PART 1436 - CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

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Parent topic: SUBCHAPTER F - SPECIAL CATEGORIES OF CONTRACTING

Subpart 1436.2 - Special Aspects of Contracting for

Construction

1436.209 Construction contracts with architect-engineer firms.

Approval to award a contract for construction to a firm or its subsidiaries that designed the project shall be made by the HCA only after discussion with Director, PAM, and with legal concurrence. The request for approval prepared by the CO shall include the reason(s) why award to the design firm is required; an analysis of the facts involving potential or actual organizational conflicts of interest, including benefits and detriments to the Government and the prospective contractor; and the measures which are to be taken to avoid, neutralize or mitigate conflicts of interest. A copy of the documentation shall be forwarded to PAM at the time of consultation.

1436.270 Preparation of solicitations and contracts for construction.

1436.270-1 Uniform contract format.

(a) COs shall prepare solicitations and contracts for construction using the uniform contract format outlined in Table 1436-1.

(b) If any section of the uniform contract format does not apply, the CO should so mark that section in the solicitation. Upon award, the CO shall not physically include Part IV in the resulting contract, but shall retain it in the contract file.

Table 1436-1 - Uniform Contract Format

Section	Title
Part I - The Schedule	
A	Solicitation/contract form.
B	Bid schedule.
C	Specifications/Drawings.
D	Packaging and marking.
E	Inspection and acceptance.
F	Deliveries or performance.
G	Contract administration data.

Section	Title
H	Special contract requirements.
Part II - Contract Clauses	
I	Contract clauses.
Part III - List of Documents, Exhibits, and Other Attachments	
J	List of attachments.
Part IV - Representations and Instructions	
K	Representations, certifications, and other statements of offerors.
L	Instructions, conditions, and notices to offerors.
M	Evaluation factors for award.

1436.270-2 Part I - The Schedule.

The CO shall prepare the Schedule as follows:

(a) *Section A, Solicitation/contract form.* Use SF 1442, Solicitation, Offer, and Award (Construction, Alteration or Repair), as prescribed in FAR 36.701(a).

(b) *Section B, Bid schedule.* Bid schedule.

(c) *Section C, Specifications/Drawings.* Include specifications and drawings (*See* FAR Part 11) or reference other location in the uniform contract format (*e.g.* Section J, attachment _____).

(d) *Section D, Packaging and Marking.* Not applicable.

(e) *Section E, Inspection and acceptance.* Include inspection, acceptance, quality assurance, and reliability requirements (*See* FAR Part 46).

(f) *Section F, Deliveries or performance.* Include Suspension of Work, Liquidated Damages, Commencement, Prosecution, and Completion of Work, Variation in Quantity clauses (*See* FAR Part 12).

(g) *Section G, Contract administration data.* Include Contracting Officer's Representative/Technical Representative identification, and any required administration information (*e.g.,* accounting and

appropriation data).

(h) *Section H, Special contract requirements.* Include any special contract requirements which are not included in other sections of the uniform contract format.

1436.270-3 Part II - Contract clauses.

For Section I, Contract clause, include any clauses required by law or by the FAR (including subpart 36.5), the DIAR (including subpart 1436.5), and any additional bureau-wide or local clauses expected to be included in any resulting contract which are not included in other sections of the uniform contract format.

1436.270-4 Part III - Documents, exhibits and other attachments.

For Section J, List of documents, exhibits, and other attachments, include wage determinations (*See* FAR 22.404), SF-24 - Bid Bond (*See* FAR 28.101), and other attachments by listing the title, date and number for each document.

1436.270-5 Part IV - Representations and instructions.

The CO shall prepare the representations and instructions as follows:

(a) *Section K, Representations, certifications, and other statements of offerors.* Include provisions requiring representations, certifications, or submission of other information by an offeror.

(b) *Section L, Instructions, conditions, and notices to offerors.* Include other provisions or instructions to offerors which are not included in other sections of the uniform contract (*e.g.,* FAR 52.214-19 if using sealed bidding).

(c) *Section M, Evaluation factors for award.* Identify all factors that will be considered in awarding the contract (*See,* for example, FAR 14.201-8 for sealed bidding; FAR 15.304 for competitive proposals).

Subpart 1436.5 - Contract Clauses

1436.570 Prohibition against use of lead-based paint.

(a) *Definitions.* As used in this section, “residential structure:” means any house, apartment, or structure intended for human habitation including any institutional structure where persons reside such as an orphanage, boarding school dormitory, day care center, or extended care facility.

(b) The CO shall insert the clause at 1452.236-70, Prohibition Against Use of Lead-Based Paint, in solicitations and contracts when construction of residential structures or rehabilitation (including dismantling, demolition, or removal) of residential structures is contemplated.

1436.571 Additive and deductive items.

If it appears that funds available for a construction project may be insufficient for all the desired features, the CO may provide in the solicitation for a base bid item covering the work as specified and for one or more additive or deductive bid items which add or omit specified features of the work in a stated order of priority. Such solicitations shall include a provision substantially as set forth in 1452.236-71, and the low bidder and the bid items to be awarded shall be determined as provided in the provision.

Subpart 1436.6 - Architect-Engineer Services

1436.602 Selection of firms for architect-engineer contracts.

1436.602-1 Selection criteria.

(a) The CO may include specific evaluation criteria to be used in the evaluation of potential contractors, in accordance with the requirements of FAR 36.602-1.

(b) HCAs are authorized to approve the use of design competition.

1436.602-2 Evaluation boards.

HCAs shall establish procedures for providing permanent or ad hoc architect-engineer evaluation boards. Bureau procedures shall provide for the appointment of private practitioners of architecture, engineering, or related professions when such action is determined by the HCA to be essential to meet the Government's minimum needs.

1436.602-3 Evaluation board functions.

The selection report shall be prepared for HCA approval, in accordance with bureau/office procedures.

1436.602-4 Selection authority.

The HCA is authorized to serve as the designated selection authority.

1436.602-5 Short selection processes for contracts not to exceed the simplified acquisition threshold.

At each occurrence, CO approval shall be obtained prior to the utilization of either of the short selection processes used for architect-engineer contracts not expected to exceed the simplified acquisition threshold.

1436.603 Collecting data on and appraising firms' qualifications.

HCAs who require architect-engineer services shall use their established procedures to collect data on and appraising firms' qualifications.