



FAR FACTS
SEASON 2023, EPISODE 21
FAR PARTS 36, 37, 41, AND 48

1. Solicitations for construction contracts are required to contain the Government's estimated price range for the project. **FAR 36.204.**
2. Contracts for the construction of a project shall not be awarded to the firm that designed the project, or to that firm's subsidiaries or affiliates, without the approval of the agency head or their authorized representative. **FAR 36.209.**
3. For sealed bidding, contracting officers must issue pre-solicitation notices on any construction requirement if the proposed contract is expected to exceed the simplified acquisition threshold, unless this action is waived by the head of the contracting activity or authorized representative. **FAR 36.213-2.**
4. Contracting officers are required to procure architect-engineer services under FAR Part 15 negotiation procedures. **FAR 36.214.**
5. Contracting officers may use cost-reimbursement contracts to acquire construction *only if* the use of that type of contract is consistent with Subpart 16.3 and Part 15. **FAR 36.215.**
6. An architect/engineering firm may be liable for Government costs resulting from errors or deficiencies in designs furnished under that firm's contract with the Government. **FAR 36.608.**
7. Performance-based acquisition is the preferred method for acquiring services. **FAR 37.102.**
8. "Personal services" refers to the creation of an employer-employee relationship under a service contract where contractor personnel are subject to the relatively continuous supervision and control of a Government officer or employee. Such an employee is not eligible for federal benefits, so contracting officers must be careful not to manage them in the same way as a government employee. Agencies shall not award these contracts unless specifically authorized by statute. **FAR 37.104.**
9. Use of uncompensated overtime in service contracts is *not* encouraged. If it must be used, such as in contracts to acquire services on the basis of the number of hours provided, contracting officers must ensure that its use will not degrade the level of technical expertise required to fulfill the Government's requirements. **FAR 37.115-2.**

10. Performance-based services contracts shall include (i) a performance work statement (PWS), (ii) measurable performance standards and the method of assessing contractor performance against the performance standards, and (iii) performance incentives where appropriate. **FAR 37.601.**
11. Unless an acquisition is at or below the simplified acquisition threshold, agencies shall acquire utility services by a *bilateral* written contract. **FAR 41.201(b).**
12. The GSA has the authority to execute area-wide utility contracts that can be used by other Federal agencies. **FAR 41.204.**
13. There are two main value engineering approaches:
 - a. Incentive approach. Contractor participation in this approach is voluntary, and the contractor uses its own resources to develop and submit VECs. **FAR 48.101(b)(1).**
 - b. Mandatory program. Contractor participation in this approach is mandatory, and the Government requires and pays for specific value engineering program effort. **FAR 48.101(b)(2).**
14. Value engineering incentive payments do not constitute profit or fee within the limitations set forth in FAR 15.404-4(c)(4)(i). **FAR 48.102(e).**
15. The decision to accept or reject a Value Engineering Change Proposal (VECP) is made solely at the discretion of the Government. **FAR 48.103(c).**
16. The VECP sharing rate between the contractor and Government for acquisition savings of a “non-incentive” type firm fixed price contract is 50/50. **FAR 48.104-2.**
17. The VECP sharing rate between the contractor and Government for acquisition savings of a “non-incentive” type cost reimbursement contract is 75/25. **FAR 48.104-2.**