

652.236–70 Accident Prevention.

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Accident Prevention (MO/YR)

(a) * * *

(4) For overseas construction projects, the contracting officer shall specify in writing additional requirements regarding safety if the work involves:

- (i) Scaffolding;
- (ii) Work at heights above two (2) meters;
- (iii) Trenching or other excavation greater than one (1) meter in depth;
- (iv) Earth moving equipment;
- (v) Temporary wiring, use of portable electric tools, or other recognized electrical hazards. Temporary wiring and portable electric tools require the use of a ground fault circuit interrupter (GFCI) in the affected circuits; other electrical hazards may also require the use of a GFCI;

(vi) Work in confined spaces (limited exits, potential for oxygen less than 19.5 percent or combustible atmosphere, potential for solid or liquid engulfment, or other hazards considered to be immediately dangerous to life or health such as water tanks, transformer vaults, sewers, cisterns, etc.);

(vii) Hazardous materials—a material with a physical or health hazard including but not limited to flammable, explosive, corrosive, toxic, reactive or unstable, or any operations which create any kind of contamination inside an occupied building such as dust from demolition activities, paints, solvents, etc.; or

(viii) Hazardous noise levels.

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(d) * * *

(1) Submit a written plan to the contracting officer for implementing this clause. The plan shall include specific management or technical procedures for effectively controlling hazards associated with the project; and

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85. Section 652.236–71 is added to read as follows:

652.236–71 Foreign Service Buildings Act, As Amended.

As prescribed in 636.570(a), insert the following provision:

Foreign Service Buildings Act, As Amended (MO/YR)

(a) This solicitation is subject to Section 11 of the Foreign Service Buildings Act of 1926, as amended (22 U.S.C. 302). This statute limits competition under this solicitation to:

- (1) American-owned firms, as described in paragraph (b) of this provision; and
- (2) Firms from countries that permit or agree to permit substantially equal access to American firms for comparable diplomatic and consular building projects.

(b) To qualify as an American-owned firm for purposes of this solicitation, the bidder/offeror must demonstrate evidence of:

- (1) Performance of similar construction work in the United States; and
- (2) Either—
 - (i) Ownership in excess of 50% by U.S. citizens or permanent residents; or
 - (ii) Incorporation in the United States for more than three (3) years and employment of

U.S. citizens or permanent residents in more than half of the company's permanent full-time professional and managerial positions in the United States.

(c) For purposes of determining competitive status, offers submitted by American-owned firms shall be reduced by ten (10) percent, provided that two responsible bidders/offerors submit a bid/offer.

(d) *Evidence of qualification.* (1) Performance of similar construction work in the United States. The bidder/offeror must describe below one or more similar projects completed in the United States. For each project, provide the following information:

Location: _____
(city and State) _____

Complexity: _____

(office building, etc.) _____

Type of construction: _____

Value of project: _____

Location: _____

(city and State) _____

Complexity: _____

(office building, etc.) _____

Type of construction: _____

Value of project: _____

Location: _____

(city and State) _____

Complexity: _____

(office building, etc.) _____

Type of construction: _____

Value of project: _____

If the bidder/offeror's participation was as a partner or co-venture, indicate the percentage of the project performed by the bidder/offeror: ____ %

(2) Corporate location or ownership.

(i) The bidder/offeror certifies that it ☐ is ☐ is not owned in excess of fifty (50) percent by United States citizens or permanent residents.

(ii) The bidder/offeror certifies that it ☐ has ☐ has not been incorporated in the United States for more than three years and that it ☐ employs ☐ does not employ United States citizens or permanent residents in more than half of its permanent full-time professional and managerial positions in the United States.

(e) By signing this bid/offer, the bidder/offeror certifies to the best of its knowledge, all of the representations and certifications provided in this provision are accurate, current and complete.

(End of provision)

86. Section 652.236–72 is added to read as follows:

652.236–72, Statement of Qualifications for the Omnibus Diplomatic Security and Antiterrorism Act.

As prescribed in 636.570(b), insert the following provision:

Statement of Qualifications for the Omnibus Diplomatic Security and Antiterrorism Act (MO/YR)

(a) This solicitation is subject to Section 402 and Section 406(c) of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (P.L. 99–399; 22 U.S.C. 4852). The Act limits certain construction projects abroad to United States persons or United States joint venture persons, and excludes organizations that have business arrangements with Libya. This Statement of Qualifications shall be used to determine if a bidder/offeror meets the definition of a "United States person" or a "United States joint venture person" and whether they have any business arrangements with Libya that may disqualify them from participating in this solicitation.

(b) *Definition.* As used in this provision—
U.S. person means a company, partnership, or joint venture that the Government determines, after consideration of all available information, including but not limited to that provided by the bidder/offeror in response to this solicitation, to be qualified pursuant to Section 402.

(c) *Representation.* The bidder/offeror represents as part of its bid/offer that it ☐ does, ☐ does not meet the qualifications as a U.S. person as set forth in Section 402 of the Act.

[Complete a Statement of Qualifications for Purposes of Determining Status as a U.S. Person if the offeror represents that it is eligible. See paragraph (d) of this provision.]

Warning: Any material misrepresentation made in the Statement of Qualifications may be the basis for disqualification of a bidder/offeror and reference for consideration of suspension or debarment or for prosecution under Federal law (cf. 18 U.S.C. 1001). Bidder/offeror qualifications will be determined primarily on the basis of information submitted in the Statement of Qualifications, including attachments thereto, but the Government may, at its discretion, rely on information contained elsewhere in the bidder's/offeror's bid/proposal or obtained from other sources.

(d) *Statement of Qualifications for Purposes of Determining Status as a U.S. Person* (22 U.S.C. 4852). A bidder/offeror that represents that it is a U.S. person must provide the following information.

Statement of Qualifications for Purposes of Determining Status as a U.S. Person (22 U.S.C. 4852)

Name and address of U.S. person organization providing this information:

Introduction. Section 402 of the Omnibus Diplomatic Security and Antiterrorism Act (Pub. L. 99–399) provides that a "United States person" or a "qualified United States joint venture" must meet certain requirements, listed in sections 402(c)(2) and