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SUBCHAPTER F—SPECIAL CATEGORIES OF CONTRACTING

PART M836—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

Subpart M836.1—General

M836.102 Definitions.

Completion items means construction needs identified which were omitted from the design, but that are essential to the operation of a constructed facility within the approved scope of the project.

Completion items review board (CIRB) means the board that reviews all completion item requests to ensure that the submitted items and request are valid.

Critical path method (CPM) means a network analysis technique used to predict project duration by analyzing which sequence of activities (which path) has the least amount of scheduling flexibility (the least amount of float). Early dates are calculated by means of a forward pass using a specified start date. Late dates are calculated by means of a backward pass starting from a specified completion date (usually the forward pass' calculated project early finish date).

Independent government estimate (IGE) or Independent Government Cost Estimate (IGCE) is a cost estimate developed by the Government requiring activity based on requirements of a Statement of Work or Performance Work Statement (in the case of services) or other requirements and specification documents. In the Department of Veterans Affairs (VA) construction environment, the IGE is generally prepared by either the government's own design engineer or estimator, or by the Architect-Engineer firm that prepared the design.

Major acquisition when used in construction means an acquisition valued above \$20 million, including options. This includes capital projects (investment) that require special management attention because of their: (1) importance to the agency's mission; (2) high development, operating, or maintenance costs; (3) high risk; (4) high return; or (5) significant role in the administration of the agency's programs, finances, property, or other resources.

Network analysis system (NAS) means a schedule that demonstrates fulfillment of contract requirements as well as coordinating and monitoring work under the contract (including all activities of subcontractors, equipment vendors and suppliers).

Preconstruction orientation (sometimes referred to as the pre-performance conference, preconstruction conference, or postaward orientation conference) and commonly referred to as a "kick-off" meeting means a meeting generally held at the job site to establish local ground rules, both covered (e.g., labor standards clauses) and not covered (e.g., VA local

facility regulations) by the contract documents that are directly related to Contractor actions and interactions on the VA facility. The meeting can be conducted face-to-face, via teleconference or videoconference. The postaward orientation, or conference, serves as a substantive review of the contract terms and conditions prior to contractor work performance. The overall goal is to implement a postaward procedure that efficiently allocates time and resources.

Resident Engineer (RE) means an engineer that oversees major construction contracts. An RE, when appointed in writing, may serve as the contracting officer's representative (COR) on a contract provided such appointment would not place the appointee in a position to initiate a requirement, place an order, and receive, inspect and accept goods or services.

M836.103-70 Methods of contracting--policy.

(a) The VA has not been granted specific authority to conduct one-phase design-build procurements, therefore, the contracting officer shall not award a contract based on this solicitation method. The term "one phase design build" or "one-step turnkey selection procedures" means procedures used for the selection of a contractor to perform both the design and construction of a facility using performance specifications.

(b) When soliciting and awarding indefinite-delivery type contract vehicles for construction and Architect-Engineer (A-E) services, the contracting officer shall refer to the Indefinite-Delivery Indefinite-Quantity (IDIQ) Guide, for any guidance on IDIQs in general and specific construction-related guidance. See VAAM M816, Appendix M816-A.

Subpart M836.2—Special Aspects of Contracting for Construction

M836.202 Specifications.

(b) The following is a link to the Office of Construction and Facilities Management (CFM) website for the Technical Information Library (TIL) and the A-E Design Submissions Requirements Program Guide 18-15 (PG-18-15). The website provides design and construction standards for the VA. The [TIL](#) is the source for VA's electronic design and construction information.

M836.203 Government estimate of construction costs.

(d) A copy of the IGE, signed and dated by the preparer, shall be submitted to the contracting officer at the time of submission the Request for Procurement package. An updated/revised IGE will also be submitted to the contracting officer before release of a solicitation amendment that may affect price.

(e) [Contract Pricing Reference Guides](#) have been developed jointly by the Federal Acquisition Institute and Air Force Institute of Technology and, provide valuable information on quantitative techniques for contract pricing.

M836.205-70 Statutory cost limitations.

(a) Contracting officers shall not award contracts for minor construction projects in excess of the major construction statutory limit for a VA major medical facility project. For the purposes of this part, the term “*VA major medical facility project*” means a project for the construction, alteration, or acquisition of a medical facility involving a total expenditure of more than the major construction statutory threshold as defined in 38 U.S.C. 8104. This amount is currently defined as exceeding \$20,000,000, in which case the appropriate type of funding and approval is required in advance of such awards.

(b) *Prohibition against splitting requirements.* Requiring activities and contracting officers shall not break down a project requirement into multiple projects that are each less than the statutory cost limitation, that when aggregated, would exceed the statutory major medical facility threshold set forth in 38 U.S.C. 8104(a)(3).

M836.209 Construction contracts with architect-engineer firms.

(a) This section applies to design-bid-build contracts only. No contract for construction of a project may be awarded to the firm that designed the project, or to its subsidiaries or affiliates, without the written approval of the Head of the Contracting Activity (HCA) or authorized representative. For the Office of Construction and Facilities Management (CFM), where the HCA approves the award of all construction contracts, the Deputy Senior Procurement Executive will be the approval authority.

(b) Any request for approval from the requiring official shall include the reason(s) why award to the design firm is required; an analysis of the facts involving potential or actual organizational conflicts of interest including benefits and detriments to the Government and the prospective contractor; and the measures which are to be taken to avoid, neutralize, or mitigate conflicts of interest. In no case, shall the A-E firm that prepared the drawings and specifications be awarded a contract, modification to existing contract or task order to supervise or inspect on behalf of the government, the construction of the facility involved.

M836.212 Preconstruction orientation.

(a) Attendees should include the prime contractor's representative and any identified subcontractors, contracting officer and the RE/Project Manager (PM), COR, requiring activity representatives, VA facility safety and security officials. The A-E of record may attend the preconstruction conference if the A-E's contract requires it.

(b) The contracting officer:

(1) Conducts the meeting, but the RE/PM, COR and requiring activity and other Government representatives should have a thorough understanding of the requirement and be prepared to address issues such as phasing of work (if any), government furnished property items, and coordination of access to the construction area, patient or restricted areas. VA Form 3386, Preconstruction Orientation Checklist, shall be used to document meeting discussions.

(2) Should resolve issues as noted in (1) above with key Government officials before the preconstruction orientation and present a unified VA position in the Contractor's presence, to achieve a clear and mutual understanding of all contract requirements and to identify and resolve potential problems. A preconstruction conference may be conducted face-to-face, via teleconference or videoconference.

(3) Shall inform the prime contractor of the necessity to include labor standard clauses in all subcontracts orally or with a preconstruction letter. The contracting officer shall document the discussion of the necessity to include labor standards (FAR subpart 22.4 and VAAM M822.406-1), and subcontracting plan requirements (FAR 19.704) in all subcontracts.

(4) Shall remind the contractor that any errors or omissions in the contract drawings or specifications must be provided promptly but in no case later than the start of related work.

(5) Shall enter the preconstruction orientation data into VA's Electronic Contract Management System (eCMS).

(c) The role of Government representatives participating in the conference is to adequately convey and ensure that VA interests and resources are protected. The Preconstruction Conference is not the time to discuss potential change requests unless the changes have a direct impact on user mission, construction startup or contractor progress.

(d) A copy of the meeting minutes shall be placed in the official contract file and uploaded into eCMS in the Award Action Briefcase, under index number "C05 Pre-Construction Minutes."

M836.213 Special procedures for sealed bidding in construction contracting.

M836.213-470 Notice of award.

(a) The contracting officer shall provide the apparent successful bidder a notice of award for construction contracts where performance or payment bonds are required.

(b) A notice of award:

(1) Is used to provide a copy of the contract in accordance with FAR 14.408-1.

(2) Does not authorize the successful bidder to perform.

(3) Advises the contractor to provide bonds and insurance.

(4) Reminds the contractor that any delays in submission for approval of the bonds and insurance certificate may delay issuance of the Notice to Proceed (NTP).

(c) The notice of award can be issued by any formal written means such as a letter or electronic means. The notice should be substantially the same as the sample format provided as Attachment [M836-A](#) and filed in the contract file as well as in the eCMS briefcase under index number "C08, Award Letter/Contract Receipt/Notice to Proceed."

M836.213-70 Randolph-Sheppard Act compliance.

(a) The Randolph-Sheppard Act, 20 U.S.C. 107, gives priority to blind persons licensed by a State agency in the operation of vending facilities on Federal property (owned, leased, or occupied). The Executive Director, Office of Construction and Facilities Management, establishes VA policies for achieving Randolph-Sheppard Act compliance and liaisons between VA and the Department of Education, the Federal department that oversees program compliance. The Executive Director, Office of Construction and Facilities Management is responsible for preparation and submission of VA's annual report of activity to the Department of Education.

(b) Locating sites for operation of vending facilities by blind vendors. VA contracting activities shall ensure the required determination is made regarding whether there is a satisfactory site or sites for the location and operation of vending facility space by blind vendors before undertaking procurement actions related to the following:

(1) *Owning, renting or leasing buildings.* In accordance with 34 CFR 395.31(a), effective January 2, 1975, no department, agency, or instrumentality of the United States shall undertake to acquire by ownership, rent, or lease, or to otherwise occupy, in whole or in part, any building unless it is determined that such building includes a satisfactory site or sites for the location and operation of a vending facility by a blind vendor.

(2) *Constructing, substantially altering, or renovating or substantially renovating occupied buildings.* In accordance with 34 CFR 395.31(b), the design for such construction, substantial alteration, or renovation or substantial renovation must include a satisfactory site or sites for the location and operation of a vending facility by a blind vendor. As used in this part and as referenced in 34 CFR 395.31(b), *substantial alteration or renovation of a building* means a permanent material change in the floor area of such building which would render such building appropriate for the location and operation of a vending facility by a blind vendor. (Note: Converting patient wards to private rooms probably would not meet this definition, nor would repairs to a roof, seismic reinforcement, or many other structural alterations. Regional Counsels can advise whether specific projects will require notification.)

(c) *Written notice to State licensing agency of intention to acquire or otherwise occupy buildings and determination that a building contains a satisfactory site or sites for the location and operation of a vending facility by a blind vendor.* The VA shall provide a written notice to the appropriate State licensing agency of its intention to acquire or otherwise occupy such buildings as set forth in 34 CFR 395.1(a) and (b) when the VA undertakes to acquire by ownership, rent, or lease, or to otherwise occupy a building—

(1) Containing at least 15,000 square feet of interior space to be used by the Government (in buildings where services are to be provided to the public); and

(2) In which 100 or more Federal employees are located during normal working hours.

(d) *Content of written notice.* Such written notice shall—

(1) Be provided by certified or registered mail with return receipt;

(2) Be provided as early as practicable, but no later than 60 days prior to such intended action;

(3) Indicate that a satisfactory site or sites for the location and operation of a vending facility by blind persons is included in the plans for the building to be acquired or otherwise occupied; and,

(4) Further assure that the State licensing agency, subject to the approval of the Secretary of the Department of Veterans Affairs, as delegated to the Executive Director, Office of Construction and Facilities Management, shall be offered the opportunity to select the location and type of vending facility to be operated by a blind vendor prior to the completion of the final space layout of the building.

(e) A copy of the written notice to the State licensing agency and the State licensing agency's acknowledgement shall be provided to the Secretary of the Department of Education.

M836.213-71 Completion items.

Approval of completion items for major construction projects shall be subject to review by the Completion Items Review Board (CIRB). The authority, composition and procedures for the CIRB are described in [VA Directive 0411](#), Completion Items Review Board.

M836.213-72 [Reserved]

M836.213-73 Additive or deductive bid line items.

(a) For additive or deductive bid line items, the contracting officer shall:

Use a bid schedule with—

(i) A first or base bid line item covering the work generally as specified; and,

(ii) A list of priorities that contains one or more additive or deductive bid line items that progressively add or omit specific features of the work in a stated order of priority.

(2) Before opening the bids, record in the contract file the amount of funds available for the project.

(3) Determine the low bidder and the bid line items to be awarded in accordance with the procedures in the clause at 852.236-92, Notice to Bidders—Additive or Deductive Bid Line Items.

(b) Contracting officers shall not modify the resulting contract to include any additive or deductive bid line item that was not made a part of the contract at the time of award.

(c) Contracting officers shall not mix additive and deductive bid line items in the same solicitation.

M836.213-74 Notice to proceed.

(a) The NTP is the formal instruction from the contracting officer to the contractor to start work on the project. This notice authorizes the contractor to commence work and establishes the start date for the contract performance period. The resident engineer, COR and requiring activity shall coordinate with the contracting officer in establishing this date to ensure that the start date is consistent with any critical needs. The NTP letter may instruct the contractor to commence work for actual construction work or to commence work limited to a particular segment of the work (e.g., mobilization, attendance at preconstruction conference, preparatory civil work). Contracting officers shall be diligent in making full contracting awards after issuance of a limited or partial NTP as the Board of Contract Appeals has held that unreasonable delays in making full award to be a compensable constructive suspension of work. See Attachment [M836-B](#) for a sample NTP template.

(b) The NTP may:

(1) Be sent only after the contractor has provided performance and payment bonds or payment protection, completed contract forms, where applicable, and the contracting officer has accepted those documents.

(2) Be sent by traceable means such as certified mail, return receipt requested, or any other method that provides signed evidence of receipt. The contracting officer shall establish a start and completion date that takes into consideration the time required for the NTP to arrive by registered mail or other proven method of delivery that provides evidence of receipt.

(3) Advise the contractor of the date the actual construction work shall commence and the number of calendar days or specific date the work shall be completed. The commencement date may also be stated as a number of calendar days after contractor's receipt of the notice to proceed. The completion date may be stated in the number of calendar days after the commencement date or after contractor's receipt of the notice to proceed. Entries in Standard Form (SF) 1442, Solicitation, Offer and Award (Construction, Alteration or Repair), Block 11 shall be adjusted accordingly.

(c) At the time the NTP is sent to the contractor or presented at the preconstruction orientation, the contracting officer shall furnish a copy to the COR and, if requested, to the RE/PM or the Chief, Engineering Service.

(d) The contracting officer shall file a copy of the NTP along with the certified mail receipt card returned by the post office or the proof of delivery provided by the delivery service in the official contract file and in the associated eCMS briefcase. When certified mail or other method of certified delivery is used, the contracting officer shall also file the certified mail receipt card returned by the post office or the proof of delivery provided by the delivery service with the notice to proceed in the contract file and eCMS briefcase under index number "C08, Award Letter, Contract Receipt, Notice to Proceed."

M836.272 Construction contracts with options.

In accordance with FAR 22.404-12, contracting officers are required to incorporate a current wage determination at the exercise of option years and any extension period. For additional guidance pertaining to applicability of the Construction Wage Rate Requirements Statute, 40 U.S.C. chapter 31, subchapter IV, in construction contracts with option terms see VAAM M822.404.

Subpart M836.3—Two-Phase Design-Build Selection Procedures

M836.303-1 Phase one.

(b) The number and identity of the most highly qualified offerors selected to submit phase two proposals are considered "Source Selection Information" as defined in FAR 2.101 and shall only be disclosed to persons specifically granted access to source selection sensitive information.

Subpart M836.5—Contract Clauses

M836.515-70 Network analysis system—critical path method.

(a) The VA requires the use of the NAS-CPM on all major acquisitions or other VA projects where the best interest of the Government would be served by its use. It is intended to:

(1) Obtain information and data that are needed to identify, manage, and resolve potential project problems;

(2) Control documents, manage, and monitor job site progress; and,

(3) Establish realistic construction project duration(s).

(b) Upon approval by the contracting officer, the CPM becomes the approved project schedule and payments for work performed may be made.

(c) The effect that changes or delays have on a CPM schedule is determined by a comparison of the schedules before and after the delaying activities is incorporated into the CPM Network. Normally, the contractor is entitled to additional contract time only if the delay extends beyond the contract completion date. Additionally, delays to the project, due to strikes, weather, and other acts of God, or facts out of the contractor's control are

usually the only scheduling problems that require an "after-the-fact" CPM analysis. Once work on the project resumes, the CPM analysis can be made to determine the delay impact to the schedule.

(d) Additional information concerning the [NAS](#) can be found at the CFM technical library.

Subpart M836.6—Architect-Engineer Services

M836.601-3 Applicable contracting procedures.

(e) See [Architect-Engineer Information](#) and [Cost Estimating](#), CFM for additional instruction and guidance.

M836.602 Selection of firms for architect-engineer contracts.

M836.602-1 Selection criteria.

(6)(i) The following selection criteria along with those specified in [FAR 36.602-1](#) shall be listed in their relative order of importance in the announcement:

(A) The extent to which potential contractors identify and commit to the use of service-disabled veteran-owned small businesses, veteran-owned small businesses, and other types of small businesses as subcontractors.

(ii) Whenever post-award construction services will be required of the A-E firm, the following selection criteria shall be listed in relative order of importance in the announcement:

Experience in construction period services to include professional field inspections during the construction period, review of construction submittals, support in answering requests for information during the construction period, and support of construction contract changes to include drafting statements of work, and cost estimates shall be included as an evaluation criterion when construction period services is included in the statement of work for A-E services.

M836.602-170 Application of selection criteria.

(a) Boards will evaluate firms' qualifications strictly on the basis of the announced selection criteria and their stated order of importance.

(b) The board shall consider the specific experience and qualifications (i.e., education, training, registration, certifications, overall relevant experience, and longevity with the firm) of personnel proposed for assignment to the project, and their record of working together as a team when evaluating professional qualifications. The lead designer in each discipline must be registered but does not have to be registered in the particular state where the project is located.

(c) When evaluating specialized experience, do not consider awards to overseas offices for projects outside the United States, its territories and possessions. Do not consider awards to a subsidiary if the subsidiary is not normally subject to management decisions,

bookkeeping, and policies of a holding or parent company or an incorporated subsidiary that operates under a firm name different from the parent company. This allows greater competition. The board shall consider at least five, similar projects and how well the proposal addresses technical capabilities in design quality management procedures, Computer-Aided Design and Drafting/Building Information Modeling, equipment resources, and laboratory requirements for the firm and any proposed subcontractors. Where appropriate, also evaluate their experience in energy conservation, pollution prevention, waste reduction and the use of recovered materials. The effectiveness of their proposed project team (including management structure, coordination of disciplines, subcontractors, and prior working relationships) should also be examined.

(d) When evaluating capacity, consider the volume of work awarded by VA during the previous 12 months. Use data extracted from the Federal Procurement Data System. Consider the full potential value of any current indefinite delivery contracts that a firm has as well. Also, assess the available capacity of key disciplines to perform the work in the required time.

(e) When evaluating past performance, consider superior performance ratings on recently completed VA projects as well as the reputation and standing of the firm and its principal officials with respect to professional performance, general management, and cooperativeness. Also, consider, as appropriate, the record of significant claims against the firm because of improper or incomplete architectural and engineering services. When evaluating location consider knowledge of the locality separately from geographic proximity. Examples include knowledge of geological features, climatic conditions, or local construction methods that are unusual or unique.

M836.602-2 Evaluation boards.

(a) The Head of the Contracting Activity, Office of Construction and Facilities Management, or designee; the Director of Design and Construction Services for the National Cemetery Administration; the Director, Office of Administration and Facilities for Veterans Benefits Administration; or for field facility projects, the facility or Veterans Integrated Service Network (VISN) Chief of Engineering shall:

(1) Nominate board members.

(2) Ensure the Chairperson nominated is a registered or licensed engineer, architect or land surveyor, as appropriate for the type of work and has completed source selection training.

(3) Ensure non-registered or unlicensed engineers, architects, and land surveyors to serve on selection boards have comparable education, knowledge and experience that would qualify the individual for professional registration.

(4) Establish and maintain records of each non-registered or unlicensed individual's education, knowledge and experience relied upon in determining nomination for membership on preselection or selection boards is appropriate for the type of work being procured.

(5) Ensure all board members comply with the procurement integrity requirements of FAR 3.104 and sign a Nondisclosure Agreement. Provide the agreements to the contracting officer for the official contract files.

(b) The Head of the Contracting Activity, for the Office of Construction and Facilities Management, or designee; the Director, Office of Construction Management for National Cemetery Administration; the Director, Office of Administration and Facilities for Veterans Benefits Administration; or for field facility projects, the facility or Veterans Integrated Service Network Acquisition Director shall:

(1) Use Attachment [M836-C](#), A-E Evaluation Board Appointment Memorandum Template, to document the appointment of evaluation board members to the selection boards.

(2) Ensure that the Chairperson has equivalent technical experience and has extensive experience on A-E evaluation boards. A registered or licensed professional in engineering, architecture, or landscape architecture is preferred.

(3) Ensure total board membership consists of no fewer than three and no more than five members including the Chairperson.

(4) Ensure boards are composed of highly qualified professional employees having collective experience in architecture, engineering, construction, and acquisition, as well as the specific type of technical work being contracted. One of the members shall be a Level III FAC-C certified contract specialist.

(5) Ensure nongovernment consultants are not used as voting members.

M836.602-4 Selection authority.

The Executive Director, Office of Construction and Facilities Management, or designee; the Director, Office of Construction Management for National Cemetery Administration; the Director, Office of Acquisition for Veteran Benefits Administration; or for field facility projects, the facility or Veterans Integrated Service Network Acquisition Director, or any warranted individual one level above the contracting officer making the award, are designated as the approving officials for the recommendations of the respective evaluation boards.

M836.602-5 Short selection process for contracts not to exceed the simplified acquisition threshold.

The evaluation board may use either of the procedures provided in FAR 36.602-5 to select firms for A-E contracts below the simplified acquisition threshold. The board will document its decision in a combined Preselection/Selection Board Report (see Attachment [M836-D](#)).

M836.604 Performance evaluation.

The COR or resident engineer shall prepare a separate performance evaluation in Contractor Performance Assessment Report System (CPARS) after actual construction of

any contract \$35,000 or more, and for each A-E contract that is terminated for default regardless of contract value. Ordinarily, the evaluating official should be the person most familiar with the A-E contractor's performance.

M836.605-70 Architect-Engineer prepared independent government estimates.

The contracting officer shall ensure that the A-E prepared IGE has been updated to include any adjustment for escalation of prices before relying on an estimate for price analysis purposes. The IGE shall also be updated to reflect any design changes (both additions and deletions) injected by the Government since receipt of the initial 100% design package. This is especially important when dealing with an older design. Verify that facility occupants or requirements have not changed without a commensurate adjustment to the project cost estimate.

M836.606 Negotiations.

M836.606-72 Contract price.

(a) Where negotiations with the top-rated highly qualified firm are unsuccessful, the contracting officer shall, after coordination with the Executive Director, Office of Construction and Facilities Management, the Director, Office of Construction Management for the National Cemetery Administration, or the facility or Veterans Integrated Service Network Acquisition Director, technical reviewers, and legal reviewers, as appropriate, terminate the negotiations and undertake negotiations with the firm next in order of preference.

(b) The contracting officer shall submit a recommendation for award of the contract at the negotiated fee to the Associate Executive Director, Office of Facilities Acquisition for the Office of Construction and Facilities Management; the Director, Office of Construction Management for National Cemetery Administration or for field facility projects, the facility or Veterans Integrated Service Network Acquisition Director, technical reviewers, and legal reviewers, as appropriate. A copy of the negotiation memorandum prepared in accordance with FAR 15.406-3 and, a "Cost and Pricing Analysis Report" if received, shall accompany the recommendation.

M836.606-73 Statutory fee limitation.

The six percent fee limitation 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. Additionally, in rare cases it may be necessary to deduct the cost of what is referred to as "lost design" (uncompensated A-E firm design effort). To assure that the fee limitation is not violated, the contracting officer shall maintain suitable records to be able to isolate the amount in the total fee to which the 6-percent limitation applies.

Subpart M836.70—Unique Forms for Contracting for Construction, Architect-Engineer Services, and Dismantling, Demolition, or Removal of Improvements – [Reserved]

Subpart M836.71—Procedures for VA Evaluation Boards

M836.7100 General procedures.

(a) *Information used by boards.* Boards will only consider the following information:

- (1) SF 330, Parts I and II.
- (2) Any required supplemental information.
- (3) Documented performance evaluations from Architect-Engineer Contract Administration Support System.
- (4) VA contract award data.

A board will not assume qualifications which are not clearly stated in a firm's submission or available from CPARS. A board will review the entire submission of each firm and not excerpts or summaries. A firm will not be contacted to clarify or supplement its submission, except during the interviews with the most highly qualified firms. Boards shall not consider any cost factors.

(b) *Determining A-E proposal responsiveness.* A-E submissions shall be handled by the Government in accordance with FAR 15.207 and 15.208, including the late proposal rules in FAR 15.208. A firm will not be considered if its SF 330, Part I is not signed, unless the SF 330, Part I is accompanied with a signed cover letter or a current signed SF 330, Part II. In accordance with FAR 36.603(b), do not consider a firm that does not submit a SF 330, Part II with its SF 330, Part I, or have one on file. Firms with SF 330, Part II on file less than 3 years old must be considered by the board provided they have responded with Part I of the SF 330. A firm may not be eliminated simply for failing to submit certain information or for altering the format of a SF 330. However, a firm may be recommended as not qualified or ranked low if missing, confusing, conflicting, obsolete or obscure information prevents a board from reasonably determining that a firm demonstrates certain required qualifications.

(c) *Evaluation method.* A board may use any qualitative method such as adjectival or color coding but not numbers, to evaluate and compare the qualifications of the firms relevant to each selection criterion.

(d) *Conduct of board meetings.* Board meetings should be held in areas isolated as much as possible from distractions. Sufficient time should be set aside for the meetings to proceed continuously until they are finished. Board members should schedule their other activities so that interruptions of the board meetings are held to an absolute minimum.

(d) *Reports.* The documentation must reflect the final consensus of the board. If individual evaluations are included, then the report must discuss how any significant differences among the evaluations were resolved. A board must retain documents, and worksheets

generated during its evaluation so that the evaluation is sufficiently documented, and allows review of the merits of a potential bid protest. Failure to retain evaluation documents will leave the contracting officer susceptible to the bid protest risk of presenting a record with inadequate supporting rationale for the Comptroller General or court to find the selection decision reasonable. Handwritten worksheets are acceptable. Label the cover and each page of the report containing source selection information with "SOURCE SELECTION INFORMATION - SEE FAR 2.101 AND 3.104" and protect the documents as required by FAR 3.104-5. Protect personal worksheets as well. Board members must not discuss the evaluation results with anyone who does not have a specific acceptable reason to know.

M836.7101 Conduct of evaluation boards.

(a) *Preselection board.* The board will completely evaluate each firm, even if a firm does not demonstrate certain required qualifications. The board must discuss the evaluation of all firms until consensus on each is reached. The firms that demonstrate better aggregate qualifications relevant to the primary selection criteria are considered highly qualified. A preselection board will not consider any secondary selection criteria. A preselection board will not be restricted to a specific or maximum number of firms for referral to a selection board. The Preselection Board Report (see Attachment [M836-E](#)) must clearly identify the specific weak or deficient qualifications of each firm not recommended as highly qualified. The preselection board recommends at least three firms considered to be the most highly qualified, in order of preference.

(b) *Selection Board.* All members must personally evaluate the SFs 330 of all of the highly qualified firms. If more than one contract will be awarded from the same synopsis, then sufficient firms must be recommended to ensure that at least two most highly qualified firms remain "in reserve" when negotiations commence on the final contract. After the interviews or presentations, a board will, by consensus, rank the most highly qualified firms in order of preference using the primary selection criteria. If two or more firms are technically equal, secondary criteria – location and equitable distribution of work - may be used as "tie-breakers" and the final ranking of firms decided. Firms are technically equal when there is no meaningful difference in their aggregate qualifications relative to the primary criteria. If more than one contract will be awarded from the same synopsis, the number of highest qualified firms must at least equal the number of anticipated contracts. The secondary factors will be used to establish a ranking order for the highest qualified firms, and hence, the order for negotiation. The A-E Selection Board Report (see Attachment [M836-F](#)) must:

(1) Clearly describe the reasons why each eliminated firm was less qualified than the most highly qualified firms,

(2) Summarize the relative strengths of each most highly qualified firm with respect to the selection criteria, and

(3) Clearly describe the rationale for the relative ranking of each firm.