Part 5136 - Construction and Architect-Engineer Contracts

The official AFARS regulation resides on the Army's Knowledge Management Portal PAM. If you do not have CAC access to PAM, please visit the Army Contracting Enterprise's public facing website "Army Connect" at https://www.army.mil/armycontracting#org-afars. The AFARS will return to Acquisition.gov upon completion of the RFO.

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Subpart 5136.2 - Special Aspects of Contracting for Construction

5136.201 Evaluation of contractor performance.

(1) See AFARS 5142.1503-90 for the requirements to prepare contractor past performance evaluations on construction contracts.

(2) At a minimum, prepare the report (DD Form 2626, Performance Evaluation (Construction)) at the final acceptance of work and include the signed copy in the contract file. The Contracting officer's representative or ordering officer if there is no Contracting officer's representative, must be responsible for monitoring contract performance.

5136.2-90 Special procedures for job order contracts.

Before awarding a job order contract, Contracting officers must review all performance evaluations in CPARS on those offerors in range for award. Contracting officers may rely solely on CPARS database information in assessing past performance.

5136.208 Concurrent performance of firm-fixed-price and other types of construction contracts.

The HCA may approve contracts with cost variation or cost adjustment features as described at FAR 36.208. See Appendix GG for further delegation.

5136.209 Construction contracts with architect-engineer firms.

Subject to the resolution of organizational conflict of interest concerns, the Assistant Secretary of the Army (Acquisition, Logistics and Technology) may approve award of a construction contract to the firm that designed the project. See Appendix GG for further delegation.

5136.213 Special procedures for sealed bidding in construction contracting.

5136.213-2 Presolicitation notices.

(a) The HCA may waive the requirement as stated in FAR 36.213-2(a). See Appendix GG for further delegation.

5136.270 Expediting construction contracts.

The Secretary of the Army shall make the approval set forth in DFARS 236.270. This approval authority may not be redelegated.

5136.272 Prequalification of sources.

(b) The HCA must perform the functions at DFARS 236.272(b). See Appendix GG for further delegation.

Subpart 5136.3 - Two-Phase Design-Build Selection Procedures

5136.301 Use of two-phase design-build selection procedures.

(b)(3)(vi) The HCA, on a non-delegable basis, shall establish other criteria as described at FAR 36.301(b)(3)(vi).

Subpart 5136.5 - Contract Clauses

5136.570 Additional provisions and clauses.

(b)(2) The HCA shall approve actions as described at DFARS 236.570(b)(2). See Appendix GG for further delegation.

Subpart 5136.6 - Architect-Engineer Services

5136.601 Policy.

5136.601-90 Authority for architect-engineer contracting.

(a) Army contracting activities, and subordinate offices, authorized to contract for architect-engineer services are as follows:

(1) The U.S. Army Corps of Engineers (USACE).

(2) The National Guard Bureau (NGB).

(3) The U.S. Army Mission and Installation Contracting Command.

(4) The U.S. Army Contracting Command, 414th Contracting Support Brigade, Vicenza, Italy, for architect-engineer services for operations and maintenance appropriations and Army Family Housing (Operations) funded projects.

(b) Other Army contracting activities, as mutually agreed with the USACE, may execute task orders for architect-engineer services, under USACE indefinite-delivery contracts. The installation Contracting officer and facilities engineering personnel must comply with the instructions of the USACE Contracting officer regarding the negotiation, issuance, and administration of task orders.

5136.601-3 Applicable contracting procedures.

5136.601-3-90 Limitations.

Headquarters, USACE, and Headquarters, NGB, must establish appropriate controls on the use of indefinite-delivery contracts for architect-engineering services by subordinate contracting offices.

5136.602 Selection of firms for architect-engineer contracts.

5136.602-1 Selection criteria.

(b) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) has the authority to approve design competition. See Appendix GG for further delegation.

5136.602-4 Selection authority.

(a) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) has the authority to make the final selection decision in accordance with all appropriate source selection guidance. See Appendix GG for further delegation.

5136.602-5 Short selection process for contracts not to exceed the simplified acquisition threshold.

The USACE and the NGB may use both short processes.

(b)(2) The ASA(ALT) has the authority to approve the selection report or return it to the chairperson for appropriate revision. See Appendix GG for further delegation.

5136.604 Performance evaluation.

See AFARS Subpart 5142.15 - Contractor Performance Information for the requirements to prepare contractor past performance evaluations on architect-engineer contracts.

5136.609 Contract clauses.

5136.609-1 Design within funding limitations.

(c)(1) The HCA shall make the determination at FAR 36.609-1(c)(1). See Appendix GG for further delegation.