

requested has been performed in accordance with the agreement.

(d) Reimbursement for work commenced by non-Federal public bodies no later than one year after enactment of this section, to carry out or assist in carrying out projects for beach erosion control, may be made in accordance with the provisions of section 2 of the Act of August 13, 1946, as amended (33 U.S.C. 426f). Reimbursement for such work may, as an alternative, be made in accordance with the provisions of this section, provided that agreement required herein shall have been executed prior to commencement of the work. Expenditures for projects for beach erosion control commenced by non-Federal public bodies subsequent to one year after enactment of this section may be reimbursed by the Secretary of the Army, acting through the Chief of Engineers, only in accordance with the provisions of this section.

(e) This section shall not be construed (1) as authorizing the United States to assume any responsibilities placed upon a non-Federal body by the conditions of project authorization, or (2) as committing the United State to reimburse non-Federal interests if the Federal project is not undertaken or is modified so as to make the work performed by the non-Federal Public body no longer applicable.

(f) The Secretary of the Army is authorized to allot from any appropriations hereafter made for civil works not to exceed \$10,000,000 for any one fiscal year to carry out the provisions of this section. This limitation does not include specific project authorizations providing for reimbursement.

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[42 FR 24050, May 12, 1977]

PART 210—PROCUREMENT ACTIVITIES OF THE CORPS OF ENGINEERS

Sec.

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210.5 Rules of the Corps of Engineers Board of Contract Appeals for cases subject to the Contract Disputes Act of 1978.

AUTHORITY: Secs. 2301–2314, 3012, 70A Stat. 127–133, 157; 10 U.S.C. 2301–2314, 3012.

§210.1 Advance notice to prospective bidders.

In connection with all construction contracts estimated to cost \$100,000 or

more for which an invitation is scheduled to be issued, an advance notice to prospective bidders will be prepared sufficiently in advance of the actual issuance of the invitation to stimulate interest on the part of the greatest possible number of contractors. Advance notices may also be prepared on projects estimated to cost less than \$100,000 and for supplies where considered desirable. ENG Form 3132–R or ENG Form 3133–R [set out in paragraphs 205 and 206, Appendix A, Engineer Contract Instructions (ER 1180–1–1)] will be used to send advance notices to prospective bidders. Lengthy notices may be reproduced and mailed using ENG Form 3133–R as a foldover wrapper fastened with a wire staple. Advance notices will contain the information required by ENG Form 3132–R, but additional information may be added as appropriate. The advance notices will:

(a) Describe the proposed work in sufficient detail to permit prospective general contractors, subcontractors and suppliers to determine reasonably whether the work is of a nature and volume to warrant their buying plans;

(b) Specify the date by which bidders should return the request card in order to receive a complete bid set;

(c) State the various locations (offices) where plans will be on public display, available for inspection without charge; and

(d) Include for construction contracts a statement as to the approximate value of the proposed construction. That statement of value shall be in increments as follows: (1) Less than \$25,000; (2) the nearest multiple of \$25,000 up to \$100,000; (3) the nearest multiple of \$100,000 from \$100,000 to \$1 million; (4) the nearest multiple of \$500,000 for from \$1 million to \$10 million; (5) over \$10 million for all projects of greater estimated value.

Information on several projects for which invitations are scheduled to be issued may be grouped in one advance notice provided that information on any project or projects is not unduly delayed in order to be grouped with others. When an advance notice is used to circularize bidders, copies of the invitation, when issued, will be furnished only to those prospective bidders who

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have returned a request card indicating a desire to submit a bid.

[26 FR 11732, Dec. 7, 1961]

§210.2 Notice of award.

The successful bidder will be notified in writing of the acceptance of his bid. Under construction contracts, this notice may accompany the contract papers which are forwarded for execution. To avoid error, or confusing the notice of award with a notice to proceed, the notice of award will be substantially in the following format:

You are hereby notified that your bid dated _____ in the sum of \$ _____ covering _____ is accepted. A formal contract will be prepared for execution. Acceptable performance and payment bonds (if required) must be furnished upon execution of the formal contract. If approval of the contract is required by its express terms, the contract is not fully executed until such approval is obtained.

Under supply contracts a written award mailed (or otherwise furnished) to the successful bidder either on Standard Form 26 or Standard Form 33, results in a binding contract without further action by either party.

[26 FR 11732, Dec. 7, 1961]

§210.3 Notice to proceed.

(a) *General.* When the contract specifies the time when the contractor is to proceed with the work under the contract, a notice to proceed will not be required. However, in any case where the contract requires the issuance of a notice to proceed the notice will fix the time for the commencement of the work and also, if appropriate, will fix the time for the completion of the work. The notice to proceed should be issued on a form letter, reproduced on local letterhead paper from a master copy, which will preclude repetitive typing of stereotype data. The notice to proceed will be executed in a sufficient number of copies to meet the contract distribution requirements in paragraph 30-206, Engineer Contract Instructions (ER 1180-1-1), and will bear the contract number in the upper right-hand corner of the notice.

(b) *Contractor's acknowledgment.* When a notice to proceed is issued, the contractor will acknowledge receipt there-

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of by signing and dating all copies of the acknowledgment and returning all but one copy to the contracting officer.

(c) *Proceeding before approval of bonds.* It is not necessary to delay commencement under the contract pending approval of bonds by The Judge Advocate General. Such action will be at the discretion of the contracting officer. In the event exceptions are taken to the bonds the contractor will immediately take steps to remove such exceptions or submit new bonds.

(d) *Commencing performance.* Contractors in no case will be required to commence performance prior to the commencement date fixed in the contract or in the notice to proceed. If they voluntarily do so and the contract is not ultimately signed, or approved when required, such action is at their own risk and without liability on the part of the Government. Contractors will not be required to commence performance until:

(1) Performance and payment bonds have been furnished, when required;

(2) The award has been approved when approval is required; and

(3) Notice to proceed has been forwarded to the contractor where required.

[26 FR 11732, Dec. 7, 1961]

§210.4 Rules of the Corps of Engineers Board of Contract Appeals for cases not subject to the Contract Disputes Act of 1978.

(a) *Preface to rules.* (1) The Corps of Engineers Board of Contract Appeals is the authorized representative of the Chief of Engineers for the purpose of hearing, considering and determining, as fully and finally as he might, appeals by contractors from decisions of contracting officers or their authorized representative or other authorities on disputed questions, taken pursuant to the provision of contracts requiring the determination of such appeals by the Chief of Engineers or his duly authorized representative or Board.

(2) When an appeal is taken pursuant to a disputes clause in a contract which limits appeals to disputes concerning questions of fact, the Board may in its discretion hear, consider and decide all questions of law necessary for the complete adjudication of