236.602–70 Restriction on award of overseas architect-engineer contracts to foreign firms.

In accordance with section 111 of the Military Construction and Veterans Affairs and Related Agencies Appropriations Act, 2014 (Division J of Pub. L. 113–76) and similar sections in subsequent military construction appropriations acts, architect-engineer contracts funded by military construction appropriations that are estimated to exceed $500,000 and are to be performed in Japan, in any North Atlantic Treaty Organization member country, or in countries bordering the Arabian Sea (i.e., India, Iran, Oman, Pakistan, Somalia, and Yemen), shall be awarded only to United States firms or to joint ventures of United States and host nation firms.

[79 FR 44316, July 31, 2014]

236.604 Performance evaluation.

Prepare a separate performance evaluation after actual construction of the project. Ordinarily, the evaluating official should be the person most familiar with the architect-engineer contractor’s performance.

[76 FR 58155, Sept. 20, 2011]

236.606 Negotiations.

236.606–70 Statutory fee limitation.

(a) 10 U.S.C. 4540, 7212, and 9540 limit the contract price (or fee) for architect-engineer services for the preparation of designs, plans, drawings, and specifications to six percent of the project’s estimated construction cost.

(b) The six percent limit also applies to contract modifications, including modifications involving—

(1) Work not initially included in the contract. Apply the six percent limit to the revised total estimated construction cost.

(2) Redesign. Apply the six percent limit as follows—

(i) Add the estimated construction cost of the redesign features to the original estimated construction cost;

(ii) Add the contract cost for the original design to the contract cost for redesign; and

(iii) Divide the total contract design cost by the total estimated construction cost. The resulting percentage may not exceed the six percent statutory limitation.

(c) The six percent limit applies only to that portion of the contract (or modification) price attributable to the preparation of designs, plans, drawings, and specifications. If a contract or modification also includes other services, the part of the price attributable to the other services is not subject to the six percent limit.


236.609 Contract clauses.

236.609–70 Additional provision and clause.

(a)(1) Use the clause at 252.236–7009, Option for Supervision and Inspection Services, in solicitations and contracts for architect-engineer services when—

(i) The contract will be fixed price; and

(ii) Supervision and inspection services by the architect-engineer may be required during construction.

(2) Include the scope of such services in appendix A of the contract.

(b) Use the provision at 252.236–7011, Overseas Architect-Engineer Services—Restriction to United States Firms, in solicitations for architect-engineer contracts that are—

(1) Funded with military construction appropriations;

(2) Estimated to exceed $500,000; and

(3) To be performed in Japan, in any North Atlantic Treaty Organization member country, or in countries bordering the Arabian Sea.