

## SUBCHAPTER F—SPECIAL CATEGORIES OF CONTRACTING

### PART 1535—RESEARCH AND DEVELOPMENT CONTRACTING

Sec.

1535.007 Solicitations.

1535.007-70 Contract clauses.

AUTHORITY: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

#### 1535.007 Solicitations.

(a) Contracting officers shall insert 48 CFR 1552.235-73, Access to Federal Insecticide, Fungicide, and Rodenticide Act Confidential Business Information, in all solicitations when the contracting officer has determined that EPA may furnish the contractor with confidential business information which EPA had obtained from third parties under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.).

(b) Contracting officers shall insert 48 CFR 1552.235-75, Access to Toxic Substances Control Act Confidential Business Information, in all solicitations when the contracting officer has determined that EPA may furnish the contractor with confidential business information which EPA had obtained from third parties under the Toxic Substances Control Act (15 U.S.C. 2601 et seq.).

[62 FR 38477, July 18, 1997]

#### 1535.007-70 Contract clauses.

The following clauses are prescribed for research and development (R&D) contracts. They may also be used in other than R&D contracts when applicable (see 1537.110).

(a) The Contracting Officer shall insert the contract clause at 1552.235-70, Screening Business Information for Claims of Confidentiality, in contracts when the Contracting Officer has determined that during performance of this contract, the Contractor may be required to collect information to perform the work required under this contract. Some of the information may consist of trade secrets or commercial or financial information that would be considered as proprietary or confiden-

tial by the business that has the right to the information.

(b) The Contracting Officer shall insert the clause at 48 CFR 1552.235-71, Treatment of Confidential Business Information, in solicitations and contracts when the Contracting Officer has determined that in the performance of the contract, EPA may furnish confidential business information to the contractor obtained from third parties under the Clean Air Act (42 U.S.C. 7401 et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Safe Drinking Water Act (42 U.S.C. 300f et seq.), the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. 301 et seq.), the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 136 et seq.), the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 et seq.), and the provision at 48 CFR 1552.235-70, Release of Contractor Confidential Business Information. EPA regulations on confidentiality of business information in 40 CFR part 2, subpart B require that the contractor agree to the clause entitled "Treatment of Confidential Business Information" before any confidential business information may be furnished to the contractor.

(c) The Contracting Officer shall insert the clause at 48 CFR 1552.235-76, Treatment of Confidential Business Information (TSCA), in solicitations and contracts when the Contracting Officer has determined that in the performance of the contract, EPA may furnish the contractor with confidential business information obtained from third parties under the Toxic Substances Control Act (15 U.S.C. 2601 et seq.). EPA regulations on confidentiality of business information in 40 CFR part 2, subpart B require that the contractor agree to the clause entitled "Treatment of Confidential Business Information" before any confidential business information may be furnished to the contractor.

(d) The Contracting Officer shall insert the clause at 48 CFR 1552.235-77, Data Security for Federal Insecticide,

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Fungicide, and Rodenticide Act, Confidential Business Information, when the contract involves access to confidential business information related to the Federal Insecticide, Fungicide, and Rodenticide Act, and the Treatment of Confidential Business Information clause (48 CFR 1552.235–71) and the Screening Business Information for Claims of Confidentiality clause (48 CFR 1552.235–70) are included.

(e) The Contracting Officer shall insert the clause at 48 CFR 1552.235–78, Data Security for Toxic Substances Control Act Confidential Business Information, when the contract involves access to confidential business information related to the Toxic Substances Control Act, and the Treatment of Confidential Business Information clause (48 CFR 1552.235–76) and Screening Business Information for Claims of Confidentiality clause (48 CFR 1552.235–70) are included.

(f) Contracting Officers shall insert the clause 48 CFR 1552.235–79, Release of Contractor Confidential Business Information, in all solicitations and contracts in order to authorize the Agency to release confidential business information under certain circumstances.

(g) Contracting officers shall insert the clause at 1552.235–80, Access to Confidential Business Information (CBI), in all types of contracts when it is possible that it will be necessary for the contractor to have access to CBI during the performance of tasks required under the contract.

[49 FR 8862, Mar. 8, 1984; 49 FR 24734, June 15, 1984, as amended at 61 FR 14265, Apr. 1, 1996; 61 FR 57339, Nov. 6, 1996; 65 FR 58923, Oct. 3, 2000]

**PART 1536—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS**

**Subpart 1536.2—Special Aspects of Contracting for Construction**

Sec.

1536.201 Evaluation of contracting performance.

1536.209 Construction contracts with architect-engineer firms.

**Subpart 1536.5—Contract Clauses**

1536.521 Specifications and drawings for construction.

**Subpart 1536.6—Architect-Engineer Services**

1536.602 Selection of firms for architect-engineer contracts.

1536.602-2 Establishment of evaluation boards.

AUTHORITY: 5 U.S.C. 301; Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c); and 41 U.S.C. 418b.

SOURCE: 49 FR 8863, Mar. 8, 1984, unless otherwise noted.

**Subpart 1536.2—Special Aspects of Contracting for Construction**

**1536.201 Evaluation of contracting performance.**

(a) The Contracting Officer will obtain input from the Project Officer on the contractor's performance. The Contracting Officer will prepare the contractor performance report as prescribed in FAR 36.201 within two weeks after final acceptance of the work or contract termination.

(b) Prior to submitting any report or unsatisfactory performance to the reviewing official, the Contracting Officer will advise the contractor of any proposed unsatisfactory rating (see FAR 36.201(a)(3)).

(c) The official at one level above the Contracting Officer will review each performance report.

(d) The Contracting Officer will forward the original of the performance report to the Quality Assurance Branch, Office of Acquisition Management. The Quality Assurance Section will file the form in the contractor performance evaluation files which it maintains.

(e) The Quality Assurance Branch will review the report when it is received and compare it with recent evaluations of that contractor. If the Quality Assurance Section discerns a pattern of unsatisfactory performance, it will notify the Contracting Officer for possible action, which may include referral of the matter to the Compliance Staff or to the Inspector General for investigation.

(f) Information from the performance report shall not be released outside of the Agency, except to other Government agencies at their written request, and on condition that the information