Subpart 236.6 - ARCHITECT-ENGINEER SERVICES

Parent topic: Part 236 - CONSTRUCTION AND ARCHITECT — ENGINEER CONTRACTS

236.601 Policy.

(1) Written notification to the congressional defense committees is required if the total estimated contract price for architect-engineer services or construction design, in connection with military construction, military family housing, or restoration or replacement of damaged or destroyed facilities, exceeds $1.5 million. In accordance with 10 U.S.C. 480, unclassified notifications must be provided by electronic medium.

(i) For military construction or military family housing (10 U.S.C. 2807(b)), the notification—

(A) Must include the scope of the project and the estimated contract price; and

(B)*(1)* If provided by electronic medium, must be provided at least 14 days before the initial obligation of funds; or

(2) If provided by other than electronic medium, must be received by the congressional defense committees at least 21 days before the initial obligation of funds.

(ii) For restoration or replacement of damaged or destroyed facilities (10 U.S.C. 2854(b)), the notification—

(A) Must include the justification for the project, the estimated contract price, and the source of the funds for the project; and

(B)*(1)* If provided by electronic medium, must be provided at least 7 days before the initial obligation of funds; or

(2) If provided by other than electronic medium, must be received by the congressional defense committees at least 21 days before the initial obligation of funds.

(2) During the applicable notice period, synopsis of the proposed contract action and administrative actions leading to the award may be started.

236.602 Selection of firms for architect-engineer contracts.

236.602-1 Selection criteria.

(a) Establish the evaluation criteria before making the public announcement required by FAR 5.205(d) and include the criteria and their relative order of importance in the announcement. Follow the procedures at 236.602-1 (a).

236.602-70 Restriction on award of overseas architect-engineer contracts to foreign firms.

In accordance with section 111 of the Military Construction and Veterans Affairs and Related Agencies Appropriations Act, 2015 (Division I of Pub. L. 113-235) and the same provision in subsequent military construction appropriations acts, architect-engineer contracts funded by military construction appropriations that are estimated to exceed $500,000 and are to be performed in Japan, in any North Atlantic Treaty Organization member country, or in countries bordering the Arabian Gulf (i.e., Iran, Oman, United Arab Emirates, Saudi Arabia, Qatar, Bahrain, Kuwait, and Iraq), shall be awarded only to United States firms or to joint ventures of United States and host nation firms.

236.604 Performance evaluation.

Prepare a separate performance evaluation after actual construction of the project. Ordinarily, the evaluating official should be the person most familiar with the architect-engineer contractor’s performance.

236.606 Negotiations.

236.606-70 Statutory fee limitation.

(a) The statutes at10 U.S.C. 7540, 8612, and 9540, for the Departments of the Army, Navy, and Air Force, respectively, limit the contract price (or fee) for architect-engineer services for the preparation of designs, plans, drawings, and specifications to 10 percent of the project's estimated construction cost.

(b) The 10 percent limit also applies to contract modifications, including modifications involving—

(1) Work not initially included in the contract; apply the 10 percent limit to the revised total estimated construction cost; and

(2) Redesign work; apply the 10 percent limit by—

(i) Adding the estimated construction cost of the redesign features to the original estimated construction cost;

(ii) Adding the contract cost for the original design to the contract cost for redesign; and

(iii) Dividing the total contract design cost by the total estimated construction cost. The resulting percentage may not exceed the 10 percent statutory limitation.

(c) The 10 percent limit applies only to that portion of the contract (or modification) price attributable to the preparation of designs, plans, drawings, and specifications. If a contract or modification also includes other services, the part of the price attributable to the other services is not subject to the 10 percent limit.

236.609 Contract clauses.

236.609-70 Additional provision.

Use the provision at 252.236-7011 , Overseas Architect-Engineer Services—Restriction to United States Firms, in solicitations for architect-engineer contracts that are—

(1) Funded with military construction appropriations;

(2) Estimated to exceed $500,000; and

(3) To be performed in Japan, in any North Atlantic Treaty Organization member country, or in countries bordering the Arabian Gulf.