PGI Part 236 - CONSTRUCTIONAND ARCHITECT — ENGINEER CONTRACTS

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Parent topic: PGI Defense Federal Acquisition Regulation

PGI 236.2 -SPECIAL ASPECTS OF CONTRACTING FOR CONSTRUCTION

PGI 236.203 Government estimate of construction costs.

(1) Designate the Government estimate as “For Official Use Only,” unless the information is classified. If it is, handle the estimate in accordance with security regulations.

(2) For sealed bid acquisitions—

(i) File a sealed copy of the Government estimate with the bids. (In the case of two-step acquisitions, this is done in the second step.)

(ii) After the bids are read and recorded, remove the “For Official Use Only” designation and read and record the estimate as if it were a bid, in the same detail as the bids.

PGI 236.207 Pricing Fixed-Price Construction Contracts.

(a)(70) *Definition*: “lump sum” means a single payment of money, as opposed to a series of payments made over time.

(i) An example of a line item with lump sum pricing in accordance with DFARS 204.71 is as follows:

ITEM NO.	SUPPLIES/SERVICE	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0001	Repave runway 4 at Joint Base Andrews Firm Fixed Price PSC: Z1BD ACRN: AA	1	Job	$1,501,866.08	$1,501,866.08

Note that payment would occur upon completion and acceptance of the entire effort. Progress payments based on estimates of the percentage of completion (see FAR 52.232-5—Payments Under Fixed-Price Construction Contracts) could occur prior to that point.

(ii) An example of a line item with unit pricing in accordance with DFARS 204.71 is as follows:

ITEM NO.	SUPPLIES/SERVICE	QUANTITY	UNIT	UNIT PRICE	AMOUNT
0001	Repave runway 4 at Joint Base Andrews Firm Fixed Price PSC: Z1BD ACRN: AA	525,128	Square Foot	$2.86	$1,501,866.08

Note that this allows the contractor to invoice for completed quantities of work, in accordance with FAR 32.102 (d), as those are accepted. Progress payments based on estimates of the percentage of completion (see FAR 52.232-5—Payments Under Fixed-Price Construction Contracts) could also occur prior to that point.

PGI 236.211 Special situations.

(b)(2)(A) The contracting officer shall report data on the timelines for definitization of all requests for equitable adjustment (REAs) for change orders received from contractors under construction contracts. The contracting officer shall report this data using the PALT/Protest/REA Tracker module in the Procurement Integrated Enterprise Environment at https://piee.eb.mil within 10 business days of definitization. Data to be reported includes—

(*1*) The contract number against which the REA was submitted;

(*2*) The contractor that submitted the REA;

(3) Date of receipt of the REA; and

(4) Date of definitization of the REA and contract modification number.

(B) Individually reported records will be aggregated by the PALT/Protest/REA Tracker module. The PALT/Protest/REA Tracker module will aggregate the timelines for the definitization of REAs for change orders under construction contracts. Contracting officers shall attach the aggregate results

for the military department or defense agency to solicitations in accordance with FAR 36.211. See PGI PGI 205.205 Special situations.(h) for further instructions regarding the solicitation notice.

PGI 236.213 Special procedures for sealed bidding in construction contracting.

For additive or deductive items—

(1) Use a bid schedule with—

(i) A first or base bid item covering the work generally as specified; and

(ii) A list of priorities that contains one or more additive or deductive bid items that progressively add or omit specified features of the work in a stated order of priority. (Normally, do not mix additive and deductive bid items in the same solicitation.)

(2) Before opening the bids, record in the contract file the amount of funds available for the project.

(3) Determine the low bidder and the items to be awarded in accordance with the procedures in the clause at 252.236-7007, Additive or Deductive Items.

PGI 236.273 Construction in foreign countries.

(b) When a technical working agreement with a foreign government is required for a construction contract—

(i) Consider inviting the Army Office of the Chief of Engineers, or the Naval Facilities Engineering Command, to participate in the negotiations.

(ii) The agreement should, as feasible and where not otherwise provided for in other agreements, cover all elements necessary for the construction that are required by laws, regulations, and customs of the United States and the foreign government, including—

(A) Acquisition of all necessary rights;

(B) Expeditious, duty-free importation of labor, material, and equipment;

(C) Payment of taxes applicable to contractors, personnel, materials, and equipment;

(D) Applicability of workers' compensation and other labor laws to citizens of the United States, the host country, and other countries;

(E) Provision of utility services;

(F) Disposition of surplus materials and equipment;

(G) Handling of claims and litigation; and

(H) Resolution of any other foreseeable problems that can be appropriately included in the agreement.

PGI 236.6 -ARCHITECT-ENGINEER SERVICES

PGI 236.602 Selection of firms for architect-engineer contracts.

PGI 236.602-1 Selection criteria.

(a) The evaluation criteria should be project specific. Use the information in the DD Form 1391, FY__ Military Construction Project Data, when available, and other pertinent project data in preparing the evaluation criteria.

(4) Use performance evaluation data from the Contractor Performance Assessment Report System (CPARS).

(6) The primary factor in architect-engineer contractor selection is the determination of the most highly qualified firm. Also consider secondary factors such as geographic proximity and equitable distribution of work, but do not attribute greater significance to the secondary factors than to qualifications and past performance. Do not reject the overall most highly qualified firm solely in the interest of equitable distribution of contracts.

(A) Consider the volume of work awarded by DoD during the previous 12 months. In considering equitable distribution of work among architect-engineer firms, include small business concerns; historically black colleges and universities and minority institutions; firms that have not had prior DoD contracts; and small disadvantaged business concerns and joint ventures with small disadvantaged business participants if the North American Industry Classification System (NAICS) Industry Subsector of the acquisition is one in which use of a price evaluation adjustment is currently authorized (see FAR 19.201(b)).

(*1*) Use data extracted from the Federal Procurement Data System (FPDS).

(*2*) Do not consider awards to overseas offices for projects outside the United States, its territories and possessions. Do not consider awards to a subsidiary if the subsidiary is not normally subject to management decisions, bookkeeping, and policies of a holding or parent company or an incorporated subsidiary that operates under a firm name different from the parent company. This allows greater competition.

(B) Consider as appropriate superior performance evaluations on recently completed DoD contracts.

(C) Consider the extent to which potential contractors identify and commit to small business, to small disadvantaged business (SDB) if the NAICS Industry Subsector of the subcontracted effort is one in which use of an evaluation factor or subfactor for participation of SDB concerns is currently authorized (see FAR 19.201(b)), and to historically black college or university and minority institution performance as subcontractors.

PGI 236.606-70 Statutory fee limitation.

This fee limitation applies only to Departments of the Army, Navy, and Air Force requirements (*e.g.*, if the Department of the Army awards a contract for the Defense Logistics Agency or the Department of the Interior, this fee limitation does not apply). See FAR 15.404-4(c)(4)(i)(B) for the

fee limitation that applies to other DoD components and civilian agencies.