

determine appeals from decisions of contracting officers arising under a contract, or relating to a contract, made by the Department or any other executive agency when such agency or the Administrator of the Office of Federal Procurement Policy has designated the LBCA to decide the appeal.

(b) The LBCA rules of procedure are contained in 41 CFR Part 29–60.104, appearing in the July 1, 1983 edition of 41 CFR subtitle A, chapters 19 to 100.

PART 2934–2935 [RESERVED.]

PART 2936—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

Subpart 2936.2—Special Aspects of Contracting for Construction

Sec.

2936.201 Evaluation of contractor performance.

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2936.603 Collecting data on and appraising firms' qualifications.

2936.604 Performance evaluation.

Authority: 5 U.S.C. 301; 40 U.S.C. 486(c).

Subpart 2936.2—Special Aspects of Contracting for Construction

2936.201 Evaluation of contractor performance.

The HCA must establish procedures to evaluate construction contractor performance and prepare performance reports as required by FAR 36.201.

2936.209 Construction contracts with architect-engineer firms.

As required by FAR 36.209, no contract for construction of a project may be awarded to the firm that designed the project, or to its subsidiaries or affiliates, without the written approval of the ASAM. Any request for approval must 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.

Subpart 2936.5—Contract Clauses

The HCA is authorized to make the determination regarding the impracticability of Government performance of original and final surveys as prescribed in FAR 36.516.

Subpart 2936.6—Architect-Engineer Services

2936.602 Selection of firms for architect-engineer contracts.

2936.602–1 Selection criteria.

HCAs are authorized to approve the use of design competition under the conditions in FAR 36.602–1(b).

2936.602–2 Evaluation boards.

HCAs must establish procedures to provide permanent or ad hoc architect-engineer evaluation boards as prescribed in FAR 36.602–2. Procedures must provide for the appointment of private practitioners of architecture, engineering, or related professions when such action is determined in writing by the HCA to be essential to meeting the Government's minimum needs.

2936.602–3 Evaluation board functions.

The selection report required in FAR 36.602–3(d) must be prepared for the approval of the HCA.

2936.602–4 Selection Authority.

The HCA is authorized to serve as the designated Selection Authority in accordance with FAR 36.602–1.

2936.602–5 Short selection processes for contracts not to exceed \$100,000.

The selection process prescribed in FAR 36.602–5(b) must be used for architect-engineer contracts not exceeding the Simplified Acquisition Threshold.

2936.603 Collecting data on and appraising firms' qualifications.

(a) HCAs who acquire architect-engineer services must establish procedures to comply with the requirements of FAR 36.603.

(b) Copies of procedures established under paragraph (a) of this section must be submitted to the Division of Acquisition Management Services, for review and recommendation for approval to the HCA when updated. These procedures must include a list of names, addresses, and telephone numbers of offices or boards assigned to maintain architect-engineer qualification data files.

2936.604 Performance evaluation.

(a) The HCA must establish procedures to evaluate architect-engineer contractor performance as

required in FAR 36.604. Normally, the performance report must be prepared by the contracting officer's authorized representative or other official who was responsible for monitoring contract performance and who is qualified to evaluate overall performance. DOL Agency/Office procedures must prescribe instructions for review of the report, before distribution, as prescribed in FAR 36.604(b).

(b) Performance reports must be made using Standard Form 1421, Performance Evaluation (Architect-Engineer) as prescribed in FAR 36.702(c). Details covering unsatisfactory performance, including Government notification to the contractor and written comments by the contractor, must also be attached to the report.

PART 2937—SERVICE CONTRACTING

Sec.

Subpart 2937.1—Service Contracts—General

2937.103 Contracting officer responsibility.
2937.103–70 Department of Labor checklist to aid analysis and review of requirements for service contracts.

Subpart 2937.2—Advisory and Assistance Services

2937.203 Policy.

Subpart 2937.6—Preference for Performance-Based Contracting (PBC)

2937.602 Elements of performance-based contracting.

Authority: 5 U.S.C. 301, 40 U.S.C. 486(c).

Subpart 2937.1—Service Contracts—General

The HCA is responsible for establishing internal review and approval procedures for service contracts in accordance with OFPP Policy Letter 93–1, "Management Oversight of Service Contracting". As defined by FAR 37.101, contracts for personal services are permitted under the circumstances in 5 U.S.C. 3109.

2937.103–70 Department of Labor checklist to aid analysis and review of requirements for service contracts.

Contracting specialists and contracting officers must work in close collaboration with the beneficiaries of the services being purchased to ensure that contractor performance meets contract requirements and performance standards.

(a) *General.* Following is a checklist to aid analysis and review of requirements for service contracts.

(1) Is the statement of work complete, with a clear-cut division of responsibility between the contracting parties?