



U.S. Department of Justice
Federal Bureau of Prisons

C H A N G E N O T I C E

OPI: ADM/CER

NUMBER: 4220.06, CN-1

DATE: January 4, 2023

Design and Construction Procedures

/s/

Approved: Colette S. Peters
Director, Federal Bureau of Prisons

This Change Notice (CN) implements the following changes to Program Statement 4220.06, **Design and Construction Procedures**, dated June 15, 2017.

The addition of subsection b in Section PURPOSE AND SCOPE is marked with a **highlight** and inserted into the policy.

c. Institution Supplement. None required. Should local facilities make any changes outside the required changes in the national policy or establish any additional local procedures to implement the national policy, the local Union may invoke to negotiate procedures or appropriate arrangements.

The changes in Section 3.5 **REVISIONS OR EXCEPTIONS TO DESIGN CRITERIA** are marked with a **highlight** and inserted into the policy. Deleted text is struck through:

Routine or technical revisions or exceptions to Design Program Guidelines, Concept Drawings, or Technical Design Guidelines may be made with approval of the Chief, CERB. More significant revisions, as determined by the Chief, CERB, are referred to the Design Criteria Review Committee (DCRC) to ensure that they receive adequate review before implementation. The committee includes:

- Chief, Construction and Environmental Review Branch. (Administration Division)
- Chief, Facilities Management Branch. (Administration Division)
- ~~Administrator, Correctional Services.~~
- National Safety Administrator. (Health Services Division)

The Assistant Director from the following divisions shall appoint a staff member at the Administrator level to participate in the DCRC:

- Correctional Programs Division.
- Reentry Services Division.
- Health Services Division.



U.S. Department of Justice
Federal Bureau of Prisons

PROGRAM STATEMENT

OPI: ADM/CER

NUMBER: 4220.06

DATE: June 15, 2017

Design and Construction Procedures

/s/

Approved: Thomas R. Kane
Acting Director, Federal Bureau of Prisons

1. PURPOSE AND SCOPE

To establish management policy for the Federal Bureau of Prisons Construction and Environmental Review Branch (CERB). The CERB Branch provides increased capacity for the Bureau through the design and construction of new institutions. This Program Statement establishes standard operating procedures for the design and construction of new institutions.

a. Summary of Changes

Policy Rescinded

P4220.05 Design and Construction Procedures (2/15/00)

The revisions in this Program Statement include more detail and direction on the use of governing building codes, standards, laws, and regulations. In addition, they detail procedures for using the design-build (D-B) process and various changes in contract management and procurement.

b. Policy Objectives. This Program Statement addresses organizational and individual responsibilities, authority, and limitations of authority pertaining to new institution development. The results are expected to strengthen the Bureau's management of internal controls over new construction, and help minimize costs, increase efficiency, and maintain quality control.

c. Institution Supplement. None required. Should local facilities make any changes outside the required changes in the national policy or establish any additional local procedures to implement the national policy, the local Union may invoke to negotiate procedures or appropriate arrangements.

2. ACTION

Bureau staff involved with the design and construction of new institutions are required to follow the operating procedures in this Program Statement.

3. AGENCY ACA ACCREDITATION PROVISIONS

- American Correctional Association 2nd Edition Standards for Administration of Correctional Agencies: 2-CO-2A-01, 2-CO-2B-01, 2-CO-2B-02, and 2-CO-2B-03.
- American Correctional Association 4th Edition Standards for Adult Correctional Institutions: 4- 4123, 4-4124, 4-4125, 4-4132, 4-4133, 4-4135, 4-4137, 4-4138, 4-4139, 4-4140, 4-4141, 4-4142, 4-4145, 4-4146, 4-4147, 4-4147-1, 4-4149, 4-4150, 4-4151, 4-4152, 4-4153, 4-4156, 4-4157, 4-4158, 4-4159, 4-4160, 4-4161, 4-4162, 4-4163, 4-4164, 4-4165, 4-4166, 4-4167, 4-4169, 4-4170, 4-4171, 4-4172, 4-4173, and 4-4177.
- American Correctional Association 4th Edition Performance Based Standards for Adult Local Detention Facilities (ALDF): 4-ALDF-1A-06, 4-ALDF-1A-10, 4-ALDF-1A-12, 4-ALDF-1A-14, 4-ALDF-1A-15, 4-ALDF-1A-16, 4-ALDF-1A-17, 4-ALDF-1A-18, 4-ALDF-1A-19, 4-ALDF-1A-20, 4-ALDF-1A-22, 4-ALDF-1A-23, 4-ALDF-1C-04M, 4-ALDF-1C-07M, 4-ALDF-2A-01, 4-ALDF-2A-03, 4-ALDF-2A-07, 4-ALDF-2A-18, 4-ALDF-2A-24, 4-ALDF-2A-34, 4-ALDF-2A-51, 4-ALDF-2B-05, 4-ALDF-4A-01, 4-ALDF-4A-02, 4-ALDF-4A-03, 4-ALDF-4B-01, 4-ALDF-4B-08, 4-ALDF-4B-09, 4-ALDF-5A-10, 4-ALDF-5B-01, 4-ALDF-5C-26, 4-ALDF-6B-04, 4-ALDF-7D-23, and 4-ALDF-7E-05.

REFERENCES

Program Statements

- P1221.66 Directives Management Manual (7/21/98)
- P1237.16 Information Security (9/27/06)
- P1600.13 National Fire Protection Policy (6/1/07)
- P4100.05 Bureau of Prisons Acquisition Policy (3/3/16)
- P8041.03 Factory Construction and Activation Manual – FPI (12/11/97)

Department of Justice Order 2300.10A

Office of Management and Budget Circular A-131

Executive Order 12196 (as amended)

Executive Order 12699

Executive Order 12770

Executive Order 13693

Compliance with Nationally Recognized Codes (40 United States Code (U.S.C.) § 3312) Architectural Barriers Act of 1968 (42 U.S.C. § 4151 et seq.) (as amended) Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.) (as amended) National Environmental Policy Act of 1969 (as amended) (42 U.S.C. § 4321-4347) Omnibus Trade and Competitiveness Act of 1988 (P.L.100-418, 102 Stat. 1107 (1988))

Energy Efficiency Standards for the Design and Construction of New Federal Commercial and Multi-Family High-Rise Residential Buildings (10 Code of Federal Regulations [CFR] Part 433) Federal Energy Management and Planning Programs (10 CFR Part 436) Occupational Safety and Health Standards (29 CFR Part 1910)

Federal Acquisition
Regulation Justice
Acquisition Regulation

National Fire Protection Association's (NFPA's) National Fire Codes:

- Life Safety Code (NFPA 101)
- National Electrical Code (NFPA 70)
- National Fuel Gas Code (NFPA 54)
- National Standards for Installation of Sprinkler Systems (NFPA 13)
- National Fire Alarm Codes and Standards (NFPA 72)

Energy Policy Act of 2005 (P.L. 109-58)

Energy Independence and Security Act of 2007 (P.L. 110-140)

Records Retention Requirements

Requirements and retention guidance for records and information applicable to this program are available in the Records and Information Disposition Schedule (RIDS) system on Sallyport.

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Chapter 1. INTRODUCTION 1.1 MISSION

The Construction and Environmental Review Branch (CERB) is responsible for the budgeting, programming, planning, design, and construction of new institutions for the Bureau. The following tasks are included:

- Participating in long-range capacity expansion planning to identify the need for and establish the locations of new institutions.
- Preparing budget estimates and helping develop budget requests related to new institutions.
- Assisting in site evaluation and acquisition.
- Developing guidelines and procedures for design and construction of new institutions.
- Developing design programs and related technical standards for developing new institutions.
- Overseeing the preparation of design and construction documents.
- Developing contract requirements and coordinating with the Construction Contracting Section for procuring architect/engineer (A/E) services, construction management support services, design-build (D-B) contracts, and construction contracts.
- Overseeing and monitoring design and construction activities.
- Providing technical advice and support within the Bureau and to outside entities on architectural, engineering, construction, and project management issues.

1.2 ACRONYMS AND ABBREVIATIONS

The following abbreviations are used throughout this Program Statement and may be used in correspondence as necessary:

A/E	Architect/Engineer
ABA	Architectural Barriers Act of 1968
ACA	American Correctional Association
ALDF	Adult Local Detention Facilities
ASCE	American Society of Civil Engineers
ASHRAE	American Society of Heating, Refrigerating and Air-Conditioning Engineers
BPAP	Bureau of Prisons Acquisition Policy
CERB	Construction and Environmental Review Branch
CFR	Code of Federal Regulations
CM	Construction Management
CMF	Construction Management Firm
CMSS	Construction Management Support Services
CO	Contracting Officer

COR	Contracting Officer's Representative
D-B	Design-Build
DCRC	Design Criteria Review Committee
DEIS	Draft Environmental Impact Statement

EISA 2007 Energy Independence and Security Act of 2007 EPACT 2005
 Energy Policy Act of 2005

FAC-COR	Federal Acquisition Certification for Contracting Officer's Representative
FAR	Federal Acquisition Regulation
FEIS	Final Environmental Impact Statement
FPI	Federal Prison Industries
IBC	International Building Code
IGE	Independent Government Estimate
JAR	Justice Acquisition Regulation
LEED	Leadership in Energy and Environmental Design
NEPA	National Environmental Policy Act
NFC	National Fire Codes
NFPA	National Fire Protection Association
OMB	Office of Management and Budget
OSHA	Occupational Safety and Health Administration
PMB	Procurement Management Branch
RCA	Request for Contract Action
RFP	Request for Proposal
SOW	Statement of Work
U.S.C.	United States Code
VE	Value Engineering

Chapter 2. STAFF RESPONSIBILITIES AND AUTHORITIES

2.1. CHIEF, CONSTRUCTION AND ENVIRONMENTAL REVIEW BRANCH (CERB), ADMINISTRATION DIVISION

The Branch Chief is responsible for the coordination and administration of budgeting, programming, planning, design, and construction of new institutions.

2.2. DEPUTY CHIEF

The Deputy Chief, under the direction of the Branch Chief, is responsible for the overall operation of CERB.

2.3. SECTION CHIEFS

Section Chiefs are assigned responsibility by the Branch Chief for various CERB functions. They lead teams of project managers or other management, technical, or administrative staff. Section Chiefs may include:

- **Project Administrators**, with responsibility for administration of a group of assigned projects, such as development of new institutions, development of design program or technical design guidelines, resolution of contract disputes or litigation, evaluation of potential sites for new institutions, and technical assistance.
- **Chief, Administrative Support Section**, with responsibility for operations and support staff and selected liaison and project management assignments. He/she also provides support and liaison related to maintenance of staff resources.

2.4. FEDERAL ACQUISITION CERTIFICATION FOR CONTRACTING OFFICER'S REPRESENTATIVE (COR)

The COR is appointed in writing by the Contracting Officer (CO), who also specifies the COR's limitations of authority. The COR must have expertise in a technical area pertinent to the contract and act as liaison between the contractor and the CO.

2.5. PROJECT MANAGER

The Project Manager is a Bureau representative typically located in the Central Office, assigned responsibility for the overall management of a project or specific phases of a project.

When assigned responsibility for the construction phase of a project, he/she supervises CERB on-site staff and operations through the Supervisory Construction Representative and

Construction Representative(s) at the site. He/she serves as advisor to the CO and is normally assigned as COR for acquisition of A/E, Construction Management Support Services (CMSS), or other consultant services, construction contracts, and D-B contracts.

2.6. SUPERVISORY CONSTRUCTION REPRESENTATIVE

The Supervisory Construction Representative is the senior CERB staff member at a construction site and has responsibility for site operations and supervision of other CERB on-site staff and consultants. He/she is normally a COR for construction contracts and the construction portions of a D-B contract.

2.7. CONSTRUCTION REPRESENTATIVE

A Construction Representative is one of the Bureau representatives at a construction site and is responsible for portions of the on-site management of the project. He/she is normally a COR for construction contracts and the construction portions of a D-B contract.

Chapter 3. GENERAL POLICIES AND PROCEDURES

3.1 PROJECT BUDGETING

Budget estimates for proposed new institution projects are developed based on project requirements, estimating assumptions, and the specific program for the facility being considered. Preliminary estimates are prepared for any request made by the Budget Development Branch for possible inclusion in the Bureau's budget request. Historical cost information is maintained and used to develop these estimates. In addition, subsequent updates are provided as needed.

3.2 SITE EVALUATION

For potential sites for new institutions, CERB forwards site reconnaissance reports, environmental assessments, environmental impact statements (preliminary, draft, or final), boundary and property surveys, topographic surveys, geotechnical reports, and other technical studies to the assigned Project Administrator. These documents are reviewed by the assigned Project Administrator and other staff; written comments and recommendations are sent to the Site Selection Specialist with copies maintained by CERB.

3.3 FEDERAL PRISON INDUSTRIES (FPI) FACTORY AND OUTSIDE WAREHOUSE DESIGN

For new construction that includes FPI factories or warehouses, CERB consults with FPI to establish design requirements for the solicitation documents. The basis for the development of these requirements is the Program Statement **Factory Construction and Activation Manual – FPI**.

3.4 DESIGN CRITERIA

CERB develops and maintains design criteria to guide the planning and development of new institutions, including:

- **Design Program Guidelines.** These define requirements for various types of institutions, including projected rated capacity, total capacity, space and equipment requirements of operational components, and other planning and design considerations.
- **Concept Drawings.** These help clarify spatial design requirements and selected specifications and standards and performance criteria for various types of institutions.
- **Technical Design Guidelines.** These provide technical design requirements; specifications; direction for adherence to codes, standards, regulations, and laws; performance criteria and selected detail drawings; and their application to various types of institutions.
- **Model Documents.** These provide security electronics and communications system

design requirements, selected specifications and standards, and performance criteria relevant to various types of institutions.

3.5 REVISIONS OR EXCEPTIONS TO DESIGN CRITERIA

Routine or technical revisions or exceptions to Design Program Guidelines, Concept Drawings, or Technical Design Guidelines may be made with approval of the Chief, CERB. More significant revisions, as determined by the Chief, CERB, are referred to the Design Criteria Review Committee (DCRC) to ensure that they receive adequate review before implementation. The committee includes:

- Chief, Construction and Environmental Review Branch. (Administration Division)
- Chief, Facilities Management Branch. (Administration Division)
- ~~Administrator, Correctional Services.~~
- National Safety Administrator. (Health Services Division)

The Assistant Director from the following divisions shall appoint a staff member at the Administrator level to participate in the DCRC:

- Correctional Programs Division.
- Reentry Services Division.
- Health Services Division.

Revisions exceeding the following thresholds must be approved by the DCRC:

- Proposed changes in space requirements that would result in a net change in building area of more than 100 square meters.
- Proposed changes that would require changes to Bureau policy.
- Major changes retroactive to a project(s) already under construction.

Revisions exceeding these thresholds proposed by Bureau components other than the Administration Division are transmitted by memorandum from the Assistant or Regional Director to the Assistant Director for Administration. Proposed revisions not exceeding these thresholds may be sent to the Chief, CERB, for consideration by the DCRC. Proposed revisions must include a detailed description, with drawings if appropriate, an estimate of costs, and a justification adequate to evaluate the request. Any anticipated impact on the project schedule should be included.

CERB maintains a record of proposals considered and the actions of the DCRC and distributes meeting notes.

Approvals of proposed changes to design criteria are included in meeting notes and incorporated into design criteria documents (Technical Design Guidelines, Design Program Guidelines,

Concept Drawings, etc.). Approvals must identify which current and future institutions are affected by the change.

Disapprovals of proposed changes are included in the DCRC meeting notes; the requestor is notified of the action taken.

3.6 DEVIATIONS FROM DESIGN CRITERIA

After the establishment of design criteria for a project by issuance of the Project Initiative or subsequent applicable revisions, any deviations must be approved by the Chief, CERB.

3.7 OTHER DESIGN CHANGES

The Chief, CERB, approves any proposed change that would significantly affect the project cost or delivery schedule.

3.8 CONSTRUCTION MANAGEMENT GUIDELINES

CERB develops and maintains Construction Management Guidelines to establish requirements and assistance for administering construction site operations and contracts.

Guidelines outline the duties and responsibilities for Bureau and CMSS staff and requirements for project documentation and standard operating procedures. They may also provide guidance and recommendations for daily construction site activities.

Chapter 4. APPLICABLE BUILDING CODES, RELATED STANDARDS, AND LAWS

This chapter establishes Bureau policy to meet the requirements of 40 U.S.C. § 3312 and Executive Order 12699 in its new institution development program.

40 United States Code (U.S.C.) § 3312, **Compliance With Nationally Recognized Codes**, applies to any project for construction or alteration of a building for which amounts are appropriated during a fiscal year after September 30, 1989.

40 U.S.C. 3312 requires that Federal agency buildings be constructed or altered, to the greatest possible extent as determined by the head of the agency, in compliance with one of the nationally recognized model building codes and with other national codes, including electrical codes, fire and life safety codes, and plumbing codes.

Executive Order 12699, Establishing a Federal Earthquake Risk Management Standard, requires new Federally owned buildings to comply with seismic safety requirements.

40 U.S.C. § 3312 also requires that Federal agency buildings be constructed or altered only after consideration of all requirements (except procedural requirements) of zoning laws and laws relating to landscaping, open space, minimum distance of a building from the property line, maximum building height, historic preservation, esthetic qualities, and other similar laws of a State or a political subdivision of a State that would apply to the building if it were not constructed or altered by a Federal agency.

40 U.S.C. § 3312 also establishes rules related to State and local government consultation, review, inspections, and the submission of recommendations related to the above requirements.

4.1 BUILDING CODES

The nationally recognized building codes are:

- The International Building Code (IBC) of the International Code Council.
- The National Fire Protection Association (NFPA) 5000 – Building and Construction Safety Code of the NFPA. *Requires CERB Chief’s approval for use.

New Bureau institutions are designed and constructed to comply with one of the nationally recognized model building codes.

The Chief, CERB, identifies the appropriate building code for the project (considering its location); the project manager ensures that the requirement to design the institution in compliance with that code is included in the A/E or D-B contract. The Designer of Record provides a written certification that the design complies with the model building code, including height and area limitation requirements.

The latest edition of the selected building code, current at the time of award of the contract, is used. If a specific code is not indicated for the project location, the IBC is used.

4.2 LIFE SAFETY CODE

New Bureau institutions are designed and constructed to comply with the NFPA Life Safety Code, also known as the NFPA 101, Code for Safety to Life from Fire in Buildings and Structures, including other NFPA Standards and National Fire Alarm and Signaling Codes referenced therein. The edition of NFPA 101 current at contract award is used.

Per the Program Statement **National Fire Protection Policy**, when there are differences between the fire protection and life safety requirements of a nationally recognized model building code and NFPA 101 or the applicable National Fire Codes (NFC's), the requirements of NFPA 101 and the NFC's are followed and accepted as equivalencies to the specific requirements of the building code.

The Assistant Director, Health Services Division, as the Authority Having Jurisdiction (for Life Safety Code matters), has authorized specific exemptions to the NFC's. A record of these waivers is maintained as part of the Technical Design Guidelines. Project Managers identify those that apply and ensure that they are included in the contract.

When fire protection and life safety requirements of the building code are not addressed by the Life Safety Code, NFPA 101, the requirements of the building code apply.

Project Managers ensure that the requirement to design the institution to comply with the Life Safety Code, NFPA 101, is included in the A/E or D-B contract. This includes provision for a professional Fire Protection Engineer to review the design and construction documents and subsequent construction to ensure compliance as follows:

- As applicable, include with the conceptual or schematic design phase submittals, or D-B proposals, an outline report for the proposed fire and life safety program identifying proposed fire and life safety systems and related aspects of the civil, structural, architectural, fire protection, plumbing, mechanical, electrical, and electronic design elements or systems.

- Include with the Preliminary Design Package a report from the Fire Protection Engineer confirming that the design complies with the Life Safety Code, NFPA 101. The report must include a written narrative and an annotated set of architectural drawings of all building floor plans including:

- Occupancies.
- Location and requirements for exits.
- Exit capacity.

- Stairs.
- Smoke compartments.
- Building separations.
- Doors.
- Fire extinguishing and detection systems.
- Capacity and requirements for pressure and flow of water systems.
- Water storage requirements.
- Any other items affecting fire and life safety.

The report must clearly identify any design features that would cause the Fire Protection Engineer's final report to state that those features resulted in a design that is non-compliant, or that changes are required to the final design to satisfy code requirements. These issues must be resolved during the construction document phase by the A/E or D-B contractor; the final design must comply without exemptions or waivers.

■ Include with each Final Design Package a final report from the Fire Protection Engineer confirming that construction documents comply with the Life Safety Code, NFPA 101. The report must include a written narrative and an annotated set of final architectural drawings of building floor plans, indicating:

- Occupancies.
- Location and requirements for exits.
- Exit capacity.
- Stairs.
- Smoke compartments.
- Building separations.
- Doors.
- Fire extinguishing and detection systems.
- Capacity and requirements for pressure and flow of water systems.
- Water storage requirements.
- Any other items affecting fire and life safety.

■ Provide intermediate inspections during construction, semi-final inspection, and final inspection, and written reports by a professional Fire Protection Engineer as necessary to certify compliance of final construction with the Life Safety Code, NFPA 101, and conformance with the final narrative report and annotated final architectural drawings of all building floor plans submitted with the final construction documents, and any modifications/changes approved during construction.

The intermediate inspections and written reports occur as frequently as necessary and before enclosing any building systems to allow time to rectify deficiencies.

The Fire Protection Engineer's semi-final inspection occurs prior to or simultaneously with other semi-final building inspections that take place after the contractor submits written notice

that the work is substantially complete, and the CO agrees and authorizes such inspections to begin so that findings of deficiencies can be included on the “punch lists” generated for corrections by the contractor.

The Fire Protection Engineer’s final inspection occurs simultaneously with the final building inspections for acceptance of the facility. The Fire Protection Engineer’s certification of life safety compliance for the facility is submitted to the Bureau by the A/E or D-B contractor no later than two weeks after this final inspection.

4.3 NATIONAL ELECTRICAL CODE

New Bureau institutions are designed and constructed to comply with the National Electrical Code, NFPA 70, including other NFPA Standards and National Fire Alarm and Signaling Codes referenced therein. The edition of NFPA 70 current at contract award is used.

Project Managers ensure that this requirement is included in the A/E or D-B contract.

4.4 NATIONAL FUEL GAS CODE

New Bureau institutions are designed and constructed to comply with the National Fuel Gas Code, NFPA 54, including other NFPA Standards and National Fire Alarm and Signaling Codes referenced therein. The edition of NFPA 54 current at contract award is used.

Project Managers ensure that this requirement is included in the A/E or D-B contract. This includes provision of engineering services to review design and construction documents and ensure compliance as follows:

- Include with each Final Design Package a final report confirming that the construction documents comply with NFPA 54. The report must include written certification from the registered engineer responsible for approving the construction documents that they comply with NFPA 54.

- Provide intermediate inspections during construction, semi-final inspection, and final inspection, and written reports by registered professional engineers from each discipline, as necessary to certify compliance with NFPA 54. The intermediate inspections and written reports occur as often as necessary and before enclosing any building systems to allow time to rectify deficiencies.

The semi-final inspection by the required engineers occurs prior to or simultaneously with other semi-final building inspections that take place after the contractor submits written notice that the work is substantially complete and the CO agrees and authorizes such inspections to begin so that findings of deficiencies can be included on the “punch lists” generated for corrections.

The final inspection occurs simultaneously with the final building inspection for acceptance of the facility. The certification of compliance with NFPA 54 is submitted to the Bureau by the A/E or D-B contractor no later than two weeks after this final inspection.

4.5 PLUMBING CODES

New Bureau institutions are designed and constructed to comply with the plumbing code that corresponds with the recognized model building code selected for the project. The edition of the plumbing code current at award is used.

Project Managers ensure that this requirement is included in the A/E or D-B contract.

4.6 SEISMIC DESIGN AND CONSTRUCTION STANDARDS

New Bureau institutions are designed and constructed to comply with seismic safety requirements. Executive Order 12699, Establishing a Federal Earthquake Risk Management Standard, requires new Federally owned buildings to comply with seismic safety standards:

- The IBC of the International Code Council.
- The NFPA 5000 – Building and Construction Safety Code of the NFPA. *Requires CERB Chief’s approval for use.

Bureau construction must conform to the latest Interagency Committee on Seismic Safety in Construction recommendation for seismic safety standards and practices for use by Federal agencies.

If the State where the institution is located has additional or more stringent seismic safety requirements in its adaptation of the nationally recognized model building code, they also apply to the project. (For new construction not administered by the CERB at existing Bureau facilities, consult the Administration Division, Facilities Management Branch.)

Project Managers ensure the seismic safety requirements applicable to the project and its location are identified and that the requirement to design the institution to comply with them is included in the A/E or D-B contract. This includes providing professional architect and engineering services to review the design and construction documents and ensure compliance as follows:

- Include with the Final Design Package submittal a final report confirming that construction documents comply with seismic safety requirements. The report must include written certification from the registered architect and engineers for each major design discipline (structural, civil, plumbing, fire protection, mechanical, and electrical) responsible for approving the construction documents to confirm compliance with applicable codes and seismic safety

requirements.

- Provide required testing and inspections during construction, and written reports by registered professional engineers from each discipline described above, to certify compliance of the final construction with applicable codes and seismic safety requirements. Intermediate inspections and written reports occur as frequently as necessary and before enclosing any building systems to allow time to rectify deficiencies.

The semi-final inspection by the required architects and engineers occurs prior to or simultaneously with semi-final building inspections that take place before substantial completion of construction, so that findings of deficiencies can be included on the “punch lists” generated for corrections.

The final inspection occurs simultaneously with the final building inspection for acceptance of the facility. The A/E or D-B contractor must submit the certification of seismic safety compliance to the Bureau no later than two weeks after this final inspection.

4.7 ZONING LAWS AND OTHER SIMILAR LAWS

New Bureau institutions are designed and constructed only after consideration of all requirements (except procedural requirements) of zoning laws and laws relating to landscaping, open space, minimum distance of a building from the property line, maximum height of a building, historic preservation, esthetic qualities, and similar laws of a State or a political subdivision of a State that would apply to the building if it were not constructed or altered by a Federal agency.

Project Managers ensure that the A/E or D-B contract for the project includes the provision to report to the Bureau the requirements of zoning and other similar laws outlined above and incorporate them into the facility design, unless authorized by the Bureau not to comply with a specific requirement.

The Chief, CERB, approves deviations from any zoning or other similar requirements.

4.8 STATE AND LOCAL GOVERNMENT CONSULTATION, REVIEW, AND INSPECTION

To meet the requirements of Sections 4.1- 4.6 of this chapter, Project Managers ensure the following occurs:

- In preparing plans for the building(s), consult with appropriate officials of the State or a political subdivision of a State, or both, in which the building will be located and who would have jurisdiction over the building if it were not constructed or altered by a Federal agency.

- Consultation requirements may be met by offering to meet or consult with State/local officials, even if they decline. Declinations are documented.
- Consultations with State/local officials are documented in writing. Responses to any of their requests or recommendations are given in writing.
- Upon request from State/local officials, submit plans for the building(s) for their review for a reasonable period, not exceeding 30 calendar days.
- Allow inspections by State/local officials during construction or alteration, in accordance with the customary schedule of inspections for construction or alteration of buildings in the locality, if State/local officials provide:
 - A copy of such a schedule before construction has begun.
 - Reasonable notice of their intent to conduct an inspection before conducting it.

State/local officials may recommend measures necessary to meet these requirements. They may also make recommendations concerning measures to be taken in the construction or alteration of the building to account for local conditions. Project Managers give due consideration to such recommendations and ensure that they receive a written response.

40 U.S.C. 3312 stipulates that the Government and its contractors are not required to pay for any action taken by a State or locality to carry out any portion of its requirements (including reviewing plans, carrying out on-site inspections, issuing building permits, and making recommendations).

40 U.S.C. 3312 also stipulates that no action may be brought (or fine or penalty imposed) against the Government for failure to meet State/local requirements or carry out State/local recommendations.

Chapter 5. OTHER APPLICABLE LAWS, REGULATIONS, AND STANDARDS

This chapter establishes Bureau policy for new institution development to meet the current requirements of portions of the U.S.C., CFR, Executive Orders, and other regulations, including but not limited to the following:

- 42 United States Code (U.S.C.) § 4151 – **Architectural Barriers Act (ABA) of 1968**, and 29 U.S.C. 701 – **Rehabilitation Act of 1973** include requirements concerning accessibility for disabled persons. The requirements applicable to Federal facilities, including new Bureau institutions, are in the “ABA Accessibility Guidelines” published July 23, 2004, by the United States Access Board.
- Executive Order 12196, **Occupational and Safety Health Programs for Federal Employees**, dated February 26, 1980, requires Federal agencies to comply with the Occupational Safety and Health Act of 1970, as amended (29 U.S.C. § 668). Specific requirements are contained in Title 29 Code of Federal Regulations (CFR) Part 1910, Occupational Safety and Health Standards.
- The **Metric Conversion Act of 1975** (P.L. 94-168), as amended by the **Omnibus Trade and Competitiveness Act of 1988** (P.L. 100-418), establishes the modern metric system (System International or SI) as the preferred system of measurement in the United States. Executive Order 12770, “Metric Usage in Federal Government Programs,” further required metric usage by the Federal Government. Justice Acquisition Circular 92-1, issued June 12, 1992, added metric policy requirements to the Justice Acquisition Regulation (JAR).
- The **National Environmental Policy Act of 1969** (NEPA) includes provisions applicable to development of new Bureau facilities and other major Federal actions.
- Office of Management and Budget (OMB) Circular No. A-131, **Value Engineering** (VE), dated May 21, 1993, issued pursuant to 31 U.S.C. § 1111, requires Federal agencies to use VE as a management tool, where appropriate, to reduce program and acquisition costs.
- The American Correctional Association (ACA) develops and maintains standards for correctional facilities. The Bureau’s new institutions are designed and constructed to meet the physical plant standards for Adult Correctional Institutions and Adult Local Detention Facilities. This document includes a list of the standards to be met.
- CFR Title 10, Part 433, **Energy Efficient Standards for the Design and Construction of New Federal Commercial and Multi-family High Rise Residential Buildings**, and Part 436 A, **Methodology and Procedure for Life Cycle Cost Analysis**, require buildings constructed or altered by a Federal agency to be constructed in compliance with these and other appropriate energy standards, as well as those of the local area of the project site.
- CFR Title 10, Part 436 C, **Federal Procurement Act of Energy Efficient Products**, requires the purchase of energy-efficient products for new construction.
- The **Energy Policy Act of 2005** (EPACT 2005) and the **Energy Independence and Security Act of 2007** (EISA 2007) stipulate energy conservation and green building standards for new Federal construction projects.

5.1 ACCESSIBILITY STANDARDS

New institutions must be designed and constructed to comply with the “ABA Accessibility Guidelines” published July 23, 2004. Project Managers ensure that these requirements are included in the A/E or D-B contract.

5.2 OCCUPATIONAL SAFETY AND HEALTH STANDARDS

New Bureau institutions must be designed and constructed to comply with “Occupational Safety and Health Administration Standards (OSHA)/Title 29 CFR Part 1910.”

Project Managers ensure that this requirement is included in the A/E or D-B contract.

5.3 METRIC MEASUREMENTS

New Bureau institutions must be designed and constructed using the metric system of measurements; specifically the “System International,” or SI.

Project Managers ensure that the following requirement is included in the A/E or D-B contract: “All drawings and specifications must be produced using modern metric units (System International or SI); designs must be conceived and executed in metric units.”

5.4 ENVIRONMENTAL STANDARDS

The Bureau’s Construction and Environmental Review Branch (CERB) is responsible for meeting the requirements of the NEPA Act of 1969 for projects, including preparing Draft and Final Environmental Impact Statements (FEIS) and the Issuance of a Record of Decision authorizing a project to proceed. Usually, there will be studies, approvals, or other requirements in the FEIS that must be implemented by CERB.

Project Managers ensure that the requirement to design the institution in accordance with the FEIS is included in the A/E or D-B contract.

New institutions are designed and constructed to comply with applicable Federal, State, local, and interstate pollution control and environmental protection standards. Project Managers ensure that this requirement is included in the A/E or D-B contract, including providing the following with final construction document submittals:

- A final report identifying applicable Federal, State, local, and interstate pollution control standards, including regulations governing air quality, water quality, soil disturbance, storm

drainage, erosion control, solid waste, and hazardous waste and confirming that construction documents comply with these regulations.

- A final report of all required design, construction, or operating permits necessary to comply with these regulations, including:

- Type of permits required.
- Permitting authority.
- Designation of each party responsible for obtaining each permit.
- Procedures and time required to apply for and receive permits. ☐ Fees required.
- Potential exemptions or variances available.
- Monitoring requirements.

- Any design calculations, drawings, and completed permit applications required from the project designers.

5.5 VALUE ENGINEERING

New Bureau institutions must be designed so that the VE process outlined in OMB Circular A131, “Value Engineering,” can take place.

CERB develops and maintains requirements for using VE. Project Managers ensure these requirements are included in the A/E or D-B contract.

When VE is used, files are maintained to document the process, the cost of performing it, and the net life-cycle cost savings from the VE. Submit reports to the Chief, Procurement Management Branch (PMB), as requested.

5.6 AMERICAN CORRECTIONAL ASSOCIATION REFERENCED STANDARDS

New Bureau institutions are designed and constructed to comply with ACA physical plant standards listed in the front of this document. (A list is supplied by the Program Review Division’s Bureau Accreditation Manager.)

Project Managers ensure that a requirement to comply with applicable ACA standards is included in the A/E or D-B contract, including:

- A/E or D-B contractors supply the following items to ensure adherence to ACA physical plant standards.
- As applicable, include with Preliminary Design Package submittals a report confirming that the design complies with ACA physical plant standards (detention or correctional) listed in the front of this document, including a written narrative and notated architectural drawings, as necessary, indicating that the design-related standards have been met.

- Include with Final Design Package submittals a report confirming that the construction documents comply with the referenced standards.
- Provide a final inspection and verification that the standards have been met and certify that final construction complies with the standards. The certificate must be submitted no later than two weeks after this final inspection.

5.7 ENERGY STANDARDS AND LAWS

A wide range of Federal regulations, standards, and guidelines apply to the Bureau's new construction projects. These identify a mixture of requirements, goals, and objectives, many of which vary depending upon a project's schedule, location, or the economic feasibility of compliance.

CERB analyzes these documents, develops guidance for complying, and includes them in the Technical Design Guidelines. CERB identifies the specific requirements for the design and construction of each project; the Project Manager ensures these are included in the A/E or D-B contract.

Regulations, standards, and guidelines used to establish general guidelines and specific project requirements include:

- CFR Title 10, Part 433 - Energy Efficient Standards for the Design and Construction of New Federal Commercial and Multi-family High Rise Residential Buildings, and Part 436 Subpart A, Methodology and Procedure for Life Cycle Cost Analysis.
- CFR Title 10, Part 436, Subpart C – Federal Procurement Act of Energy Efficient Products, which requires the purchase of energy-efficient products for new construction.
- The Energy Policy Act (EPACT) of 2005.
- The Energy Independence Security Act (EISA) of 2007.
- Executive Order 13693, "Planning for Federal Sustainability in the Next Decade."
- Guiding Principles for Federal Leadership in High Performance and Sustainable Buildings, as set forth in an Interagency Memorandum of Understanding.

Chapter 6. INITIATION AND APPROVAL OF PROJECTS

This chapter establishes policies and procedures for initiating new institution projects, assigning responsibility for project management, and providing management oversight and approval of project development.

Projects for new institutions are approved through the budget process and assigned to CERB for implementation. The Chief, CERB, is the designated Program Manager for these projects. Other projects may be assigned to the CERB or identified internally for carrying out its mission.

6.1 PROJECT INITIATION

The Chief, CERB, confirms that a specific new institution project may be initiated. He/she issues a “Project Initiative” to define the project and assign responsibility for management. This consists of a memorandum with attachments as necessary and includes:

- Designation of the Project Manager assigned to the project.
- General scope of the project.
- Project budget and funding status.
- Objectives for the schedule for developing and completing the project.
- Applicable Design Criteria (Design Program Guidelines and Technical Design Guidelines).
- General scope and types of contracts necessary to deliver the project.
- Available information regarding the project site.
- Other relevant information or requirements.

The Project Manager and Projects Administrator assigned to the project acknowledge receipt of the Project Initiative. A copy is signed by these individuals and placed in the project file.

Responsibility for project management may be reassigned by the Chief, CERB.

6.2 INITIAL PROJECT DEVELOPMENT

The project is developed in accordance with the requirements established by the Project Initiative, including revisions approved by the Chief, CERB.

As he/she implements the project’s development, the Project Manager identifies potential conflicts with the requirements of the Project Initiative. If a conflict cannot be resolved, the Project Manager prepares a written request for revision of the Project Initiative and submits it to the Chief, CERB.

Revisions to the Project Initiative are also used to document deviations from Design Criteria requiring approval by the Chief, CERB.

6.3 PRELIMINARY AND FINAL DESIGN SUBMISSIONS

The Project Manager oversees the development of the Preliminary and Final Design documents used to compile the Construction Issue documents.

At the completion of the Final Design submission, the Project Manager provides written recommendations (if necessary, waivers from the CERB Chief) for approval by the Projects Administrator. The Projects Administrator recommends approval to the CO to authorize issuance of the Notice to Proceed with the Construction Issue documents.

6.4 PROJECT DIRECTIVE

Upon completing the Final Design Submission Review and before approval to proceed with the Construction Issue documents, the Project Manager develops a Project Directive to confirm and clarify project requirements. This is a cover memorandum with attachments, including:

- Updated description of the project.
- Current estimate for each planned contract and the overall project, and a comparison with the project's budget and funding allocation.
- Comparison of the planned building areas with the program requirements, including individual rooms and spaces, as well as overall building net and gross areas.
- Current estimate of the project schedule.
- Confirmation of the general scope and types of contracts necessary to deliver the project.
- Status of acquiring the project site and any problems encountered.
- Proposed deviations from Design Criteria applied to the project requiring approval by the Chief, CERB.
- Other potential conflicts with the requirements of the Project Initiative and options for their resolution.
- Other relevant information or concerns.

Conflicts between the proposed Project Directive and Project Initiative are resolved and a final Project Directive approved by the Chief, CERB, to authorize final design and development of the Construction Issue documents.

6.5 FINAL PROJECT DEVELOPMENT

As the final development of the project proceeds, the Project Manager identifies potential conflicts with the requirements of the Project Directive. If a conflict cannot be resolved, the Project Manager prepares a written request for revision to the Project Directive and submits it to the Chief, CERB.

Final development is done per the requirements established by the Project Directive, including any revisions the Chief, CERB, approves.

6.6 CONSTRUCTION ISSUE DOCUMENTS

The Project Manager oversees the development of the Construction Issue documents used under a D-B contract (or for bidding or negotiation, if for a separate construction contract).

When the final Construction Issue documents are used for competitively bidding a contract, the Project Manager forwards them (including resolution of technical support and design program coordinator comments or a branch chief waiver) with a written recommendation for approval by the Project Administrator. The Project Administrator provides approval to the CO to authorize issuance of the documents with an Invitation for Bids.

When the Construction Issue documents are used for a portion of the construction work under a D-B contract, the Project Manager forwards these documents (including resolution of technical support and design program coordinator comments or a branch chief waiver) with a written recommendation for approval by the Project Administrator. The Project Administrator provides approval to the CO to authorize issuance of the Notice to Proceed for that portion of the work.

Revisions to the Project Directive are used to document additional deviations from the project requirements requiring approval by the Chief, CERB.

Chapter 7. PROCUREMENT AND CONTRACT SUPPORT

This chapter establishes, emphasizes, or clarifies policies and procedures related to procurements and contract administration for the Bureau's program for development of new institutions.

Procurement and contracting support are provided by the PMB. CERB program administration and project management staff coordinate work with PMB personnel.

Procurement activities and contract administration are governed by the Federal Acquisition Regulation (FAR), Justice Acquisition Regulation (JAR), and the Program Statement **Bureau of Prisons Acquisition Policy** (BPAP). Staff responsible for any aspect of contract procurement or administration must review the applicable portions of these documents carefully.

Only COs have authority to enter into or modify contracts. Certain CERB staff are designated as Contracting Officer's Representatives (CORs) for contracts for which they have management responsibility. CORs are appointed, in writing, by the CO, who also specifies the extent and limits of their authority for contractual matters.

7.1 ACQUISITION PLANNING

The Chief, CERB, reviews approved projects and identifies the scope and types of contracts necessary to deliver them. This information is included in the Project Initiative assigning management responsibility for the project. The Chief, CERB, approves changes in the scope and type of contracts used for a project.

CERB develops Advance Procurement Plans in accordance with acquisition regulations and policies.

7.2 REQUESTS FOR CONTRACT ACTION

Requests for a contract or modifications to a contract are transmitted from CERB to the PMB by a written Request for Contract Action (RCA). An RCA is prepared by the Project Manager or other CERB staff responsible for managing the project, transmitted to the CO, and includes:

- For a proposed new contract, a copy of the Advance Procurement Plan.
- A Purchase Request with approval signature and fund control number.
- A scope or Statement of Work (SOW) that defines and states the Government's requirements. Initially this may be a preliminary description to be refined as the procurement progresses and the work of supporting consultants is developed. Both the Project Manager and Projects Administrator approve the final scope or SOW, and a signed copy is placed in the project file. The definition of the work required differs by type of contract:

- For A/E services or for CMSS, the definition is in an SOW included in the Request for Proposal (RFP), along with exhibits or references to further define the requirements.
- For construction contracts, the definition is the drawings and specifications included in the Invitation for Bids.
- For D-B contracts, the definition is a combination of a SOW, conceptual drawings, technical requirements, and design and performance criteria included in the RFP, along with exhibits or references to further define the requirements.

- An Independent Government Estimate (IGE) for each proposed contract or contract modification anticipated to exceed the simplified acquisition threshold (re: FAR 36.203 and 36.605). Initially, this may be a preliminary estimate to be further refined as the procurement progresses and the work of supporting consultants is developed.

- A draft of a proposed synopsis to publicize the proposed contract per FAR Part 5 – Publicizing Contract Actions. This includes:

- A summary description of the contract requirement.
- Selection criteria for A/E contracts.
- Evaluation criteria for Construction Management or D-B contracts.

The Project Manager and CO work together to clarify the contract requirements and finalize the synopsis.

7.3 ARCHITECT/ENGINEER CONTRACTS

See FAR Part 36 – Construction and Architect/Engineer Contracts, for specific requirements, particularly:

- FAR Subpart 36.1 – General, Section 36.102 – Definitions.
- FAR Subpart 36.6 – Architect/Engineer Services.

A/E contracts are used for the design portion of projects using the traditional delivery method (defined in FAR as “Design-bid-build”), when design and construction are sequential and contracted for separately, with two contracts and two contractors. These contracts may include related services, including bidding and construction administration. A/E contracts are also used for certain support services for CERB.

A/E contracts may also be used if the Bureau contracts for development, or assistance with development, of the scope of work to define the project and state the Government’s requirements for a D-B contract (Re: FAR 36.302).

Evaluation and selection of firms for A/E services are done through evaluation boards and the

designated selection authority, per FAR Section 36.602 – Selection of Firms for A/E Contracts.

Under the general direction of the contracting activity, responsibility for administration of the selection of A/E firms is delegated to the Chief, CERB (Re: BPAP).

A/E evaluation boards are recommended for appointment via memorandum by the Chief, CERB; appointment is approved by the Assistant Director for Administration. Appointment includes designation of one member as board chairperson.

The designated selection authority for these A/E contracts is the Deputy Assistant Director for Administration responsible for CERB.

For A/E contracts not expected to exceed the simplified acquisition threshold, both of the short processes described in FAR Subsection 36.602-5 are authorized.

The CERB Branch is not required to maintain data on firms as described in FAR Section 36.603. Qualification data is obtained from responses to public notice for each individual contract.

For each contract over \$35,000, and for any contract terminated for default, performance evaluations are prepared per FAR Section 36.604 – Performance Evaluation, and FAR 42.1502(f).

The Project Manager assigned as COR responsible for monitoring the A/E contractor's performance is the evaluating official (or assessing official or rating official) who prepares the evaluation and sends it to the Project Administrator for CERB review. The Project Administrator sends the evaluation, with any additional information or comments, to the CO for review and further action.

In addition to the FAR requirement for a report after completion of the A/E's design work or contract termination, an interim report is required after completion of the Preliminary Design phase of the contract.

When the A/E provides services during construction of a project, an interim report at approximately 50% completion and a final report after completion and final inspection of the construction are also required.

Report forms and formats for performance evaluations must be as requested by the CO.

Although it should not normally be a factor for the A/E contracts required for a new institution, note the requirement in FAR Section 36.606 – Negotiations, and stated in FAR 15.404-4 (c)(4)(I), on fee limitation. This states that the CO may not negotiate a price or fee that exceeds the statutory limitation:

“For A/E services for public works or utilities, the contract price or the estimated cost and fee for production and delivery of designs, plans, drawings, and specifications shall not exceed 6 percent of the estimated cost of construction of the public work or utility, excluding fees.”

For determining compliance with this limitation, the following are examples of services that cannot be considered an integral part of the production and delivery of the designs, etc. The cost of these services may be excluded from that portion of the contract price calculated to be affected by the statutory limitation:

- Site analysis, field investigations, and topographic and other surveys and reports.
- Subsurface explorations and borings, soils and materials testing, and resultant reports.
- Feasibility and conceptual studies.
- Master planning and budget studies and reports.
- Preparation and verification of as-built drawings.
- Preparation and presentation of models, renderings, or photographs.
- The services of consultants, where not specifically applied to the preparation of plans, drawings, and specifications; and foreign consultant fees, where their use is required by local laws.
- Coordination of work performed by consultants separately retained by CERB.
- Design services for special building systems, for which no equivalent function is normally encountered for private or public facilities with similar functions and purpose.
- Value engineering analysis and reports.
- Market studies for determining project costs of construction materials, equipment, and services at the project site; preparation of bills of quantities; and construction cost estimating services in excess of those normally required, such as life-cycle costing of alternatives before system choice.
- Reproduction and printing costs of plans, drawings, and specifications submitted for reviews and bidding.
- Interior furniture and furnishings services.
- Construction phase services, except when design services are required as a result of construction change orders resulting from design errors and omissions judged to be the design A/E's responsibility.
- Travel and per diem allowance, and travel and per diem allowances in connection with excluded services.
- All other services that are not an integral part of the production and delivery of designs, plans, drawings, and specifications.

7.4 CONSTRUCTION MANAGEMENT CONTRACTS

See FAR Part 15 – Contracting by Negotiation, and particularly FAR Subpart 15.3 – Source Selection.

Construction management contracts provide administrative support and inspection services during construction. The Construction Management Firm (CMF) acts as a consultant and advisor to the Government. These contracts may also be used for certain support services for the CERB Branch.

Selection of firms to provide construction management services is done through negotiated procurement per FAR Part 15 – Contracting by Negotiation.

The CO is designated as the source selection authority described in FAR Subpart 15.3 – Source Selection.

To support the CO, the CERB Branch provides evaluation boards as needed to conduct technical evaluations of proposals. These boards are recommended for appointment via memorandum by the Chief, CERB, and approved by the Assistant Director for Administration. Appointment includes designation of a member as chairperson.

Technical evaluation of CMF proposals is prepared by the board chairperson and a copy maintained in the Central Office project files.

For each Construction Management (CM) contract of \$35,000 or more and for any CM contract terminated for default, performance evaluations are prepared similarly to A/E contracts in FAR Section 36.604 – Performance Evaluation, and FAR 42.1502(f)

The CERB Supervisory Construction Representative assigned as COR with responsibility for monitoring the CM contractor's performance is the evaluating official (or assessing official or rating official) who prepares the evaluation and sends it, through the Project Manager, to the Project Administrator for CERB review. The Project Administrator sends the evaluation, with any additional information or comments, to the CO for review and further action.

For construction management services provided during construction, an interim report at approximately 50% completion and a final report after completion and final inspection of the construction are required.

Report forms and formats for performance evaluations must be as requested by the CO.

7.5 CONSTRUCTION CONTRACTS

See FAR Part 36 – Construction and Architect/Engineer-Contracts for detailed requirements, particularly:

- FAR Subpart 36.1 – General, Section 36.102 – Definitions.
- FAR Subpart 36.2 – Special Aspects of Contracting for Construction.

Construction contracts are used for the construction portion of projects using the traditional delivery method (defined in FAR as “design-bid-build”) when design and construction are sequential and contracted for separately with two or more contracts and two or more contractors. More than one construction contract may be used for a project.

The acquisition of construction contracts is by sealed bidding procedures per FAR Part 14 – Sealed Bidding.

For each contract of \$700,000 or more, and for any contract terminated for default, performance evaluations are prepared per FAR Section 36.201 – Evaluation of Contractor Performance, and FAR 42.1502(e):

The CERB Supervisory Construction Representative assigned as COR with responsibility for monitoring the construction contractor’s performance is the evaluating official (or assessing official or rating official) who prepares the evaluation and sends it, through the Project Manager, to the Project Administrator for CERB review. The Project Administrator sends the evaluation, with additional information or comments, to the CO for review and further action.

For construction of a project, an interim report at approximately 50% completion and a final report after completion and final inspection of the construction are prepared.

Report forms and formats for performance evaluations must be as requested by the CO.

FAR Subpart 36.5 – Contract Clauses, prescribes clauses for insertion in solicitations and contracts for construction. The application of many of these clauses depends on circumstances related to the project and proposed contract. The Project Manager assists the CO with the application of these contract clauses and provides technical information and advice as requested.

7.6 DESIGN-BUILD CONTRACTS

See FAR Part 36 – Construction and Architect/Engineer Contracts for detailed requirements, particularly:

- FAR Subpart 36.1 – General, Section 36.102 – Definitions.
- FAR Subpart 36.3 – Two-Phase Design-Build Selection Procedures.

D-B contracts combine the design and construction required for a project into a single contract with one contractor. D-B as defined and used in the FAR refers to the particular two-phase selection procedures and resulting contracts in FAR Subpart 36.3.

A/E contracts may be used when the Bureau contracts for development of or assistance with

development of, the scope of work to define the project and state the Government's requirements for a D-B contract (re: FAR 36.302).

Acquisition of D-B contracts is done through the two-phase design-build D-B selection procedures in FAR Subpart 36.3 – Two Phase D-B Selection Procedures, and as a negotiated procurement per FAR Part 15 – Contracting By Negotiation.

The CO is designated as the source selection authority described in FAR Subpart 15.3 – Source Selection.

To support the CO, the CERB provides evaluation boards as needed to conduct technical evaluations of proposals. These boards are recommended for appointment via memorandum by the Chief, CERB, and approved by the Assistant Director for Administration. Appointment includes designation of a member as chairperson.

Even though it would normally be included in a required contract clause, for D-B contracts for new institutions, the evaluation criteria must note the following requirement (re: FAR 36.609-4):

“Architects or engineers registered to practice in the particular professional field involved in a state, the District of Columbia, or an outlying area of the United States, shall prepare or review and approve the design of architectural, structural, mechanical, electrical, civil, or other engineering features of the work.”

For each D-B contract of \$700,000 or more, and for any D-B contract terminated for default, performance evaluations are prepared for the design phase portion of the contract per FAR Section 36.604 – Performance Evaluation, and FAR 42.1502(f), and as follows:

- The CERB Project Manager assigned as COR responsible for monitoring the D-B contractor's performance for the contract's design phases is the evaluating official (or assessing official or rating official) who prepares the evaluation and sends it to the Projects Administrator for review. The Projects Administrator sends the evaluation, with any additional information or comments, to the CO for review and further action.
- In addition to a report after completion of the D-B contractor's design work or after contract termination, an interim report is required after completion of the Preliminary Design phases of the contract.
- Report forms and formats for performance evaluations must be as requested by the CO.

For each D-B contract of \$700,000 or more, and for a D-B contract terminated for default, past performance evaluations are prepared for the construction portion of the contract per FAR Section 36.201 – Evaluation of Contractor Performance, and FAR 42.1502(e), and as follows:

- The CERB Supervisory Construction Representative assigned as COR with responsibility for monitoring the construction contractor's performance for the construction portions of the contract is the evaluating official (or assessing official or rating official) who prepares the evaluation and sends it through the Project Manager to the Projects Administrator for CERB review. The Projects Administrator sends the evaluation, with any additional information or comments, to the CO for review and further action.
- For the construction portions of a D-B contract, an interim report at approximately 50% completion and a final report after completion and final inspection of the construction are prepared.
- Report forms and formats for performance evaluations must be as requested by the CO.

Chapter 8. PROJECT FILE DOCUMENTATION

This chapter establishes procedures for maintaining project files. CERB supervises a process for maintaining files that contain documents of Government and contractor operational or technical activities, events, and actions associated with planning, programming, site evaluation and selection, contracting, design and construction management, close-out, and transfer of a completed project to activation staff. Generally, each project will have three sets of project files.

8.1 OFFICIAL CONTRACT FILES

These are the responsibility of the CO and are maintained by PMB.

8.2 FIELD OFFICE PROJECT FILES

These are the responsibility of the on-site Construction Representatives and contain documentation of on-site actions and correspondence. In many instances, documents are copies of originals in the CO's file. The Construction Management Guidelines must include an outline of these files. During project close-out, all warranties, as-built drawings and specifications, and operations and maintenance manuals are transferred to institution staff (via written transmittal), with a copy to the Project Manager. Other project files are also transferred to the institution but may be retained by the Central Office until any contract disputes are resolved.

8.3 CENTRAL OFFICE PROJECT FILES

These are the Project Manager's responsibility. The files contain documents from start to finish of each project, including contractor evaluation boards/processes, site selection information, and design and construction permits and certifications. The files for the construction phase of a project normally include some duplicates of on-site files.

Project files are set up according to a standard matrix. The Project Manager maintains a copy of the award document and necessary attachments for each contract over \$35,000 and related modifications. This includes technical construction documents (plans and specifications).

Central Office project files are maintained and archived as necessary in the Central Office.