

CHAPTER 10

Obtaining Construction, Alteration, and Repair Work

This chapter:

- @ Presents circumstances in which simplified acquisition procedure may be used to acquire minor construction, repair, and alteration work (Section 10A)
- @ Highlights the various approaches which can be used to describe minor construction related requirements (Section 10B)
- @ Discusses several simplified acquisition methods which can be used (Section 10C)
- @ Presents key considerations in soliciting quotations orally and in preparing written RFQs (Section 10D)
- @ Notes steps to be taken in acquiring small minor construction work under the 8(a) program (Section 10E)

Cross-References:

- @ Section 3B and Appendix II discuss the preparation of specifications.
- @ Chapter 7 describes the policy and procedural requirements that apply to all buys made by simplified acquisition procedures.
- @ Chapter 8 discusses in greater detail the four simplified acquisition methods available for use in acquiring minor construction related services.

SECTION 10A

INTRODUCTION

AUTHORIZATION TO USE SIMPLIFIED ACQUISITION PROCEDURES

The use of simplified acquisition procedures to acquire minor construction, repair, or alteration work valued less than \$100,000 is permitted under FAR 36.701(c). All solicitations for construction contracts in excess of \$2,000 must be in writing (FAR 13.106-1(a)(2)) as they are subject to certain statutory requirements, the most important of which is the Davis-Bacon Act implemented in FAR Subpart 22.4.

For most minor construction contracting under the simplified acquisition threshold, it is generally preferable to use simplified acquisition procedures rather than sealed bidding or negotiation so as to minimize administrative expense and overhead costs. Various requirements and restrictions must be observed, however. Section 10C highlights the major considerations and procedures in using both the simplified acquisition and formal contracting methods for minor construction work.

ARS DELEGATIONS OF AUTHORITY

Agricultural Research Service requirements for construction, repair, and alteration of facilities span the spectrum from the design and erection of multimillion dollar research facilities to minor repair and alteration work. In order to accomplish ARS's broad range of construction requirements in an efficient, timely, and cost effective manner ARS has established three basic levels of authority for construction contracting. The level of construction contracting authority at the Facilities Division (FD) and Area Administrative Offices is determined on a case-by-case basis taking into account past experience as well as projected requirements. Field Purchasing activities contract for construction work within their delegation of authority. This delegation of authority permits accomplishment of ARS' construction requirements at the local level and assures that the more complex requirements are processed at a level which facilitates interface of the requisite technical disciplines which must be involved in major construction projects. The delegation of contracting/purchase authority is thus in accordance with ARS organizational and functional structure and with various dollar threshold stipulated in the Federal Acquisition Regulations (FAR) and the Department of Agriculture Acquisition Regulations (AGAR).

SECTION 10B

DESCRIBING THE REQUIREMENT

INTRODUCTION

As discussed in Chapter 3, and in Appendix II, program personnel are responsible for developing, with assistance as needed from acquisition personnel, a specification that sets forth precisely what the government expects from the prospective contractor. This description forms the heart of the requisition, the solicitation package, and any contract that is formed.

Any of the various formats discussed in Section 3B may be used to describe a requirement for construction, repair, or alteration. In some cases however, it will be necessary to draw on in-house engineering resources in order to develop a formal or detailed specification for the individual project work. However, those engaged in establishing requirements for minor construction work should consider the feasibility of using a more convenient method of description--e.g., performance specifications, a premade industrial or government specification, or as-built drawings--before embarking on the development of formal or detailed specifications. Consideration should also be given to the use of brand name or equal descriptions when the construction work involves repair or replacement of existing fixtures or minor alteration and it is not possible or practical to fully describe the materials to be used.

PERFORMANCE SPECIFICATIONS

Performance specifications define the government's requirement in terms of form, fit, and function without describing the method and manner which is to be used to achieve the desired results. For example, a specification for the repair of a wall could simply indicate that the contractor will perform the repair in a manner and with materials which will result in a finish, texture, color, and porosity which is the same as the finish, texture, color, and porosity of the wall sections immediately adjacent to the repair work so that upon completion of the repair work the finished wall will present a uniform appearance. In this case, the contractor is free to perform the work in any manner it chooses and with any materials desired provided the finished work results in the same finish, texture, color, and porosity.

Whenever possible, performance specifications should state what the item is to do rather than bog down in technical detail. Performance details should include such items as:

- @ Output in terms of available power, velocity, production capacity, area of coverage, depth of penetration, etc.
- @ Capacity in terms of total load, cubic content, etc.
- @ Dimensional limitations
- @ Degree of tolerance or accuracy
- @ Weight limitations
- @ Resistance to external physical and chemical influences
- @ Other properties or qualities that have to do with how the item should perform

@ The manner in which the government will test or inspect for compliance with the above requirements

The use of generalized performance specifications may be adequate for the following types of projects:

MINOR ARCHITECTURAL WORK

Roofing, flashing, and trim
Windows and doors
Ceiling
Floor covering
Lab casework
Sealing, caulking, masonry restoration
Painting
Framing/sheathing/partitions
Pre-engineered buildings
Fences and gates
Demolition (preparation for remodeling)
Asbestos removal
Greenhouse benches
Plastering and stucco
Tile work
Screenhouse

MINOR ELECTRICAL WORK

Fixture/relocations/conversions
Additional outlets or switches
Detection/security systems
Intercom systems

MINOR CIVIL WORK

Paving and surfacing
Concrete repair, sealing
Site clearing for new construction, grading
Manholes, vaults

MINOR MECHANICAL WORK

Water wells
Irrigation system
Stock watering system
Packaged A/C-computer area
Ductwork extensions or modifications
Fume hood replacement (equipment only)
Government-furnished equipment contractor installation
Pipe repairs, insulation
Sprinkler system
Fuel oil tank replacement
Plumbing repairs, equipment and fixture installation
Any direct replacement

However, while generalized performance specifications might be adequate for the repair of a plaster wall or the facade of a building, they would be inadequate to describe the work required for the repair of a wall which functions as a weight bearing structure, retaining wall, fire wall, etc. Under the latter conditions the performance specification would have to be drafted in considerably more detail to describe the government's minimum requirement; or the specification would have to be augmented by making specific reference to industrial specifications, Federal specifications, as-built drawings, construction standards, and local building codes and regulations.

INDUSTRIAL AND GOVERNMENT SPECIFICATIONS

Industrial and Government Specifications have been developed to set forth uniform levels of quality for materials, products, or services. Industrial specifications are developed by recognized groups such as the American Association of Construction Contractors, by independent testing laboratories, by engineering and manufacturing associations, and similar organizations. These specifications are best used for previously designed repetitive construction.

IN-HOUSE ENGINEERING SPECIFICATIONS

The development of specifications by Area engineering resources is undoubtedly the best way to assure that the work to be performed is accurately described. However, in-house engineering design is time-consuming, expensive, and often not warranted for work involving only minor construction, repair, or alteration. As a general guide to determining whether or not it is practical to develop an in-house engineering design, it may be helpful to apply the following rule of thumb: The cost of the design should not exceed 6 percent of the estimated construction contract price. Thus, if it is anticipated that the minor construction work will cost \$7,500, no more than \$450 should be spent on the design effort.

AS-BUILT DRAWINGS

For some acquisitions, the dollar value of the work to be performed or the time available for accomplishing required repair work may be insufficient to permit development of any of the types of specifications described above. In such a case, "as-built" drawings may be used to define the government's minimum requirements. An illustrative situation is one in which a storm has damaged a facility's drainage, electrical, or power system, or another facility structure. Prospective contractors may be given the requirement that they restore the damaged system or structure to a configuration shown in as-built drawings. If the as-built drawings describe the system or structure in terms of its configuration and materials prior to the damage, the government will have reasonable assurance that the result will be comparable in terms of material and configuration to that of the original facility. Contact the Area Engineering office for assistance.

BRAND NAME OR EQUAL DESCRIPTIONS

Brand name or equal descriptions may be used in construction work to define a standard of quality with which the construction contractor must comply, provided the brand name or equal description sets forth the salient physical, functional, or other characteristics of the brand name which are deemed essential to the needs of the government. The general provision entitled "Material and Workmanship" (FAR 52.236-5) states:

"Unless otherwise specifically provided in the contract, reference to any equipment, material, article, or patented process, by trade name, make, or catalog number shall be regarded as establishing a standard of quality and shall not be construed as limiting competition, and the Contractor may, at his option, use any equipment, material, article, or process, which, in the judgment of the contracting officer, is equal to that named."

Brand name descriptions, if used in compliance with the above requirement, can greatly simplify the task of developing specifications for small construction work.

Example: Pre-engineered "Butler" Building.

Brand Name: Butler; model number defines the gauge of the metal, etc.

A-E DESIGN

A-E services up to \$100,000 are processed by Area office COs, all others are handled by FD-FCMB. Purchasing Agents should be aware of the following:

- @ The Area CO may establish two or more Blanket Purchase Agreements (BPA) or Indefinite Quantity Contracts (IQC) with local A-E firms, where accessibility, knowledge of local conditions and codes, etc., are important to design, budget constraints, and other factors. Instructions for BPA Type 45 transactions are provided in Bulletins 89-4 of the National Finance Center (NFC) Manual.
- @ When appropriate, BPAs or IQCs may also be established for designs in excess of \$25,000 per order or requirement. Limiting A-E participation to the local geographic area may be a necessary element of consideration to minimize travel costs.
- @ The Area/location may also utilize the nationwide or Area-wide A-E Indefinite Quantity Contracts established by FD where appropriate.

SPECIFICATION DEVELOPMENT FOR SMALL CONSTRUCTION

Many small construction requirements in ARS may not lend themselves to the forms or types of specifications discussed above. In many cases it may be up to the Purchasing Agent to decide how to best proceed or at least, to advise the requirer as to the best approach. In many cases, describing the construction requirement may be handled simply as follows:

- @ Describe the requirement as accurately as possible in your own words--it may be advisable to take pictures and/or conduct a site visit to help the prospective contractors to better understand the requirement.
- @ Request local contractors to provide descriptions of what they will do in as much detail as possible, in addition to quoting a price. Before deciding to place an order, make sure that you and the contractor have a "meeting of minds" as to what is to be done. It would be advisable to incorporate the contractor's written description into the order so as to contractually bind him/her to do the work as described.
- @ Obtain a review of the contractor's description of work from the requisitioner, user, and/or maintenance or engineering personnel, if necessary, to ensure that the government's requirements will be met.

SECTION 10C

DECIDING ON THE BEST METHOD OF ACQUISITION

USE OF SIMPLIFIED ACQUISITION PROCEDURES

As noted in Section 10A, the authority to employ the simplified acquisition procedures for contracts involving construction not in excess of the simplified acquisition threshold is contained in FAR 36.701(c).

Requirements

All of the requirements and restrictions which govern the use of simplified acquisition procedures for other types of buys govern its use for construction buys as well. For example:

- @ Public notice of proposed acquisitions estimated to exceed \$10,000 must be posted in a public place in accordance with FAR Subpart 5.1.
- @ Maximum practicable competition must be obtained for acquisitions of \$2,500 or more. (FAR 13.104).
- @ Construction between \$2,500 and \$100,000 must be reserved exclusively for small businesses. (FAR 13.003), unless the Small Business Competitiveness Demonstration Act as the department implements it says that such procurement are to be unrestricted.

These and other requirements are discussed in Chapter 7.

SIMPLIFIED ACQUISITION METHODS AVAILABLE

Several simplified acquisition methods are available for the acquisition of construction services. The following paragraphs provide examples of the types of construction which could be done using each method and briefly describes the key features of the procurement action:

Convenience Checks

Convenience checks are particularly well suited to the purchase of minor construction work when the work is of a nonrecurring nature and when the individual transaction does not exceed the Purchasing Agents delegated authority or \$2,000 (which ever is less). See ARS Policy and Procedures on Purchase Card/Convenience Checks.

The method should be considered when the work to be performed is undertaken by a vendor whose services are not needed often enough to warrant the establishment of a blanket purchase agreement (BPA). Refer to Section 8D for other requirements which must be observed.

When this method is used, the requirement is conveyed and the price quoted orally. Minimal written documentation is required. The contractor is paid immediately for accepted work. (See Section 8D)

EXAMPLES: Minor construction work such as replacement of lights, plumbing, or other fixtures; additional electrical outlet/switch installation; repair of broken windows, fences, electrical plugs, water and other piping; repair or replacement of locks, etc.

AD-838, Purchase Order

An AD-838 may be used for construction, alteration, or repair services that are within the simplified acquisition threshold provided that all required clauses are included (See specifically FAR 36.701(c), FAR Subpart 36.5, AGAR 436.5 and the provision and clause matrix for construction in FAR Subpart 52.3). Requirements and procedures for the use of purchase orders are presented in Section 8B.

AD-838, Purchase Order - \$0-\$2,500 (One oral quotation \$2,000 or less; one *written* quotation \$2,001-\$2,500).

If the procurement action is \$2,000 or less, it is not subject to the Davis-Bacon Act and a wage rate is not required. File documentation may be limited to notes or abstracts that convey pertinent prices, delivery, contractor(s) contacted, and his/their description of work to be performed.

The AD-838 description may be a brief description or a listing of performance requirements. Pertinent FAR clauses may be incorporated by reference by attaching a checklist.

EXAMPLES: Construction, alteration, or repair of minimal complexity such as painting; tile work; minor utility repair; asphalt and concrete patching and/or sealing; minor interior renovation.

AD-838, Purchase Order - \$2,501-\$100,000 (Generally three written quotations are considered adequate to promote maximum practicable competition.)

This procurement action is subject to the Davis-Bacon Act and must include Department of Labor Wage Rates.

The description of work may consist of the Contractor's submitted proposed work plan, performance specifications, brand name or equal, single line diagrams, or noted changes to previous As-Built Drawings.

Public notice (see FAR 5.101(a)(2)) is not required. (To maximize competition, two sources not previously included, should be solicited in the RFQ process as each new requirement arises.)

The contractor should be required to submit, along with their price quotations, information sufficient for a thorough analysis of their proposed method, schedule, materials, and references.

Documentation for the file may consist of an outline of the prescriptive specifications and each contractor's ability to meet them, and documentation of references. A cassette recording of the

site inspection, discussions, interpretations, and understandings may be included in the contract file (if the contractors are given prior notice of the recording) to further support the acquisition. Such recordings may be purged and the cassette reused following acceptance of the work by the government and receipt and processing of the contractor's request for final payment and release of claims.

EXAMPLES: Construction, alteration or repair of minimal complexity such as floor covering, painting, packaged A/C-computer area; paving; intercom systems; windows and doors; fences and gates; screenhouse; water wells; fuel oil tank (new/replacement); intercom systems; greenhouse benches; pre-engineered building construction.

AD-838, Purchase Order--\$10,001-\$100,000 (in circumstances when brand name or equal, performance specifications, single line drawings, or modified As-Builts, can be utilized)

Documentation may be similar to the AD-838 \$2,500-\$10,000 acquisitions, with the following additional requirement:

Public notice (See FAR 5.101(a)(2)) is required for acquisitions between \$10,000 and \$25,000. A public notice of the solicitation must be posted not later than the date the solicitation is issued and remain posted for at least 10 days, or until quotes have been opened whichever comes later (an office bulletin board, available for public viewing is sufficient if routinely used for this purpose). In addition, one or more of the following methods may be used to enhance competition:

- @ Brief announcement to trade journals, magazines, newspapers, etc., if available without cost to the government.
- @ Posting of an unclassified notice of the solicitation in local post offices, libraries, etc., if they are available for this purpose.

For acquisitions above \$25,000 a notice must be published via the Electronic Posting System/FedBizOpps in accordance with FAR 5.101(a)(1).

EXAMPLES: Construction, alteration, or repair of minimal complexity such as lab casework; pre-engineered building construction; asbestos removal; demolition; site clearing; grading; intercom, sprinkler, fire alarm, or security systems.

SF-1442, Solicitation, Offer and Award

The SF-1442 prescribed in FAR Part 36 is optional for use in acquiring construction, alteration, or repair services that are within the simplified acquisition threshold (See FAR 13.307 and 36.701(b)). The SF-1442 has one distinct advantage over the SF-18 (Request for Quotations) and the AD-838 (Purchase Order). Unlike the SF-18, the contractor's response to the SF-1442 is an "offer" which is legally binding. Acceptance and award by the government can also be made on the same form, unlike the SF-18 and the AD-838. *Although the SF-1442 may be used for all construction services, the use of the AD-838 is appropriate for most requirements of less than*

\$100,000. The Purchasing Agent must decide which of the methods is the best method to use for construction services under the circumstances. If you are not sure, consult the Area PAO for advice and assistance.

METHODS AVAILABLE FOR RECURRING REQUIREMENTS

In addition to the aforementioned methods, recurring construction requirements may be acquired through the use of Blanket Purchase Agreements or Indefinite Quantity contracts. The significant advantages of these methods are (1) reduction in time required to issue a task order and get the work done; (2) assurance of competent contractor and quality work; (3) obtaining competitive cost; and (4) promotion of contractor incentive to obtain repeat business.

These methods are described in the following paragraphs:

Blanket Purchase Agreement (BPA)

Establishment of a BPA (See Section 8C) should be considered whenever the requiring activity contemplates a continuing and repetitive need for the same or similar minor construction, repair, or alteration services. However, the method may not be used to circumvent the dollar ceiling on the use of small purchase procedure. (The practical limitation here would be requirements under \$2,000 since a written solicitation is required and the Davis-Bacon wage determination must be obtained and incorporated into the resulting order).

If there is a continuing need for the minor construction services and it is determined that it is not practical to establish an indefinite delivery contract to meet the need, the feasibility of establishing BPAs with several competitive sources should be explored. As with AD-838 methods, all required clauses must be included.

Indefinite Quantity Contracts (IQC)

Establishment of an IQC may be considered for locations where there is significant volume of construction projects annually to justify these arrangements. Generally speaking, at least 10 to 15 construction projects annually at a location will be needed to support establishing open end contracts. To obtain better pricing and to provide for competition among contractors, more than one open end contract should be considered. All required clauses must be included. (See Chapter 11).

Purchasing Agents should coordinate the use of any IQC contract with the Area Contracting Office because the "total dollar value" of the IQC must be within the delegation of authority of the CO who signs the award.

SECTION 10D

REQUIREMENTS FOR SOLICITATION

Solicitation, whether written or oral, is the process by which the government communicates its requirements to potential contractors. In issuing the solicitation, orally or in writing, the Purchasing Agent must present a clear and concise description of the work to be performed, the period of performance, and any special considerations or conditions.

ORAL SOLICITATION

As discussed in Section 7D, soliciting quotations without the use of a written document--i.e., by telephone or personal contact--is permitted only when the requirement is so simple that it can be accurately and fully conveyed orally, with reasonable assurance that the sources submitting quotations will submit them on the same competitive footing. To assure compliance with this requirement, Purchasing Agents should conduct a systematic step-by-step review of the proposed purchase, in accordance with the guidelines presented in Section 7D.

In acquiring construction, repair, or alteration work--or any construction service--it becomes particularly important to be certain that the requirement can be described in a clear, concise, and uniform manner to all prospective contractors, and that the work does not involve any special requirements which should be covered in a written solicitation. If the cost of the work is estimated to be \$2,000 or less, the process of purchasing construction services can be relatively simple since (1) competition is not required because the cost of the work is estimated to be under \$2,500 and (2) an oral solicitation for construction services valued at \$2,000 or less is permitted.

WRITTEN SOLICITATION

In accordance with FAR 13.106-1(a), issuance of a written solicitation document is required for all purchases of construction estimated to exceed \$2,000 because of the requirements to incorporate the Davis-Bacon Act and related labor standards clauses.

Preparation of SF-1442, Solicitation, Offer and Award

As discussed in Section 10C, the Purchasing Agent may use the SF-1442 (See Exhibit 10D(i)) for construction, alteration, and repair services. Consult with Area CO if you decide to use the SF-1442.

Standard Form 18, Request for Quotations

Standard Form 18, Request for Quotations, is used in accordance with FAR 13.107 and the guidelines set out in this manual (See Section 7D). Because SF 18 is designed for purchasing supplies rather than minor construction, the Purchasing Agent should include or attach a note advising potential offerors that, in the event of a purchase order exceeding \$2,000, the successful contractor must comply with Davis-Bacon Act and related Labor Standards Clauses as they are currently implemented in FAR Subpart 22.4. The notice below may be used for this purpose.

"Quoters are advised that in the event a purchase order is issued which exceeds \$2,000,

such purchase order will incorporate the Davis-Bacon Act and related Labor Standards Clauses as an attachment to the AD-838."

In addition, the SF-18, or attachments to it, must set forth:

- @ *A description of the work to be performed.* This requirement may be met by including a brief description of the work and referencing the specification or other detailed description of the work. The specification should set forth performance period, location of work, site availability, work hours, and coordination requirements.
- @ *The pricing arrangement contemplated.* Generally, contracts for construction will be firm fixed-price. Such contracts may be structured for pricing on the basis of a lump sum, a unit price, or a combination of both. RFQs must require lump sum pricing in preference to unit prices except where (a) large quantities of work such as grading, paving, outside utilities, or site preparation are involved; (b) quantities cannot be determined in advance of contracting within limitations that would permit a lump sum bid, without a substantial contingency; (c) quantities may change significantly during construction; or (d) the offeror would have to expend unusual effort in making take-offs of quantities from the drawings. When unit prices are used, it is advisable to include a Variation in Estimated Quantity clause which sets forth the conditions under which the contractor or the government may be entitled to an equitable adjustment in the unit price. (See FAR 11.702.)
- @ *The RFQ closing date.* The date set for receipt of quotations depends primarily on the nature of the construction services being acquired and the urgency of the acquisition. As a general rule, written solicitations should allow 30 calendar days for quotation response. The quotation time for soliciting construction work should allow for the time required by prospective contractors to inspect the site, obtain subcontract quotes, and examine relevant data. Additionally, preparation of a construction project quotation takes more time than is needed for supplies or services quotations.
- @ *The point of contact to arrange for a site-visit.* One site visit should be scheduled for attendance by all prospective offerors. This will be more convenient for the government representative or Purchasing Agent and will assure that all offerors receive the same information about the project requirements.
- @ *The location* where government-furnished data or equipment may be viewed, if applicable.
- @ *The clauses* as appropriate in accordance with FAR Subpart 36.5. Note that some are mandatory, under certain conditions, and some available for optional use.
- @ The Davis-Bacon Act wage determination by DOL.
- @ Government-proposed guidelines for determining the acceptance date of the purchase order.

- @ For small business set-asides, incorporate solicitation provision FAR 52.219-1, Small Business Program Representations, and clause FAR 52.219-6, Notice of Total Small Business Set-Aside.
- @ If the estimated price of the contract is in excess of \$25,000, but less than \$100,000, only a payment bond will be required. (See FAR 28.102-1(b)(1)). The solicitation must specify the requirement for the bonds as well as their amount and the deadline for their submittal.

NOTE: See the sample RFQ at Exhibit 10D(iv).

DAVIS-BACON REQUIREMENTS

The Davis-Bacon Act provides that contracts in excess of \$2,000, to which the United States is a party for construction, alteration, or repair (including painting and decorating) of public buildings or public works within the United States, shall contain a clause that no laborer or mechanic employed directly upon the site of the work shall receive less than the prevailing wage rates as determined by the Secretary of Labor.

Types of Wage Determinations

General Wage Determinations

A general wage determination contains prevailing wage rates for the types of construction designated in the determination, and is used in contracts performed within a specified geographical area. General wage determinations contain no expiration date and remain valid until modified, superseded, or canceled by a notice in the Federal Register by the Department of Labor. Once incorporated in a contract, a general wage determination normally remains effective for the life of the contract. These determinations must be used whenever possible. They are issued at the discretion of the Department of Labor either upon receipt of an agency request or on the Department of Labor's own initiative.

General wage determinations are available on the internet at <http://www.DavisBacon.fedworld.gov>

Project Wage Determinations

A project wage determination is issued at the specific request of a contracting agency. It is used only when no general wage determination applies, and is effective for 180 calendar days from the date of the determination. However, if a determination expires before contract award, it may be possible to obtain an extension to the 180-day life of the determination. Once incorporated in a contract, a project wage determination normally remains effective for the life of the contract.

General Requirements

In accordance with FAR 22.404-2, the CO must ensure that only the appropriate wage

determinations are incorporated in solicitations and contracts and must designate the work to which each wage determination or part thereof applies. In addition, FAR 22.404-10, FAR 404-10

requires that the contractor post a copy of the wage determination and the "Notice to Employees" poster (Department of Labor Form WH-1321) in a prominent place. The poster is to be provided by the CO and may be obtained from the Superintendent of Documents (see Exhibit 10D(iii)).

If the wage determination is a general wage determination or a project wage determination containing more than one rate schedule, the CO must either include only the rate schedules that apply to the particular types of construction (building, heavy, highway, etc.) or include the entire wage determination and clearly indicate the parts of the work to which each rate schedule is to be applied. Inclusion by reference is not permitted.

The Wage and Hour Division has issued the following general guidelines for use in selecting the proper schedule(s) of wage rates:

Building construction is generally the construction of sheltered enclosures with walk-in access, for housing persons, machinery, equipment, or supplies. It typically includes all construction of such structures, installation of utilities and equipment (both above and below grade level), as well as incidental grading, utilities and paving, unless there is an established area practice to the contrary.

Residential construction is generally the construction, alteration, or repair of single family houses or apartment buildings of no more than four (4) stories in height, and typically includes incidental items such as site work, parking areas, utilities, streets and sidewalks, unless there is an established area practice to the contrary.

Highway construction is generally the construction, alteration, or repair of roads, streets, highways, runways, taxiways, alleys, parking areas, and other similar projects that are not incidental to "building," "residential," or "heavy" construction.

Heavy construction includes those projects that are not properly classified as either "building," "residential," or "highway," and is of a catch-all nature. Such heavy projects may sometimes be distinguished on the basis of their individual characteristics, and separate schedules issued (e.g., "dredging," "water and sewer line," "dams," "flood control," etc.).

When the nature of a project is not clear, it is necessary to look at additional factors, with primary consideration given to locally established area practices. If there is any doubt as to the proper application of wage rate schedules to the type or types of construction involved, guidance must be sought before the opening of bids, or receipt of best and final offers, from the Administrator, Wage and Hour Division.

Procedures for Requesting Wage Determinations

Requests for general wage determinations

If there is a general wage determination applicable to the project, the agency may use it without

notifying the Department of Labor. When necessary, a request for a general wage determination may be made by submitting Standard Form SF-308, Request for Determination and Response to Request, to the Administrator, Wage and Hour Division, attention: Branch of Construction Contract Wage Determinations (See FAR 22.404-3).

Used when a pertinent labor classification is not listed on the general wage determination.

Requests for project wage determinations

A contracting agency must submit requests for project wage determinations on SF-308 to the Department of Labor (See Exhibit 10D(v)). The requests must include the following information:

- @ The location, including the county (or other civil subdivision) and State in which the proposed project is located.
- @ The name of the project and a sufficiently detailed description of the work to indicate the types of construction involved (e.g., building, heavy, highway, residential, or other type).
- @ Any available pertinent wage payment information, unless wage patterns in the area are clearly established.
- @ The estimated cost of each project.
- @ All the classifications of laborers and mechanics likely to be employed. Type and classifications needed but not listed on Form 308.

Time for submission of requests

The time required by the Department of Labor for processing requests for project wage determinations varies according to the facts and circumstances in each case. An agency should expect the processing to take at least 30 days. Accordingly, agencies should submit requests to the Department of Labor at least 45 days (60 days if possible) before issuing the solicitation.

Limitations

Project wage determinations are effective for 180 calendar days from the date of issuance and apply only to contract awards made within that time period. Project wage determinations do not apply to, and are not permitted to be included in, contracts other than those for which they are issued. Once incorporated in a contract, a project wage determination normally remains effective for the life of the contract (See FAR 22.404-3).

Solicitations Issued Without Wage Determinations

If a solicitation is issued before the wage determination is obtained, a notice shall be included in the solicitation that the schedule of minimum wage rates to be paid under the contract will be

issued as an amendment to the solicitation (See FAR 22.404-4).

PERFORMANCE AND PAYMENT BONDS

The Miller Act (40 U.S.C. 270a-270f) sets out the requirements for performance and payment bonds under construction contracts. The Federal Acquisition Streamlining Act of 1994, and FAR 13.005 exempts simplified acquisitions from the requirements of the Miller Act. However, FAR 28.102 requires a payment bond or alternate payment protections for contracts between \$25,000 and \$100,000. FAR 28.102 requires that a bond or alternate payment protection be provided by the contractor before receiving a Notice to Proceed or being allowed to start work.

The CO is to select 2 or more from among five alternatives, i.e., a payment bond; an irrevocable letter of credit; a tripartite escrow agreement; certificates of deposit; or, other types of security listed in FAR 28.204-1 and 28.204-2 such as corporate, individual, and United States bonds or notes, certified or cashier's checks, bank drafts, money orders, and currency. The clause at FAR 52.228-13, Alternative Payment Protections, is to be included in solicitations and contracts between \$25,000 and \$100,000. The clause is to be completed by specifying the payment protection or protections selected, the penal amount required, and the deadline for submission.

Payment Bond or Alternative Protection Amounts

Payment bond or alternative protection amounts shall be 100 percent of the contract price for any contract less than \$1 million.

STATEMENT OF MAGNITUDE

In accordance with FAR 36.204, the solicitation must state the magnitude of the construction requirement in terms of estimated price range so that prospective contractors can evaluate their ability to obtain necessary bonding. The price range used for simplified acquisitions of construction should be stated as "Between \$25,000 and \$100,000."

DETERMINING RESPONSIBILITY AND RESPONSIVENESS

Responsibility

The distinction between a responsive quote (offer) and a responsible quoter (offeror) is that the latter concerns the ability to perform the contract and involves the offeror's capacity, while the former is concerned only with the offeror's intent or willingness to perform the work in compliance with government terms. A responsible prospective contractor is one who meets certain minimum and/or special standards as set forth in FAR 9.104.

It is essential that government contracts be awarded to reliable and capable firms who can meet the required standards. A responsible prospective contractor is one who possesses adequate financial resources; the necessary experience, organization, technical qualifications, skills, and

facilities; the capability to comply with the required delivery or performance schedule; and a satisfactory record of integrity, judgment, and performance.

Note that a small business may not be excluded from an award based upon a determination of nonresponsibility without prior consent of the SBA, unless the small business is listed on the "List of Parties Excluded from Procurement Programs."

If the SBA is requested to make a determination of responsibility and it determines that a small business is responsible, it will issue a Certificate of Competency (COC), which must be accepted by the purchasing activity as evidence of the firm's capability to perform. The CO may appeal the proposed issuance of a COC using the procedures in FAR 19.602.

Responsiveness

A responsive quotation/offer is one which complies with the requirements of the solicitation or may be modified, based upon further discussions, to comply with the solicitation. A nonresponsive quotation/offer is one which cannot be made responsive based upon further discussions. For example, if a large business submits a quote for a small construction project which is reserved for the exclusive participation of small business, the large business would be considered nonresponsive regardless of prices or terms quoted. On the other hand, a small business which does not agree to comply with the period of performance required by the solicitation would not necessarily be disqualified without further discussion unless it is decided that the firm does not have a reasonable chance of getting the contract award.

Purchasing Agents may enter into discussions with qualified prospective vendors at the time of the solicitation of quotations. Such negotiations may involve price, delivery or performance, and/or a discussion of other relevant factors pertaining to the proposed purchase.

Evaluation of Responses

Evaluation of responses is the responsibility of the Purchasing Agent although he/she may not be able to discharge this responsibility without assistance from technical personnel. The essential steps in preparing for negotiations include:

- @ Reviewing the quotations received in response to the solicitation to identify areas to which vendors may have taken exception. If exceptions are noted, a determination must be made as to whether or not the exception is of such a serious nature as to preclude the possibility of awarding the purchase to the quoter. If the exceptions are minor, they should be noted for discussion in the event negotiations are held.

- @ Verifying compliance with the delivery or performance requirements. Note that a vendor's inability to meet the government's delivery requirements may not be sufficient ground for

elimination from further consideration of an otherwise responsive quotation unless the requirement is urgent.

- @ Determining the adequacy of competition. Adequate competition exists when quotations/bids are received from two or more qualified and independent sources and all of the requirements of the RFQ are met. Under these circumstances, an award of the order may be made without further discussion.

- @ Evaluating the price(s) quoted as compared to the government estimate and other quotations received. If the government estimate is considerably lower or higher than the majority of the quotes received, then the possibility exists that the government's requirements were not clearly stated and should be reviewed with technical personnel prior to entering into discussions with prospective contractors.

Selection for Award Based Upon Price

For small construction requirements, award is made to the responsive, responsible quoter whose quote is lowest, price and other factors considered.

ISSUANCE OF PURCHASE ORDER/SF-1442 AWARD

Purchase Order

Subsequent to the evaluation and selection of the successful quoter, the completed AD-838 may be issued to the selected firm. When using the AD-838, the Purchasing Agent must *ensure that all applicable and appropriate contract clauses are incorporated*. Even though the USDA has prepared pre-printed terms and conditions, the Purchasing Agent should always make sure that the most current version of the clause is incorporated by referring to the solicitation provision and clause matrix in FAR 52.301 (See "Note to Purchasing Agents" in Exhibit 10D(iv)). (See Sample at Exhibit 10D(vii)). As previously indicated, a purchase order constitutes an offer by the government which may be accepted or rejected by the offeror. Therefore, information relating to selection for award of the purchase order should not be disclosed to sources outside the government until the offeror has taken some affirmative action signifying acceptance of the purchase order.

SF-1442 Award

Subsequent to the evaluation and selection of the successful offeror, the completed SF-1442 may be issued to the selected firm (See Exhibit 10D(i)). Unlike the Purchase Order, acceptance and award is accomplished by the Purchasing Agent's signature on the SF-1442.

Obtaining Services through Simplified Acquisition Procedures

Exhibit 10D(i)
SF-1442, Solicitation, Offer, And Award

SOLICITATION, OFFER, AND AWARD <i>(Construction, Alteration, or Repair)</i>		1. SOLICITATION NO.	2. TYPE OF SOLICITATION SEALED BID (IFB) NEGOTIATED (RFP)	3. DATE ISSUED	PAGE OF PAGES
IMPORTANT -- The "offer" section on the reverse must be fully completed by offeror.					
4. CONTRACT NO.	5. REQUISITION/PURCHASE REQUEST NO.		6. PROJECT NO.		
7. ISSUED BY	CODE	8. ADDRESS OFFER TO			
9. FOR INFORMATION CALL:	A. NAME	B. TELEPHONE NO. (Include area code) (NO COLLECT CALLS)			
SOLICITATION					
NOTE: In sealed bid solicitations "offer" and "offeror" mean "bid" and "bidder".					
10. THE GOVERNMENT REQUIRES PERFORMANCE OF THE WORK DESCRIBED IN THESE DOCUMENTS (Title, identifying no., date):					

within _____ within _____ receiving _____
 | award, | | notice to proceed. This performance period | mandatory, | | negotiable. (See _____.)
 | is _____

12A. THE CONTRACTOR MUST FURNISH ANY REQUIRED PERFORMANCE AND PAYMENT BONDS?
 (If "YES," indicate within how many calendar days after award in Item 12B.)

12B. CALENDAR DAYS
 | YES | | NO |

A. ADDITIONAL SOLICITATION REQUIREMENTS:
 and Sealed offers in original _____ copies to perform the work required are due at the place specified in Item 8 _____
 and _____ by _____ (hour)
 time _____ (date). If this is a sealed bid solicitation, offers will be publicly opened at that time. Sealed envelopes
 containing offers shall be marked to show the offeror's name and address, the solicitation number, and the date and time offers are due.

B. An offer guarantee | | is, | | is not required.

C. All offers are subject to the (1) work requirements, and (2) other provisions and clauses incorporated in the solicitation in full text or by reference.

D. Offers providing less _____ calendar days for Government acceptance after the date offers are due will not be considered _____ and
 than _____ will be rejected.

Exhibit 10D(i) (Continued)

OFFER (Must be fully completed by offeror)			
14. NAME AND ADDRESS OF OFFEROR (Include ZIP Code)	15. TELEPHONE NO. (Include area code)		
16. REMITTANCE ADDRESS (Include only if different than Item 14)			
CODE	FACILITY CODE		
17. The offeror agrees to perform the work required at the prices specified below in strict accordance with the terms of this solicitation, if this offer is within _____ calendar days after the date offers are due. (Insert any number equal to or greater than the minimum requirement stated in Item 13D. Failure to insert any number means the offeror accepts the minimum in Item 13D.)			
AMOUNTS ►			
18. The offeror agrees to furnish any required performance and payment bonds.			
19. ACKNOWLEDGMENT OF AMENDMENTS			
<i>(The offeror acknowledges receipt of amendments to the solicitation -- give number and date of each)</i>			
AMENDMENT NO.			
DATE			
20A. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER (Type or print)	20B. SIGNATURE	20C. OFFER DATE	
AWARD (To be completed by Government)			
21. ITEMS ACCEPTED:			
22. AMOUNT		23. ACCOUNTING AND APPROPRIATION DATA	
24. SUBMIT INVOICES TO ADDRESS SHOWN IN (4 copies unless otherwise specified)		25. OTHER THAN FULL AND OPEN COMPETITION PURSUANT TO U.S.C. 2304(c) () U.S.C. 293(c) ()	
26. ADMINISTERED BY CODE		27. PAYMENT WILL BE MADE BY	
CONTRACTING OFFICER WILL COMPLETE ITEM 28 OR 29 AS APPLICABLE			
28. NEGOTIATED AGREEMENT (Contractor is required to sign this document and return copies to issuing office.) Contractor agrees to furnish and deliver all items or perform all work requirements identified on this form and any continuation sheets for the consideration stated in this contract. The rights and obligations of the parties to this contract shall be governed by (a) this contract award, (b) the solicitation, and (c) the clauses, representations, certifications, and specifications incorporated by reference in or attached to this contract.		29. AWARD (Contractor is not required to sign this document.) Your offer on this solicitation is hereby accepted as to the items listed. This award consummates the contract, which consists of (a) the Government solicitation and your offer, and (b) this contract award. No further contractual document is necessary.	
30A. NAME AND TITLE OF CONTRACTOR OR PERSON AUTHORIZED TO SIGN (Type or print)		31A. NAME OF CONTRACTING OFFICER (Type or print)	
30B. SIGNATURE	30C. DATE	31B. UNITED STATES OF AMERICA	31C. AWARD DATE
BY			

Exhibit 10D(iii)
Posters



NOTICE TO ALL EMPLOYEES

Working on Federal or Federally Financed Construction Projects

MINIMUM WAGES

You must be paid not less than the wage rate in the schedule posted with this Notice for the kind of work you perform.

OVERTIME

You must be paid not less than one and one-half times your basic rate of pay for all hours worked over 40 a week. There are some exceptions.

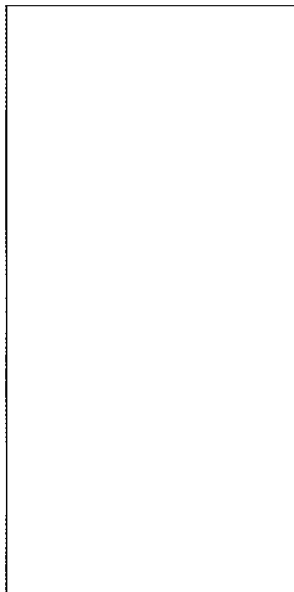
Exhibit 10D(iii) (Continued)

APPRENTICES

Apprentice rates apply only to apprentices properly registered under approved Federal or State apprenticeship programs.

PROPER PAY

If you do not receive proper pay, contact the Contracting Officer listed below:

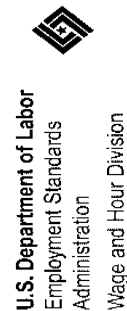


or you may contact the nearest office of the Wage and Hour Division, U.S. Department of Labor. The Wage and Hour Division has offices in several hundred communities throughout the country. They are listed in the U.S. Government section of most telephone directories under:

**U.S. Department of Labor
Employment Standards Administration**

WH Publication 1321
Revised January 1986

U.S. GOVERNMENT PRINTING OFFICE: 1985-205-866



Obtaining Services through Simplified Acquisition Procedures

Exhibit 10D(iv) SF-18 Request for Quotations

REQUEST FOR QUOTATION <i>(THIS IS NOT AN ORDER)</i>		THIS RFQ <input type="checkbox"/> IS <input type="checkbox"/> IS NOT A SMALL BUSINESS SET-ASIDE		PAGE	OF	PAGES
1. REQUEST NO.	2. DATE ISSUED	3. REQUISITION/PURCHASE REQUEST NO.		4. CERT. FOR NAT. DEF. UNDER BDSA REG. 2 AND/OR DMS REG. 1	RATING	
5a. ISSUED BY				6. DELIVER BY (Date)		
5b. FOR INFORMATION CALL (NO COLLECT CALLS)				7. DELIVERY		
NAME		TELEPHONE NUMBER		OTHER		
		AREA CODE NUMBER		FOB DESTINATION		
				9. DESTINATION		
a. NAME		8. TO.		a. NAME OF CONSIGNEE		
		b. COMPANY		b. STREET ADDRESS		
c. STREET ADDRESS				c. CITY		
d. CITY		e. STATE		d. STATE		
		f. ZIP CODE		e. ZIP CODE		
10. PLEASE FURNISH QUOTATIONS TO THE ISSUING OFFICE IN BLOCK 5a ON OR BEFORE CLOSE OF BUSINESS (Date)						
IMPORTANT: This is a request for information, and quotations furnished are not offers. If you are unable to quote, please so indicate on this form and return it to the address in Block 5a. This request does not commit the Government to pay any costs incurred in the preparation of the submission of this quotation or to contract for supplies or services. Supplies are of domestic origin unless otherwise indicated by quote. Any representations and/or certifications attached to this Request for Quotations must be completed by the quote.						
11. SCHEDULE (Include applicable Federal, State and local taxes)						
ITEM NO.	SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT	
(a)	(b)	(c)	(d)	(e)	(f)	
12. DISCOUNT FOR PROMPT PAYMENT				a. 10 CALENDAR DAYS (%)	b. 20 CALENDAR DAYS (%)	c. 30 CALENDAR DAYS (%)
				d. CALENDAR DAYS NUMBER	PERCENTAGE	
NOTE: Additional provisions and representations: <input type="checkbox"/> are <input type="checkbox"/> are not attached.						
13. NAME AND ADDRESS OF QUOTER		14. SIGNATURE OF PERSON AUTHORIZED TO SIGN QUOTATION			15. DATE OF QUOTATION	
a. NAME OF QUOTER		a. NAME (Type or print)			b. TELEPHONE AREA CODE	
b. STREET ADDRESS		16. SIGNER			NUMBER	
c. COUNTY		c. TITLE (Type or print)				
d. CITY		e. STATE		f. ZIP CODE		
<small>AUTHORIZED FOR LOCAL REPRODUCTION Previous edition not usable This form was electronically produced by Fair Federal Forms, Inc.</small>						
<small>STANDARD FORM 18 (Rev. 6-85) Prescribed by GSA - FAR (48 CFR) 53.215-1(a)</small>						

Exhibit 10D(iv) (Continued)

Clauses Incorporated by Reference

The clauses listed below that have been checked by the Government are incorporated by reference and are made a part of any resultant purchase order with the same force and effect as if set-forth in full text. All of the references shown are from the Federal Acquisition Regulation (48 CFR Chapter I) unless otherwise indicated. The month and year of each clause applicable to this contract are shown in parentheses following the clause title. Contractors are CAUTIONED that they should not check or otherwise alter any of the contract clauses listed herein. The complete text of any or all of the clauses referenced may be obtained by submitting a request to the office issuing the solicitation or may be accessed electronically on the internet at this address:

<http://www.arnet.gov.far>

<u>Clause Reference</u>	<u>Title and Date</u>
(X) 52.203-3	Gratuities (APR 1984)
() 52.211-18	Variation in Estimated Quantity (APR 1984) (Applies where construction is acquired on a fixed unit price basis)
(X) 52.219-6	Notice of Total Small Business Set-Aside (JUL 1996)
(X) 52.222-3	Convict Labor (AUG 1996)
(X) 52.222-6	Davis-Bacon Act (FEB 1995)
(X) 52.222-7	Withholding of Funds (FEB 1988)
(X) 52.222-8	Payrolls and Basic Records (FEB 1988)
(X) 52.222-9	Apprentices and Trainees (FEB 1988)
(X) 52.222-10	Compliance With Copeland Act Requirements (FEB 1988)
(X) 52.222-11	Subcontracts (Labor Standards) (FEB 1988)
(X) 52.222-12	Contract Termination-Debarment (FEB 1988)
(X) 52.222-13	Compliance with Davis-Bacon and Related Act Regulations (FEB 1988)
(X) 52.222-14	Disputes Concerning Labor Standards (FEB 1988)

Exhibit 10D(iv) (Continued)

- (X) 52.222-15 Certification of Eligibility (FEB 1988)
- () 52.222-21 Certification of Nonsegregated Facilities (APR 1984) (Applies over \$10,000)
- () 52.222-23 Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity (APR 1984) (Applies over \$10,000)
- () 52.222-26 Equal Opportunity (APR 1984) (Applies over \$10,000)
- () 52.222-27 Affirmative Action Compliance Requirements for Construction (APR 1984) (Applies over \$10,000)
- () 52.222-35 Affirmative Action for Special Disabled and Vietnam Era Veterans (APR 1984) (Applies over \$10,000)
- () 52.222-36 Affirmative Action for Handicapped Workers (APR 1984) (Applies over \$2,500)
- () 52.222-37 Employment Reports on Special Disabled Veterans and Veterans of the Vietnam Era (JAN 1988) (Applies when 52.222-35 is used)
- (X) 52.223-3 Hazardous Material Identification and Material Safety Data (ALT 1) (JAN 1997)
- () 52.223-5 Pollution Prevention and Right-To-Know Information (MAR 1997)
- (X) 52.223-6 Drug-Free Workplace (JAN 1997)
- (X) 52.225-15 Restrictions on Certain Foreign Purchases (JUL 2000)
- (X) 52.228.13 Alternative Payment Protections (JUL 2000) (Applicable if bid is between \$25,001 and \$100,000)
- (X) 52.232-5 Payment Under Fixed-Price Construction (MAY 1997)
- (X) 52.232-27 Prompt Payment for Construction Contracts (MAY 1997)
- (X) 52.232-34 Payment by Electronic Funds Transfer-Other Than Central Contractor Registration (MAY 1999)
- (X) 52.233-1 Disputes (OCT 1995)
- (X) 52.233-3 Protest After Award (AUG 1996)
- (X) 52.236-2 Differing Site Conditions (APR 1984)

Exhibit 10D(iv) (Continued)

ARS Field Acquisition Manual

- (X) 52.236-3 Site Investigation and Conditions Affecting the Work (APR 1984)
- (X) 52.236-5 Material and Workmanship (APR 1984)
- (X) 52.236-7 Permits and Responsibilities (NOV 1991)
- (X) 52.236-8 Other Contracts (APR 1984)
- (X) 52.236-9 Protection of Existing Vegetation, Structures, Equipment, Utilities, and Improvements (APR 1984)
- (X) 52.236.10 Operation and Storage Areas (APR 1984)
- () 52.236-11 Use and Possession Prior to Completion (APR 1984)
- (X) 52.236-12 Cleaning Up (APR 1984)
- (X) 52.236-13 Accident Prevention (NOV 1991)
- () 52.236-17 Layout of Work (APR 1984)
- (X) 52.236-21 SPECIFICATIONS AND DRAWINGS FOR CONSTRUCTION (FEB 1997) ALTERNATE I (APR 1984)
- (X) 52.243-5 Changes and Changed Conditions (APR 1984)
- (X) 52.246-12 Inspection of Construction (AUG 1996)
- (X) 52.246.21 Warranty of Construction (MAR 1994)
- (X) 52.249-1 Termination for Convenience of the Government (Fixed-Price) (APR 1984) (Short Form) (ALT 1)
- (X) 52.249-10 Default (Fixed-Price Construction), ALT 1 (APR 1984)
- () 52.249-14 Excusable Delay (APR 1984)

The Following Clauses Must Be Included In Full Text:

- FAR 52.225-9 Buy American Act - Balance of Payments Program - Construction Materials (FEB 2000)
- 52.225-10 Notice of Buy American Act/Balance of Payments Program Requirement - Construction Materials (FEB 2000)

Obtaining Services through Simplified Acquisition Procedures

52.228-5	Insurance Work on a Government Installation (JAN 1997)
52.228-13	Alternative Payment Protections (JUL 2000)
52.236-6	Superintendence by the Contractor (APR 1984)
52.236-14	Availability and Use of Utility Services (APR 1984)
AGAR 452.228-70	Alternative Forms of Security (NOV 1996)
AGAR 452.232-70	Reimbursement for Bond Premiums Fixed Price Construction Contracts (NOV 1996)
FAR 52.219-1	Small Business Program Representations (OCT 2000)

Note to Purchasing Agents:

In using this checklist assume that the dollar value of the construction service being acquired is in excess of \$2,000. Provisions or clauses identified by (X) would be required. For the remaining provisions or clauses see the following:

() These provisions or clauses are identified in the FAR matrix as "required when applicable." You must check the individual prescriptions which are cited in the "prescribed in" column of the FAR matrix, and review the appropriate FAR section and the circumstances, to decide whether the provision or clause must be included.

Exhibit 10D(v)
Standard Form 308
Request for Wage Determination and
Response to Request

Request For Wage Determination And Response To Request
(Davis Bacon Act as Amended and Related Statutes)

U.S. Department of Labor
 Employment Standards Administration
 Wage and Hour Division

FOR DEPARTMENT OF LABOR USE

Responses To Request

Use area determination issued for this area

Requesting Office (Typed name and signature)

Department, Agency, or Bureau

Phone Number

Date of Request

Estimated Advertising Date

Estimated Bid Opening Date

Prior Decision Number (if any)

Estimated \$ Value of Contract

Type of Work

Under 1/4 Mil

1 to 5 Mil

5 to 1 Mil

Over 5 Mil

Highway

Resid

Decision Number

Address to which wage determination should be mailed (Print or type)

Date of Decision

Expires

Supervisor's Decision Number

Approved

Location of Project (City, County, State, Zip Code)

Description of Work (Be specific) (Print or type)

CHECK OR LIST CRAFTS NEEDED
(Attach continuation sheet if needed)

Asbestos workers

Bondsmen

Bricklayers

Carpenters

Cement masons

Electricians

Glaziers

Ironworkers

Laborers (Specify classes)

Lathers

Maile & tile setters, terrazzo workers

Painters

Pipelayers

Plasterers

Plumbers

Roofer

Sheet metal workers

Soft floor layers

Steamfitters

Welders-rate for craft

Truck drivers

Power equipment operators (Specify types)

Other Crafts

Standard Form 308 (Rev. May 1985)
 U.S. Department of Labor -38 CFR Part 1

This form was electronically produced by Elite Forms, Inc.

Exhibit 10D(vi)
Sample Wage Determination

U.S. Department of Labor

GENERAL WAGE DECISION NO. ID88-4

Supersedes General Wage Decision No. ID87-4

State: Idaho

County(ies): Adams, Bannock, Bear Lake, Blaine, Boise, Camas, Caribou, Cassia, Clark, Custer, Elmore, Franklin, Fremont, Gem. Goodling, Idaho (South of the 46th Parallel) Jerome, Lemhi, Lincoln, Madison, Minidoka, Oneida, Owyhee, Payette, Power, Teton, Twin Falls, Valley, and Washington

Construction Type: Building

Construction Description: Building Projects (does not include single family homes and apartments up to and including 4 stories)

Modification Record: Publication Date Page No.(s)

Exhibit 10D(vi) (Continued)

U.S. Department of Labor

	Basic Hourly Rates	Fringe Benefits
Bricklayers:		
Area 1		
Area 2		
Area 3		
Carpenters:	10.00	
Area 1	11.75	
Area 2	12.00	
Area 3		
Cement Masons:	9.88	2.03
Area 1	11.70	4.02
Area 2	11.33	
Area 3		
Electricians:	8.00	2.41
Area 1	10.91	3.27
Area 2	8.00	2.41
Area 3		
Glaziers:	12.04	1.13
Area 2	15.75	2.88
Area 3	16.25	3.06
Ironworkers:		
Area 3	8.00	1.25
Laborers:	14.16	1.37
Area 1		
Area 2	14.00	
Area 3		
Painters:	6.68	
Area 1	7.54	
Area 2	8.54	
Bruch		
Plumbers:	10.46	
Area 1		
Area 2	10.46	
Area 3		
Roofers:	11.53	
Area 1	10.34	3.41
Area 2	13.02	
Area 3		
Sheet Metal Workers:	11.76	2.05
Area 1	12.95	1.55
Area 2	13.60	
Area 3		
Power Equipment Operators:	11.05	1.19
Area 2	11.90	2.36
Backhoes	12.68	1.80
Cranes		
Loaders and Rollers	14.70	4.20
Truck Drivers:	13.60	
Area 2	10.00	1.39
	8.40	1.39

Welders receive wages for craft performing operation to which welding is incidental.

Obtaining Services through Simplified Acquisition Procedures

Exhibit 10D(vii)
Sample AD-838 For Construction

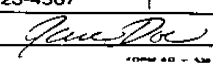
FOR AGENCY USE ONLY			UNITED STATES DEPARTMENT OF AGRICULTURE PURCHASE ORDER												
1 PAGE NO 1 OF 6	2 RECEIVING OFFICE NO	3 CONTRACT NUMBER	4 ORDER DATE 052896	5 SF-301 CODE CB	6 UNIT CODE T5	7 FUND	8 ORDER NUMBER 40-3K15-4-10000	9 SUB							
<input checked="" type="checkbox"/> PURCHASE ORDER (See Remarks)		<input type="checkbox"/> DELIVERY ORDER		<input checked="" type="checkbox"/> NO		<input type="checkbox"/> YES		10 TO (Seller's Name, Address, City, State, ZIP Code, and Phone No.)					11 Consignee Address, ZIP Code, and Place of Issuance and Acceptance		
ABS Insulation Co., Inc. 12345th Ave. Candy Bar Suite Hershey, PA 09876		SHIP TO		USDA, Agriculture Research Service BARC-EAST Building #273 Beltsville, MD 20705											
17 LINE ITEM	18 ACT CODE	19 DESCRIPTION	20 BUDGET OBJECT	21 ACC LINE	22 QUANTITY	23 LINE ISSUE	24 UNIT PRICE	25 AMOUNT							
1		Furnish all labor, materials, tools, and equipment for insulating and coating of the roof of Building #273 with three (3) pound density foam and MOH Hypalon roof coating, in accordance with the attached specifications and your proposal of	2500	01	1	Job	\$22,500.00	\$22,500.00							
26 THIS PURCHASE ORDER NEGOTIATED PURSUANT TO AUTHORITY OF 41 U.S.C. 2232X			27 DISCOUNT AND/OR NET PAYMENT TERMS Net 30			28 TYPE COMMODITY/PAYMENT CODE B			29 Sub-Total			25 \$22,500.00			
23 DELIVER TO P.O. POINT ON OR BEFORE (Date)			24 SHIP VIA			26 ESTIMATED FREIGHT			TOTAL			27 \$22,500.00			
26 ACC LINE	28 ACCOUNTING CLASSIFICATION					29 DISTRIBUTION		31 AMOUNT							
01	A	B	C	D	E										
	0123456789												\$22,500.00		
31a ISSUING OFFICE NAME AND ADDRESS				31b ORDERED BY (Name and Title)				31c COMMERCIAL PHONE (Area Code and Number)				31d FTS PHONE NO			
USDA, ARS Facilities Division Room 517, Federal Bldg. 6505 Belcrest Road Hyattsville, MD				Jane Doe, Contracting Officer				(301)123-4567							
				31e AUTHORIZED SIGNATURE											

Exhibit 10D(vii) (Continued)

UNITED STATES DEPARTMENT OF AGRICULTURE
PURCHASE ORDER TERMS AND CONDITIONS FOR CONSTRUCTION

When the "Purchase Order" block is checked on the AD-838 form, the following clauses are incorporated by reference with the same force and effect as if they were included in full text. Upon request, the contracting officer will make their full text available. If the "Delivery Order" block is checked, the order is subject to the terms and conditions of the referenced contract under which it was placed. If any of the clauses shown below have been superseded, or changed as a result of an authorized deviation, such supersession or change will be shown in the text of the purchase order. Otherwise the clause text shall be as it appears in the referenced regulation for the date shown. The derivation of these clauses is the Federal Acquisition Regulation (48 CFR Chapter 1) and the Agriculture Acquisition Regulation (48 CFR Chapter 4).

ADDITIONAL CLAUSES APPLICABLE TO CONSTRUCTION OVER \$1,000

- 52.222-4 Contract Work Hours and Safety Standards Act - Over-
Time Compensation - General (MAR 1984)
- 52.222-6 Davis-Bacon Act (FEB 1988)
- 52.222-7 Withholding of Funds (FEB 1988)
- 52.222-8 Payrolls and Basic Records (FEB 1988)
- 52.222-9 Apprentices and Trainees (FEB 1988)
- 52.222-10 Compliance with Copeland Act Requirements (FEB 1988)
- 52.222-11 Subcontracts (Labor Standards) (FEB 1988)
- 52.222-12 Contract Termination - Default (FEB 1988)
- 52.222-13 Compliance with Davis-Bacon & Related Acts (FEB 1988)
- 52.222-14 Disputes Concerning Labor Standards (FEB 1988)
- 52.222-15 Certification of Eligibility (FEB 1988)

CLAUSES APPLICABLE TO ALL PURCHASE ORDERS FOR CONSTRUCTION:

- 52.223-1 Official's Tax to Benefit (APR 1984)
- 52.223-3 Gratuities (APR 1984)
- 52.223-5 Covenant Against Contingent Fees (APR 1984)
- 52.223-7 Anti-Rickshaw Procedures (FEB 1987)
- 52.223-12 Suspension of Work (APR 1984)
- 52.223-3 Convict Labor (APR 1984)
- 52.223-5 Buy American Act - Construction (APR 1984)
- 52.223-1 Payments (APR 1984)
- 52.223-8 Discounts for Prompt Payment (JUL 1983)
- 52.223-11 Extra (APR 1984)
- 52.223-23 Prompt Payment, Alternate 1 (FEB 1984)
- 52.223-1 Disputes (APR 1984)
- 52.223-3 Protest After Award (JUN 1985)
- 52.223-2 Differing Site Conditions (APR 1984)
- 52.223-3 Site Investigation and Conditions Affecting the Work (APR 1984)
- 52.223-5 Material and Workmanship (APR 1984)
- 52.223-6 Superintendence by the Contractor (APR 1984)
- 52.223-7 Permits and Responsibilities (APR 1984)
- 52.223-8 Other Contracts (APR 1984)
- 52.223-9 Protection of Existing Vegetation, Structures, Equip-
ment, Utilities, and Improvements (APR 1984)
- 52.223-10 Operations and Storage Areas (APR 1984)
- 52.223-11 Use and Possession Prior to Completion (APR 1984)
- 52.223-12 Cleaning Up (APR 1984)
- 52.223-13 Accident Prevention (APR 1984)
- 52.223-70 Prohibition Against Use of Lead-Based Paint (APR 84)
- 52.223-5 Changes and Changed Conditions (APR 1984)
- 52.223-12 Termination of Construction (JUL 1986)
- 52.223-1 Termination for Convenience of the Government (Fixed-Price) (Short Form) (APR 1984)

ADDITIONAL PURCHASE ORDER CLAUSES WHEN APPLICABLE:

- 52.223-8 Utilization of Small Business Concerns and Small
Disadvantaged Business Concerns (JUN 1983) (Applies
to orders over \$17,500.)
- 52.223-26 Equal Opportunity (APR 1984) (Applicable if an order,
or aggregate orders in a year, exceeds \$10,000.)
- 52.223-27 Affirmative Action Compliance Requirements for
Construction (Applies Over \$10,000) (APR 1984)
- 52.223-13 Affirmative Action for Special Disabled and Vietnam
Era Veterans (APR 1984) (Applies to orders of \$10,000
or more)
- 52.223-16 Affirmative Action for Handicapped Workers (APR 1984)
(Applicable to orders over \$2,500.)
- 52.223-17 Employment Reports on Special Disabled Veterans and
Veterans of the Viet Nam Era (Applies to orders of
\$10,000 or more)
- 52.223-18 Availability of Funds (APR 1984) (Applicable to
purchase orders and delivery orders issued prior to
the availability of new fiscal year funds.)
- 52.223-23 Assignment of Claims (APR 1984) (Applicable to orders
over \$1,000.)

APPLICABLE ONLY WHEN CHECKED IN THE TEXT OF THE ORDER:

- 52.223-5 Payments under Fixed-Price Construction Contracts
(AIE 1987) (Supersedes clause 52.223-1 if inserted.)
- 52.223-4 Physical Data (APR 1984)
- 52.223-16 Availability & Use of Utility Services (APR 1984)
- 52.223-15 Schedules for Construction Contracts (APR 1984)
- 52.223-16 Quantity Surveys (APR 1984)
- 52.223-17 Layout of Work (APR 1984)
- 52.223-10 Default (Fixed-Price Construction) (APR 1984)
- 52.223-21 Warranty of Construction (APR 1984)

SECTION 10E

ACQUISITION UNDER THE 8(a) PROGRAM SUITABILITY OF REQUIREMENT FOR 8(a) AWARD

The SBA periodically asks contracting agencies for a commitment to award certain contracts for construction--including maintenance, repair, and alteration--to the SBA, for subcontracting under the Section 8(a) program. (A discussion of the program is contained in Section 7G.) Ideally, upon receipt of such a request, purchasing personnel (with the assistance of the Area OSDDBU Coordinator) will screen each prospective acquisition to identify projects which may be suitable for performance through 8(a) procedure.

Factors to be considered in the selection of suitable construction projects include:

- @ Estimated construction cost;
- @ Impact of any project slippage on other planned construction projects or on the conduct of the Department's primary mission;
- @ Complexity of the project and the anticipated requirement for specialty subcontractors;
- @ Available lead time; normally, 60 days should be available before the desired construction contract award date;
- @ Impact on other firms that have previously provided similar construction services; and
- @ Special requirements, such as emergency response times.

SIMPLIFIED PROCEDURES FOR 8(a) ACQUISITIONS UNDER MOU BETWEEN SBA AND USDA

As stated in Section 7G, USDA is covered by an MOU with SBA to award directly to an 8(a) firm on either a sole source or competitive basis. Purchasing Agents have concurrent authority to make direct contract/purchase order awards to 8(a) firms under the 8(a) program not to exceed their delegated authority and without the signature of SBA Contracting Officer.

AGAR Advisory provides specific guidance for implementing the procedures for streamlining the 8(a) contracting process. The procedures outlined in the aforementioned advisories are applicable to all requirements using simplified acquisition procedures and to formal contracts above the simplified acquisition threshold. Purchasing Agents should consult with the cognizant Area CO since the 8(a) process normally involves the use of formal contracts rather than purchase orders.

OFFERING LETTER

After selection of prospective projects, the contracting activity notifies SBA of the extent to which 8(a) contracts will be placed and the time frames within which the contract actions are needed.

Notification is made by means of an offering letter. An offering letter is required for requirements over \$100,000. The opening paragraph of the offering letter must state that the requirement is being offered under the MOU between USDA and SBA. The offering letter should contain the following information for each construction project found suitable for 8(a) acquisition:

- @ Summary of the proposed work;
- @ Plans and specifications;
- @ Required performance schedules; and
- @ Any other pertinent and reasonably available data such as:
 - Applicable wage rate determinations;
 - Special requirements, restrictions, or geographical limitations;
 - Source recommendations; or
 - Proposed contract type.
- @ Available detailed government cost estimates, including:
 - Material quantities and unit costs;
 - Labor costs;
 - Construction equipment (hours and rates);
 - Workmen's compensation and public liability insurance;
 - Overhead and profit;
 - Employment taxes under FICA and FUTA; and
 - Bonds, if applicable (Note: Pursuant to the Miller Act, as amended (40 U.S.C. 270a-270e) performance and payment bonds are required in construction acquisitions exceeding \$100,000. Prospective contractors for construction requirements between \$25,000 and \$100,000 are required to submit payment bond only.

Upon receipt of the offering letter, the SBA will determine whether to accept the requirement and a decision will be transmitted to the contracting agency in writing within 5 working days after receipt of the offer.

ARS FIELD ACQUISITION MANUAL

PART II

SPECIALIZED ACQUISITIONS AND CONTRACT ADMINISTRATION