

**Department of Veterans Affairs**

**836.203–70**

development (R&D) solicitations and contracts.

**PART 836—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS**

**Subpart 836.2—Special Aspects of Contracting for Construction**

Sec.

- 836.202 Specifications.
- 836.202–70 Specifications—use of equal products.
- 836.203 Government estimate of construction costs.
- 836.203–70 Protection of the independent government estimate—sealed bid.
- 836.204 Disclosure of the magnitude of construction projects.

**Subpart 836.5—Contract Clauses**

- 836.500 Scope of subpart.
- 836.501 Performance of work by the contractor.
- 836.521 Specifications and drawings for construction.
- 836.573 Contractor production report.
- 836.574 Subcontracts and work coordination.
- 836.580 Notice to bidders—additive or deductive bid line items.

**Subpart 836.6—Architect-Engineer Services**

- 836.603 Collecting data on and appraising firms' qualifications.
- 836.606 Negotiations.
- 836.606–70 Architect-engineer firms' proposal.
- 836.606–71 Application of 6 percent architect-engineer fee limitation.

**Subpart 836.70—Unique Forms for Contracting for Construction, Architect-Engineer Services, and Dismantling, Demolition, or Removal of Improvements**

- 836.7000 Scope of subpart.
- 836.7001 Unique construction and architect-engineer services forms.

AUTHORITY: 40 U.S.C. 121(c); 41 U.S.C. 1121(c)(3), 1303(a)(2) and 1702; and 48 CFR 1.301–1.304.

SOURCE: 73 FR 2717, Jan. 15, 2008, unless otherwise noted.

**Subpart 836.2—Special Aspects of Contracting for Construction**

**836.202 Specifications.**

**836.202–70 Specifications—use of equal products.**

Upon approval of the justification documentation required by FAR 11.105, Items peculiar to one manufacturer, the contracting officer shall include the clause found at 852.236–90, Restriction on Submission and Use of Equal Products, in solicitations and contracts. The contracting officer shall complete the clause by inserting the items which have been approved for restriction to a brand name. This clause also places offerors or bidders on notice that the “brand name” provisions of any clause or provision that may authorize the submission of an “equal” product, shall not apply to the specific items listed in clause 852.236–90.

[84 FR 9971, Mar. 19, 2019]

**836.203 Government estimate of construction costs.**

**836.203–70 Protection of the independent government estimate—sealed bid.**

For sealed bid acquisitions the contracting officer or bid custodian is not authorized to release the basis for calculating the estimate at any time. The person preparing the independent government estimate (IGE) shall—

- (a) Designate the IGE as “For Official Use Only (FOUO)”;
- (b) The contracting officer or bid custodian shall file a sealed copy of the IGE with the bids. (In the case of two-step acquisitions, the contracting officer or bid custodian accomplishes this during the second step);
- (c) After the bids are read and recorded during a Public Bid Opening, remove the “For Official Use Only (FOUO)” designation then read and record the estimate as if it were a bid, in the same detail as the bids; and
- (d) In instances where only one bid has been received, the government estimate shall not be read by the contracting officer as it may be needed to conduct negotiations with the offeror.

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