met: the award amount of the base bid and evaluated options does not exceed the amount offered for the base bid, the evaluated options, and the same combination of items by any other responsible bidder whose bid conforms to the solicitation. This requirement prevents the displacement of the low bidder by manipulating the options to be used.

536.270-4 Exercise of options.

(a) The contracting officer shall exercise options in writing within the time period specified in the contract.

(b) The contracting officer may exercise options only after determining, in writing, that all the following conditions exist:

(1) Funds are available.

(2) The requirement covered by the option fulfills an existing Government need.

(3) Exercising the option is the most advantageous method of satisfying the Government's need, price and other factors considered.

(4) The contractor is not listed in the System for Award Management Exclusions (see FAR 9.405-1).

(5) The contractor's performance under the contract met or exceeded the Government's expectation for quality performance, unless another circumstance justifies an extended contractual relationship.

(6) Exercising the option is in accordance with the terms of the option.

(7) The option price is fair and reasonable, unless already determined as such (*e.g.*, at time of award).

(c) The contract modification, or other written document which notifies the contractor of the exercise of the option, must cite the option clause as authority. If exercising an unpriced or unevaluated option, cite the statutory authority permitting the use of other than full and open competition (see FAR 6.302).

(d) When the contract provides for economic price adjustment and the contractor requests a revision of the price, the contracting officer shall determine the effect of the adjustment on prices under the option before the option is exercised.

536.270-5 Solicitation provisions and contract clauses.

(a) Insert a provision substantially the same as the provision at 552.236-74, Evaluation of Options, in solicitations for fixed-price construction contracts when the solicitation contains an option clause and options will be included in the evaluation for award purposes.

(b) Insert a provision substantially the same as the provision at 552.236-75, Evaluation Exclusive of Options, in solicitations for fixed-price construction contracts when the solicitation includes an option clause and options will not be included in the evaluation for award purposes.

(c) Insert a provision substantially the same as the provision at 552.236-76, Basis of Award-Sealed Bidding Construction, in solicitations for fixed-price construction contracts when contracting by sealed bidding. Use the provision with its Alternate I when the solicitation contains an option clause.

(d) Insert a clause substantially the same as the clause at 552.236-77, Government's Right to Exercise Options, in solicitations and contracts for construction that include options.

Subpart 536.5 - Contract Clauses

536.506 Superintendence by the contractor.

Insert the clause at 552.236-6, Superintendence by the Contractor, in solicitations and contracts if construction, dismantling, demolition, or removal of improvements is contemplated.

536.511 Use and possession prior to completion.

Insert the clause at 552.236-11, Use and Possession Prior to Completion, in solicitations and contracts if construction, dismantling, demolition, or removal of improvements is contemplated.

536.515 Schedules for construction contracts.

Insert the clause at 552.236-15, Schedules for Construction Contracts, in solicitations and contracts if construction, dismantling, demolition, or removal of improvements is contemplated. Use the

clause-

(a)With its Alternate I when the contract amount is expected to exceed the simplified acquisition threshold and a design-bid-build project delivery method will be followed; or

(b)With its Alternate II when the contract amount is expected to exceed the simplified acquisition threshold and a design-build project delivery method will be followed.

(c)With its Alternate III when the contract amount is expected to exceed the simplified acquisition threshold and a construction-manager-as-constructor project delivery method will be followed.

536.521 Specifications and drawings for construction.

Insert the clause at 552.236-21, Specifications and Drawings for Construction, in solicitations and contracts if construction, dismantling, demolition, or removal of improvements is contemplated. Use the clause with its Alternate I when a design-build project delivery method will be followed—

(a) With its Alternate I when a design-build project delivery method will be followed.

(b) With its Alternate II when a construction-manager-as-constructor project delivery method will be followed.

536.570 Authorities and limitations.

Insert the clause at 552.236-70, Authorities and Limitations, in solicitations and contracts if construction, dismantling, demolition, or removal of improvements is contemplated.

536.571 Contractor responsibilities.

Insert the clause at 552.236-71, Contractor Responsibilities, in solicitations and contracts if construction, dismantling, demolition, or removal of improvements is contemplated. Use the clause:

(a) With its Alternate I when a design-build project delivery method will be followed.

(b) With its Alternate II when a construction-manager-as-constructor project delivery method will be followed.

536.572 Submittals.

Insert the clause at 552.236-72, Submittals, in solicitations and contracts if construction, dismantling, demolition, or removal of improvements is contemplated. Use the clause with its Alternate I when a design-build project delivery method will be followed.

536.573 Subcontracts.

Insert the clause at 552.236-73, Subcontracts, in solicitations and contracts if construction, dismantling, demolition, or removal of improvements is contemplated.

Subpart 536.6 - Architect-Engineer Services

536.602 Selection of firms for architect-engineer contracts.

536.602-1 Selection criteria.

(a) FAR 36.602-1 requires that agencies include "location in the general geographical area of the project and knowledge of locality of the project" as one of several selection criteria.

(1) Do not use this evaluation factor as a minimum qualification requirement for determining whether a firm is eligible to compete for a proposed project.

(2) This factor must not exceed 5 percent of the total weight of all evaluation criteria. In order to receive the maximum score for this factor, the architect-engineer firm(s) must demonstrate that at least 35 percent of the architect-engineer contract services (based on the total contract price) will be accomplished within the geographical boundaries established for the project.

(3) FAR Deviation. Under an approved class deviation from FAR 36.602-1(a)(5), this factor does not apply to projects that the Chief Architect of GSA determines have national significance.

(4) For procurements that are not project specific, such as indefinite-delivery indefinite-quantity contracts, evaluate based on the geographical area(s) covered by the contract.

(b) The public announcement for a proposed project should identify the general geographical area of the project such as:

(1) A radius in miles or other appropriate unit of measure, or

(2) The Metropolitan Statistical Area, county(ies), or state(s) surrounding the project.

(c) For more information on the Architect Engineer selection process, see the GSA Design Excellence Policies and Procedures at http://gsa.gov/designexcellence.

Subpart 536.70 - Art in Architecture.

Subpart 536.71 - Construction-Manager-as-Constructor Contracting

536.7101 Scope of Subpart.

This subpart describes policies and procedures for the use of the CMc project delivery method.

536.7102 Definitions.

As used in this subpart—

“CMc Contingency Allowance (CCA)” means an allowance for the exclusive use of the construction contractor to cover reimbursable costs during construction that are not the basis of a change order. These costs could include estimating, scheduling, and planning errors in the final Estimated Cost of the Work (ECW) or other contractor errors.

“Cost” means allowable costs in accordance with FAR Part 31.

“Cost of Performance” means the final sum of cost of the construction work and fee for the construction work.

“Early Work Package” means a set of construction activities that can be clearly defined and separately performed from the remainder of the construction work. Demolition is an example of an early work package.

“Estimated Cost of the Work (ECW)” means the estimated cost of the construction work, not including home office overhead.

“Fee for the Construction Work” means the amount established in the construction contract for the contractor's profit and home office overhead costs, as described in FAR part 31, for the construction work.

“Guaranteed Maximum Price (GMP)” means the sum of the ECW, CCA, and the fee for the construction work.

536.7103 Construction Contract Solicitation Procedures.

(a) *Procurement Timing.* The request for proposals should be issued only when the project design requirements have been developed to a sufficient degree of specificity to permit competition with meaningful pricing for the ECW. The contracting officer should obtain written documentation for the contract file from the project manager that the project design requirements satisfy the condition stated in this section.

(b) *Proposal Evaluation.*

(1) *Evaluation Factors.*

(i) Except as provided in paragraph (ii) of this subsection, the solicitation shall provide that the technical evaluation factors, when combined, shall be considered significantly more important than cost or price.

(ii) Subject to the approval of the HCA, the weighting of the technical evaluation factors and cost or price may be different than that required under paragraph (i) of this subsection. Any such written approval shall be documented in the contract file.

(2) *Price Realism.* The contracting officer shall provide for a price realism analysis in the solicitation for the purpose of assessing, among others, whether an offeror's price reflects a lack of understanding of the contract requirements or risk inherent in an offeror's proposal. The solicitation

shall provide offerors with notice that the agency intends to perform a price realism analysis.

(3) *Total Evaluated Price.* For purposes of evaluation, the total evaluated price shall include the firm-fixed-price for design phase services, the construction work GMP option(s), and any other fixed-priced line items. If advance pricing elements such as extended overhead rates and daily delay rates are proposed, those shall also be evaluated as part of the total evaluated price.

(c) *Government Budget (e.g. Prospectus) Information.* Subject to the approval of the contracting director, the solicitation may include information contained or referenced within a prospectus submission to Congress for a project.

536.7104 Construction Contract Award.

In accordance with FAR 4.1001, the contracting officer shall use the SF 1442 to identify the services or supplies to be acquired as separately identified line items on a unit price or lump sum basis including the design phase services, the construction work GMP option(s), and any other work not included in the previously identified items.

536.7105 Construction Contract Administration.

536.7105-1 Responsibilities.

(a) During all phases of the project, the architect-engineer contractor that is providing design services under a separate contract with GSA is contractually responsible for the design in the same manner as under a traditional, design-bid-build project delivery method.

(b) The design phase services provided by the construction contractor can include, but are not limited to, scheduling, systems analysis, subcontractor involvement, cost-estimating, constructability reviews, cost-reconciliation services, and market analysis.

(c) The scope of work should task the construction contractor with reviewing the design documents and providing pricing information at various defined milestones during the design phase.

(d) During the design phase, the architect-engineer contractor and the construction contractor shall collaborate on the design and constructability issues. The goal of this collaboration is to establish a final ECW that does not exceed the original target ECW.

(e) No discussions between the architect-engineer contractor and the construction contractor shall be considered as a change to the construction contract or design contract unless incorporated by the contracting officer through a modification.

536.7105-2 Guaranteed Maximum Price.

(a) *General.*

(1) *GMP.*

(i) The GMP is the ceiling price described by FAR 16.403-2.

(ii) The GMP is established at contract award. The GMP may be established as one option or as multiple options through separate line items, with a separate GMP amount for each line item.

(iii) The GMP is subject to adjustment under various standard contract clauses, including the changes clause, differing site conditions clause, and suspensions clause.

(iv) The contract file shall contain all documents to support any scope changes including a separate analysis to document the rationale for any upward or downward adjustment to the GMP.

(2) *ECW.*

(i) The proposed ECW incorporated at construction contract award is the target ECW.

(ii) The final ECW should be established prior to completion of the design (i.e. 100 percent construction documents), generally no earlier than completion of 75 percent construction documents.

(iii) The contracting officer shall negotiate the final ECW and incorporate it into the construction contract through a bilateral modification prior to exercising the GMP option.

(3) *CCA.*

(i) The CCA type of allowance may only be used as part of the CMc project delivery method and should not be confused with other types of allowances that may be used with other construction project delivery methods.

(ii) The CCA provides for a contingency relative to a fixed percentage of the ECW, except for the requirements at paragraph (c)(3) of this subsection. The CCA at time of GMP option exercise is subject to negotiation between the contractor and the contracting officer and may be different than the amount at time of contract award.

(iii) The amount of the CCA will depend on the status of design and construction, as well as the complexity and uncertainties of the project. Early phase designs usually include less defined scope and, accordingly, may require a higher initial CCA at time of contract award. Later phase designs may remove uncertainties and reduce risk, allowing for a lower CCA at time of GMP option exercise.

(iv) The CCA shall not exceed 3 percent of the ECW, unless approved in writing by the HCA for a higher amount not to exceed 5 percent of the ECW.

(4) *Fee for the Construction Work.*

(i) The fee may be proposed per phase of construction if each phase is a separate option.

(ii) At time of proposal submission, the offeror shall submit a list of the items included within the offeror's home office overhead.

(iii) At time of proposal submission, the fee elements may be expressed as a percentage of the ECW, but shall be converted to a fixed amount prior to executing the GMP option.

(iv) The fee for the construction work is not increased or decreased based on fluctuations in the actual costs of the work. The fee may, however be adjusted for changes that are the basis for a change order, including scope changes, differing site conditions, and Government-caused delays.

(v) Any fee for the construction work associated with a change order shall not be driven by a fixed percentage. The contracting officer should determine whether the profit included, if any, in a contractor's proposal is reasonable, see FAR 15.404-4 for additional guidance. The limitations of GSAR 552.243-71, especially markups, still apply for any changes.

(b) *Design Phase.*

(1) The GMP may be bilaterally modified upward during the design phase only for approved additions to the scope of work.

(2) The GMP may be bilaterally modified downward during the design phase for deletions to the scope of work.

(c) *Exercising the GMP Option.*

(1) The GMP option shall not be exercised until the final ECW is established.

(2) If the sum of the final ECW, CCA, and fee for construction work is less than the GMP as established at contract award or as adjusted in accordance with FAR Part 43, then the contracting officer shall adjust the GMP downward accordingly through a bilateral modification to exercise the GMP option.

(3) If the sum of the final ECW, CCA, and fee for the construction work is greater than the GMP as established at contract award or as adjusted in accordance with FAR Part 43, then the contracting officer should work with the contractor to identify measures to reduce the overall GMP. Such measures may include reducing the CCA, reducing the fee, or as a last resort, reducing the scope of the project.

(4) The GMP option shall not be exercised if the final ECW, CCA, and fee for the construction work is greater than the GMP as established at contract award or as adjusted in accordance with FAR Part 43.

(d) *Construction Phase.*

(1) After award of the GMP option, changes in scope may be issued as an adjustment to the GMP or as a stand-alone firm-fixed-price line item.

(2) Any changes in scope after award of the GMP option shall be reflected by a written modification to the construction contract in accordance with FAR Part 43.

(e) *Early Work Package.*

(1) Early work packages (see 536.7105-7) may be used in the procurement that are priced separately or included in the GMP option.

(2) If any early work package exercised reduces the scope of the construction services under the GMP option, the ECW shall be reduced, and the CCA, fee for the construction work, and GMP shall be adjusted accordingly.

(f) *GMP Adjustment.*

(1) Any changes to the total GMP or individual parts of the GMP must be incorporated in the contract through a modification.

(2) Any modification that changes the GMP, including modifications for early work packages and fixed price conversions, must clearly state that it includes a change to the GMP and describe the changes to the individual parts of the GMP components in the modification.

(3) Any modification that changes the total GMP, or individual parts of the GMP, is subject to the requirement for a prenegotiation objectives memo and price negotiation memo, including fair and reasonable price determination, per FAR 15.406.

(4) The contracting officer should consult other members of the acquisition team, including the project manager, to analyze and justify any adjustments to the total GMP, or individual parts of the GMP.

536.7105-3 Accounting and Auditing Requirements.

(a) *Cost Accounting Standards.*

(1) Except as provided in paragraph (a)(2) of this subsection or through an exemption at FAR 30.201-1, construction contracts under the CMc project delivery method are subject to the cost accounting standards (CAS) identified in FAR Part 30.

(2) The contracting officer may request a CAS waiver in accordance with the requirements at FAR 30.201-5 and 530.201-5.

(3) If CAS applies, the contract clauses identified at FAR 30.201-4 shall be included in the contract.

(4) If a CAS waiver is granted or if CAS does not apply, the contract clause identified at 536.7107(b) shall be included in the contract.

(b) *GMP Option Accounting.*

(1) Open Book Accounting. Open book accounting shall be followed for financial tracking of all contract line items that are awarded on a GMP basis. Such financial tracking may be accomplished through an audit in accordance with paragraph (c) of this section.

(2) Payments and Reconciliation. All payments shall be reconciled with the open book accounting records and the schedule of values adjusted, as appropriate. Reconciliation shall occur each month and should be coordinated with monthly progress payments. The reconciliation shall be documented in the contract file.

(c) Auditing Requirements. In accordance with GSAM 542.102(a), for any audit services required by this Subpart 536.71, the contracting officer shall first request such services be performed by or through the Assistant Inspector General for Auditing or the Regional Inspector General for Auditing. If the Office of Inspector General declines to perform such an audit, the contracting officer may obtain audit services from a certified public accountant.

536.7105-4 Value Engineering.

In accordance with FAR 48.202, the clause at FAR 52.248-3 Value Engineering-Construction does not apply to incentive contracts. Accordingly, value engineering, as that term is used and described in FAR Part 48, shall not apply to the CMc project delivery method described in this subpart.

536.7105-5 Shared Savings Incentive.

(a) General. The incentive is a shared portion of the difference between the final GMP and the final cost of performance. Cost reductions may be realized by the construction contractor as a result of innovations and efficiencies during the construction phase, such as increased labor productivity or strong material subcontract negotiations.

(b) Share Ratio.

(1) Except as provided in paragraph (2) of this subsection, the share ratio for the construction contractor shall range from 30 percent to 50 percent. The share ratio for the construction contractor shall not exceed 50 percent. The complexity of the project and the amount of risk to the construction contractor should be considered when determining the ratio. A project with greater risk to the construction contractor should reflect a greater share ratio for the construction contractor.

(2) Subject to the approval of the HCA, the share ratio may be different than that required under paragraph (b)(1) of this subsection. Any such written approval shall be documented in the contract file.

(c) Incentive Calculation. The incentive amount is calculated in accordance with the clause at 552.236-79 Construction-Manager-As-Constructor.

536.7105-6 Allowances.

(a) Establishing a separate allowance in addition to the CCA is only permitted pursuant to a written determination approved by the contracting director supporting the use of any such allowance.

(b) The written determination for a separate allowance in addition to the CCA shall consider the following:

(1) Alternative contracting structures, such as a separate GMP line item or performing the work as part of the GMP option, and

(2) Ensuring conformance with all applicable rules and procedures relating to allowances, including FAR 11.702.

536.7105-7 Early Work Packages.

(a) Construction services for an early work package must be within the scope of the overall contract.

(b) Early work packages may be part of the initial procurement as a separately priced line item, or the Government and the construction contractor may agree to develop an early work package after award, typically identified toward the beginning of the project.

(c) *Early Work Packages Developed After Award.*

(1) The parties shall bilaterally agree to the scope, schedule, and pricing for any such early work package, and the contract shall be modified in accordance with FAR Part 43.

(2) If any such early work package reduces the scope of the construction services under the GMP option, the ECW shall be reduced, and the CCA, fee for the construction work, and GMP shall be adjusted accordingly.

(3) Any modification to the contract for an early work package is subject to the requirement for a prenegotiation objectives memo and price negotiation memo, including fair and reasonable price determination, per FAR 15.406.

(d) Early work packages that are firm-fixed-price are not subject to open book accounting, a shared savings incentive, or the need for determination of final settlement.

536.7105-8 Conversion to Firm-Fixed-Price.

(a) At any time after completion of 100 percent construction documents, the Government and the construction contractor may bilaterally convert the whole contract to firm-fixed-price.

(b) Conversion to firm-fixed-price may occur after the contingency risks, to be covered by the CCA, have been sufficiently reduced in the best interest of the Government. See FAR 16.103(b) for additional guidance for assessing risk management, profit motive, and timing considerations.

(c) Conversion to firm-fixed-price is only permitted pursuant to a written determination from the contracting officer to the contract file supporting the conversion. The contracting officer should consult other members of the acquisition team, including the project manager, to analyze and justify the conversion.

(d) The contracting officer shall not agree to a firm-fixed-price in excess of the GMP.

(e) In accordance with 536.7105-3(c), the contracting officer shall obtain an independent audit of the construction contractor's costs incurred in the performance of the contract to date.

(f) When evaluating the construction contractor's proposal for firm-fixed-price definitization, the contracting officer should compare the anticipated final cost to the firm-fixed-price being proposed. It may be reasonable for the construction contractor to include a contingency for assuming the risk associated with agreeing to the firm-fixed-price. The contracting officer should evaluate this contingency to ensure that the proposed amount reasonably reflects the remaining risks being assumed by the construction contractor. This evaluation may be informed by the history of the project, the balance of the CCA, and other factors.

(g) The modification to convert to a firm-fixed-price is subject to the requirement to obtain cost and pricing data unless one of the exceptions in FAR 15.403-1 applies.

(h) The modification to convert to a firm-fixed-price is subject to the requirement for a prenegotiation objectives memo and price negotiation memo, including fair and reasonable price determination, per FAR 15.406.

(i) Upon converting to a firm-fixed-price, the contract is no longer subject to open book accounting, a shared savings incentive, or the need for determination of final settlement.

536.7106 Construction Contract Closeout.

Unless the contract has been converted to a standard firm-fixed-price contract (see 536.7105-8)—

(a) The contracting officer shall ensure that the construction contractor's proposal for final settlement is accurate and reliable in accordance with the open book accounting practices of the contract.

(b) In accordance with 536.7105-3(c), the contracting officer shall obtain an independent audit of the construction contractor's costs.

536.7107 Contract Clauses (FAR DEVIATION).

(a) *FAR deviation*. GSA has a deviation from FAR 52.216-17 that allows use of the clause 552.236-79 in lieu of the FAR clause at 52.216-17. Insert a clause substantially the same as the clause at 552.236-79, Construction-Manager-As-Constructor, in solicitations and contracts if construction, dismantling, or removal of improvements is contemplated when a CMc project delivery method will be followed in lieu of the FAR clause at 52.216-17.

(b)Insert a clause substantially the same as the clause at 552.236-80, Accounting Records and Progress Payments, in solicitations and contracts if construction, dismantling, or removal of improvements is contemplated when a CMc project delivery method will be followed and cost accounting standards do not apply. This clause is used when the clauses at FAR 52.230-2 Cost Accounting Standards, FAR 52.230-3 Disclosure and Consistency of Cost Accounting Practices, and FAR 52.230-6 Administration of Cost Accounting Standards do not apply.