PS 4220.05 DESIGN AND CONSTRUCTION PROCEDURES

U.S. Department of Justice
Federal Bureau of Prisons

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Program Statement

OPI: ADM
NUMBER: 4220.05
DATE: 2/15/2000
SUBJECT: Design and Construction Procedures

1. **PURPOSE AND SCOPE.** To establish management policy for the Federal Bureau of Prisons Design and Construction Branch (DCB). The DCB's mission is to provide increased capacity for the Bureau through the design and construction of new institutions. The Design and Construction Program Statement establishes standard operating procedures for carrying out its mission.

2. **SUMMARY OF CHANGES.** 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 process and various changes in contract management and procurement.

3. **DIRECTIVES AFFECTED**

a. **Directives Rescinded**

PS 4220.04 Design and Construction Procedures (4/13/94)

OM 023-99 (4220) Design and Construction Procedures (5/12/99)

b. **Directives Referenced**

PS 1221.66 Directives Management Manual (9/15/97)
PS 1237.11 Information Security Programs (10/24/97)
PS 1600.08 Occupational Safety and Environmental Health Manual (8/16/99)
PS 4100.03 BOP Acquisition Manual (9/16/96)
PS 8041.03 Factory Construction and Activation Manual-FPI (12/11/97)

DOJ Order 2300.5B
DOJ Order 2300.10A

OMB Circular A-131

Exec. Order 12196
Exec. Order 12699
Exec. Order 12770

Architectural Barriers Act of 1968 (42 U.S.C. 34151 et seq.)
Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.)
National Environmental Policy Act of 1969 (NEPA)
(as amended)
Omnibus Trade and Competitiveness Act of 1988

Uniform Federal Accessibility Standards (UFAS)
(41 CFR 101.19.6 et seq.)
Occupational Safety and Health Administration (OSHA)
(29 CFR Part 1910)

Federal Acquisition Regulation (FAR)
Justice Acquisition Regulation (JAR)

National Fire Protection Association's,
National Fire Code (NFPA 101)
National Electric Code (NFPA 70)
National Fuel Gas Code (NFPA 54)

4. **STANDARDS REFERENCED**

a. American Correctional Association 2nd Edition Standards for Administration of Correctional Agencies: 2-CO-2A-01, 2-CO-2B-01 and 2-CO-2B-04

b. American Correctional Association 3rd Edition Standards for Adult Correctional Institutions: 3-4120, 3-4121, 3-4122, 3-4130, 3-4132, 3-4133, 3-4134, 3-4135, 3-4136, 3-4137, 3-4138, 3-4139, 3-4140, 3-4141, 3-4142, 3-4143, 3-4144, 3-4145, 3-4146, 3-4149, 3-4150, 3-4151, 3-4152, 3-4153, 3-4154, 3-4155, 3-4156, 3-4157, 3-4158, 3-4159, 3-4160, 3-4162, 3-4163, 3-4164, 3-4165, 3-4166, 3-4170, and 3-4128-2

c. American Correctional Association 3rd Edition Standards for Adult Local Detention Facilities (ALDF): 3-ALDF-2A-01, 3-ALDF-2A-02, 3-ALDF-2B-01, 3-ALDF-2B-03, 3-ALDF-2C-05, 3-ALDF-2C-06, 3-ALDF-2C-08, 3-ALDF-2C-09, 3-ALDF-2C-10, 3-ALDF-2C-11, 3-ALDF-2C-12, 3-ALDF-2C-13, 3-ALDF-2D-01, 3-ALDF-2D-02, 3-ALDF-2D-03, 3-ALDF-2D-04, 3-ALDF-2D-05, 3-ALDF-2D-06, 3-ALDF-2D-07, 3-ALDF-2D-09, 3-ALDF-2E-03, 3-ALDF-2E-04, 3-ALDF-2E-05, 3-ALDF-2E-06, 3-ALDF-2E-07, 3-ALDF-2E-08, 3-ALDF-2E-09, 3-ALDF-2E-10, 3-ALDF-2E-11,

3-ALDF-2E-12, 3-ALDF-2E-13, 3-ALDF-2F-01, 3-ALDF-2F-03, 3-ALDF-2G-01, 3-ALDF-2G-02, 3-ALDF-2G-03, 3-ALDF-2G-04, 3-ALDF-2G-05, 3-ALDF-2C-01-1, and 3-ALDF-3A-03

5. **DISTRIBUTION.** One copy of this Program Statement is provided to each institution for central reference library and information only. This Program Statement is used by the Central Office and field sites of the DCB staff.

6. **ACTION.** This Program Statement, which has been prepared for management of the Bureau’s program for design and construction of new institutions shall establish operating procedures for the DCB.

This Program Statement addresses the organizational and individual responsibilities, authority, and limitations of authority pertaining to the Bureau's new institution development program. The results are expected to strengthen the Bureau's management of internal controls over new construction, and assist with minimizing costs, increasing efficiency and maintaining quality control.

\s\
Kathleen Hawk Sawyer
Director

DESIGN AND CONSTRUCTION BRANCH

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CHAPTER 1

INTRODUCTION

1.1 MISSION

The Design and Construction Branch (DCB) is responsible for budgeting, programming, planning, designing, and constructing new institutions for the Bureau. The following tasks are included in this responsibility:

A. Participation in the Bureau's long-range capacity expansion planning to identify the need for and establish the locations of new institutions.

B. Preparation of budget estimates and assisting in the development of budget requests related to these institutions.

C. Assisting in the site evaluation and acquisition process.

D. Developing guidelines and procedures related to the design and construction of new institutions.

E. Developing design programs and related technical standards for the development of new institutions.

F. Coordination and oversight of the preparation of design and construction documents required to build new institutions.

G. Developing contract requirements and coordination with the Construction Contracting Section for the procurement of any architect/engineer services, construction management services, design-build contracts and/or construction contracts required to develop these institutions.

H. Overseeing and monitoring the activities required to design and construct these institutions.

I. Providing technical advice and support within the Bureau and to outside entities related to architectural, engineering, construction, and project management issues.

1.2 **ABBREVIATIONS**

Abbreviations are used throughout this Program Statement. To be consistent, the following abbreviations may be used in correspondence as necessary:

A/E	Architect/Engineer
BPAP	Bureau of Prisons Acquisition Policy
CFR	Code of Federal Regulations
CMF	Construction Management Firm
CO	Contracting Officer
COTR	Contracting Officer's Technical Representative
DCB	Design and Construction Branch
FAR	Federal Acquisition Regulation
FEIS	Final Environmental Impact Statement
FPI	Federal Prison Industries (UNICOR)
IGE	Independent Government Estimate
JAR	Justice Acquisition Regulation
NBC	National Building Code
NEPA	National Environmental Policy Act
OSHA	Occupational Safety and Health Administration
PM	Project Manager
RCA	Request for Contract Action
RFP	Request for Proposal
SOW	Statement of Work
UBC	Uniform Building Code
UFAS	Uniform Federal Accessibility Standards
U.S.C.	United States Code
VE	Value Engineering
VECP	Value Engineering Change Proposal

CHAPTER 2

STAFF RESPONSIBILITIES AND AUTHORITIES

2.1 RESPONSIBILITIES/AUTHORITIES

A. **Chief, Design and Construction Branch, Administration Division.** The Branch Chief is responsible for the overall coordination and administration of budgeting, programming, planning, design and construction of new Bureau institutions.

B. **Deputy Chief.** The Deputy Chief, under the direction of the Branch Chief, is responsible for the overall operation of the Design and Construction Branch.

C. **Section Chiefs.** Section Chiefs are assigned responsibility by the Branch Chief for various functions of the branch. Section Chiefs serve as leaders of management teams of project managers or other management, technical or administrative staff. Section Chiefs may include:

1. **Projects Administrators** with responsibility for administration and project management of a group of assigned projects. Projects may include development of new institutions, development and maintenance of design program or technical design guidelines, resolution of contract disputes or litigation, evaluation of potential sites for new institutions, and technical assistance or other additional assignments.

2. **Chief, Project Administrative Support** with responsibility for operations and support staff and selected liaison and project management assignments.

3. **Project Resource Support Officer** with responsibility for budgeting and management of financial resources allotted to and controlled by the Branch. Also provides support and liaison related to maintenance of staff resources.

D. **Project Manager (PM).** The PM is a Bureau representative located in the Central Office, assigned responsibility for the overall management of a project or assigned phases of a project.

When assigned responsibility for the construction phase of a project, this position supervises the DCB on-site staff and operations through the Supervisory Construction Representative and Construction Representative(s) at the site. Serves as advisor to the CO and is normally assigned as COTR for acquisition of A/E, CMF, or other consultant services, and design-build contracts.

E. **Supervisory Construction Representative.** The Supervisory Construction Representative is the senior DCB staff member at a project construction site and has overall responsibility for the site operations and supervision of other DCB site staff and consultants. This position will normally be assigned as a COTR for construction contracts and construction portions of a design-build contract.

F. **Construction Representative.** A Construction Representative is one of the Bureau representatives located at the construction site and is assigned responsibility for portions of the on-site management of the project. The Construction Representative will normally be designated as a COTR for construction contracts and construction portions of a design-build contract.

G. **Contracting Officer's Technical Representative (COTR).** The COTR is appointed in writing by the CO, who also specifies the COTR's limitations of authority. The COTR shall be a person with expertise in a technical area pertinent to the Contract and act as liaison between the Contractor and the CO.

CHAPTER 3

GENERAL POLICIES AND PROCEDURES

3.1 PROJECT BUDGETING

Budget estimates for proposed new institution projects shall be developed based on project requirements, estimating assumptions, and the specific program for the facility being considered. Preliminary budget estimates are prepared for any request made by the Budget Development Branch for possible inclusion in the Bureau's budget request. Historical cost information shall be maintained and utilized to develop these estimates.

3.2 SITE EVALUATION

For potential sites for new institution projects, the Site Selection and Environmental Review Branch (Site Selection Branch) forwards site assessments, Environmental Impact Statements (preliminary, draft, or final versions), boundary and topographical surveys, geo-technical reports and other technical studies to the DCB. These items are reviewed by the Projects Administrator and/or Project Manager assigned the task of site evaluation, and written comments and recommendations are to be provided to the Site Selection Branch with copies to be maintained within the DCB for reference.

If the Project Manager, for the development of the institution, is assigned early during the site selection/evaluation phase, he or she will also evaluate the site evaluation documents and forward written comments or recommendations to the Site Selection Branch.

3.3 UNICOR FACTORY DESIGN

For all new construction that includes FPI factory work space, Project Managers shall incorporate the requirements found in the Program Statement, Factory Construction and Activation Manual-FPI. The Project Manager is to consult the FPI Manager for Planning, Research and Activation (PRA) and FPI must provide all occupational requirements known at the time of factory design to the Project Manager.

3.4 DESIGN CRITERIA

A. **Purpose.** The DCB is to develop and maintain design criteria to guide the planning and development of new institutions.

B. **Design Program Guidelines.** DCB must develop and maintain Design Program Guidelines to define requirements for various types of institutions including projected rated capacity, total capacity, space and equipment requirements of operational components, and other specific planning and design considerations.

C. **Technical Design Guidelines.** DCB must develop and maintain Technical Design Guidelines to provide technical design requirements, specifications, direction for adherence to codes, regulations and laws, performance criteria and selected detail drawings, and their application to various types of institutions.

D. **Revisions to Design Criteria.** Revisions to Design Program Guidelines or Technical Design Guidelines of a routine or technical nature may be made with approval of the Chief, DCB, after consultation with other Bureau staff if necessary. Proposed revisions that exceed one of the following thresholds must be submitted to the Design Criteria Review Committee (DCRC - described below):

1. Thresholds of proposed revisions requiring approval of DCRC.

   a. Proposed changes in space requirements that would result in a net increase of more than 200 square feet of new building area.

   b. Proposed changes that would require changes to Bureau policy.

   c. Changes proposed to be made retroactive to a project(s) already under construction.

2. **Design Criteria Review Committee (DCRC).** The Director has established this committee to ensure that proposed changes to the Design Criteria for

planning and development of new institutions

receive adequate review and approval prior to their implementation. The committee includes the following members.

a. Chief, Design and Construction Branch

b. Chief, Facilities Management Branch

c. Administrator, Correctional Services

d. National Safety Administrator

3. Proposed Revisions to the DCRC, exceeding the thresholds noted above, from Bureau components other than the Administration Division or Correctional Services Division, must be transmitted by memorandum from the appropriate Assistant Director or Regional Director to the Assistant Director for Administration. The proposed revision must include a detailed description (drawings can be included), estimate of costs, and justification adequate to evaluate the request. Any anticipated impact to the schedule for project completion should be included.

4. The DCB is to maintain a record of the actions of the DCRC and distribute DCRC meeting minutes.

a. Approvals of proposed modifications to design criteria are to be noted in meeting minutes and incorporated in the appropriate documents (i.e., Technical Design Guidelines, Design Program Guidelines). Approvals by the DCRC should also identify which institutions will be impacted by these decisions.

b. Disapprovals of proposed design criteria changes are noted in the DCRC meeting minutes and the requestor is to be notified of the action taken.

E. **Deviations from Design Criteria.** After the establishment of the design criteria for a project by issuance of the Project Initiative or subsequent applicable revisions, any deviations from those criteria must be approved by the Chief, DCB.

F. **Other Design Changes.** The Chief, DCB must approve any proposed change that would result in a significant impact on the project cost or delivery schedule.

3.5 CONSTRUCTION MANAGEMENT GUIDELINES

A. **Introduction.** The DCB must develop and maintain Construction Management Guidelines to establish requirements and assistance for administering construction site operations and contracts.

B. **Purpose.** These guidelines are to outline the duties and responsibilities for Bureau and CMF staff and requirements for project documentation and standard operating procedures. They may also provide guidance and recommendations to assist in conducting everyday construction site activities.

CHAPTER 4

APPLICABLE BUILDING CODES, RELATED STANDARDS AND LAWS

4.1 INTRODUCTION

C. 40 U.S.C. 619/Title 40 - PUBLIC BUILDINGS, PROPERTY, AND WORKS, requires buildings constructed or altered by a federal agency to be constructed, to the maximum extent feasible as determined by the head of the agency, in compliance with one of the nationally recognized model building codes and with other applicable nationally recognized codes as determined to be appropriate by the agency head.

D. 40 U.S.C. 619 also requires buildings constructed by a federal agency to be constructed or altered only after consideration of all requirements (other than 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, and esthetic qualities of a building, and other similar laws of a State or a political subdivision of a State which would apply to the building if it were not a building constructed or altered by a federal agency.

E. 40 U.S.C. 619 also establishes rules related to State and local government consultation, review, and inspections related to the above requirements.

F. Executive Order 12699, “Seismic Safety of Federal and Federally Assisted or Regulated New Building Construction” requires all new federally owned buildings to comply with seismic safety requirements set forth in one of the aforementioned nationally recognized model building codes.

4.2 PURPOSE

The purpose of this Chapter is to establish Bureau policy to meet the requirements of 40 U.S.C. 619 and Executive Order 12699 in its new institution development program.

4.3 BUILDING CODES

A. The nationally recognized model building codes are:

1. The Uniform Building Code (UBC) of the International Conference of Building Officials (ICBO).

2. The National Building Code (NBC) of the Building Officials and Code Administrators International (BOCA).

3. The Standard Building Code (SBC) of the Southern Building Code Congress (SBCC).

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

1. Project Managers are to identify from above the appropriate building code for the project considering its location and ensure that the requirement to design the institution in compliance with that building code is included in the A/E contract or design-build contract for the project. If the use of a specific building code is not indicated for the project location, the National Building Code is to be applied to meet this requirement.

2. The latest edition of the building code selected, current at the time of award of the design contract, is to be used.

4.4 LIFE SAFETY CODE

A. New Bureau institutions are to be designed and constructed to comply with the Life Safety Code, from the National Fire Protection Association (NFPA), also known as the NFPA 101, Code for Safety to Life from Fire in Buildings and Structures, including other NFPA Standards and Codes (National Fire Codes) referenced therein.

1. The latest edition of the Life Safety Code, NFPA 101, current at the time of award of the design contract, is to be used.

2. In accordance with Program Statement, Occupational Safety and Environmental Health Manual, when there are differences between the fire protection and life safety requirements of a national building code and NFPA 101 or the applicable National Fire Codes (NFC's), the requirements of NFPA 101 and the NFC's are to be followed and accepted as equivalencies to the specific requirements of the building code.

   The Assistant Director of the Health Services Division, as the Authority Having Jurisdiction, has in specific cases authorized exemptions. A record of these waivers is to be maintained as part of the Technical Design Guidelines. Project Managers must identify those that apply and ensure that they are included in the A/E contract.

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

4. Project Managers must ensure that the requirement to design the institution to comply with the Life Safety Code, NFPA 101, is included in the A/E contract or design-build contract for the project. This requirement is to include provision for the services of a professional Fire Protection Engineer (FPE) to review the design and construction documents and subsequent construction to ensure compliance as follows:

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

   b. Include with design development phase submittals, a report from the FPE confirming that the design complies with the Life Safety Code, NFPA 101. The report is to include a

written narrative and a notated set of architectural drawings of all 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, and
- any other items affecting fire and life safety.

The report must identify clearly any design features that would cause the FPE to issue a final report stating that those features have resulted in a facility design that is either in non-compliance; or that changes are required to the final building design in order to satisfy code requirements. These issues must then be resolved during the construction document phase by the A/E or design-build contractor, and the final design must comply without need for exemptions or waivers from code requirements.

c. Include with final construction document submittals, a final report from the FPE confirming that the construction documents comply with the Life Safety Code, NFPA 101. The report is to include a written narrative and an annotated set of the final architectural drawings of all 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, and
- any other items affecting fire and life safety.

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

(1) The intermediate inspections and written reports must occur as frequently as necessary and prior to closing in of any relevant building systems to allow time to rectify deficient conditions.

(2) The FPE’s semi-final inspection must occur prior to or simultaneously with other semi-final building inspections that take place after substantial completion of construction, so that findings of deficiencies can be included on the “punch lists” generated for correction by the Contractor.

(3) The FPE’s final inspection must occur simultaneously with the final building inspections for acceptance of the facility. The FPE’s certification of life safety compliance for the facility shall be submitted to the Bureau by the A/E or design-build contractor not later than two weeks after this final building inspection.

4.5 NATIONAL ELECTRIC CODE

A. New Bureau institutions are to be designed and constructed to comply with the National Electric Code, NFPA 70, from the National Fire Protection Association (NFPA) including other NFPA Standards and Codes (National Fire Codes) referenced therein.

1. The latest edition of the National Electric Code, NFPA 70, current at the time of award of the design contract, is to be used.

2. Project Managers shall ensure that the requirement to design the institution to comply with the National Electric Code, NFPA 70, is included in the A/E contract or design-build contract for the project.

4.6 NATIONAL FUEL GAS CODE

A. New Bureau institutions are to be designed and constructed to comply with the National Fuel Gas Code, NFPA 54, from the National Fire Protection Association (NFPA) including other NFPA Standards and Codes (National Fire Codes) referenced therein.

1. The latest edition of the National Fuel Gas Code, NFPA 54, current at the time of award of the design contract, is to be used.

2. Project Managers must ensure that the requirement to design the institution to comply with the National Fuel Gas Code, NFPA 54, is included in the A/E contract or design-build contract for the project. This requirement includes provision of adequate engineering services to review the design and construction documents and ensure compliance as follows:

   a. Include with final construction document submittals a final report confirming that the construction documents comply with the National Fuel Gas Code, NFPA 54. The report is to include written certification from the appropriate registered engineer responsible for approving the construction documents, that the design and the construction documents comply with the National Fuel Gas Code, NFPA 54.

b. Provide intermediate inspections during construction, a semi-final inspection, final inspection, and written reports by registered professional engineers, from each of the disciplines as described above, as necessary to certify compliance of the final construction with the National Fuel Gas Code, NFPA 54.

(1) The intermediate inspections and written reports are to occur as frequently as necessary and prior to closing in of any relevant building systems to allow time to rectify deficient conditions.

(2) The semi-final inspection by the required engineers must occur prior to or simultaneously with other semi-final building inspections that take place after substantial completion of construction so that findings of deficiencies can be included on the “punch lists” generated for correction by the Contractor.

(3) The final inspection must occur simultaneously with the final building inspection for acceptance of the facility. The certification of compliance with the National Fuel Gas Code, NFPA 54, for the facility is to be submitted to the Bureau by the A/E or design-build contractor not later than two weeks after this final building inspection.

4.7 PLUMBING CODES

A. New Bureau institutions are to be designed and constructed to comply with the plumbing code that corresponds with the nationally recognized model building code selected for the project.

1. The latest edition of the corresponding plumbing code, current at the time of award of the design contract, is to be used.

2. Project Managers are to ensure that the requirement to design the institution to comply with the corresponding plumbing code, is included in the A/E contract or design-build contract for the project.

4.8 ZONING LAWS AND OTHER SIMILAR LAWS

A. New institutions for the Bureau must be designed and constructed only after consideration of all requirements (other than 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, and esthetic qualities of a building, and other similar laws of a State or a political subdivision of a State which would apply to the building if it were not a building constructed or altered by a federal agency.

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

2. The Chief, DCB, must approve deviations from any requirement of these zoning or other similar laws.

4.9 STATE AND LOCAL GOVERNMENT CONSULTATION, REVIEW AND INSPECTION

A. For purposes of meeting the requirements of Sections 4.3, 4.4, 4.5, 4.6 or 4.7 of this Chapter, with respect to a building(s), Project Managers must carry out the following:

1. 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 a building constructed or altered by a federal agency.

a. Consultation requirements may be met by offering to meet or consult with such officials, even if such officials decline the opportunity. Declinations should be documented.

b. Consultations with these officials are to be documented in writing. Written responses to any of their requests or recommendations are to be given in writing to these officials.

2. Upon request from appropriate officials, submit plans for the building(s) in a timely manner for review by such officials for a reasonable period of time, not exceeding 30 calendar days.

3. Allow inspections by such officials during construction or alteration of the building(s), in accordance with the customary schedule of inspections for construction or alteration of buildings in the locality, if such officials provide to the Bureau:

a. A copy of such schedule before construction of the building has begun.

b. Reasonable notice of their intention to conduct any inspection before conducting such inspection.

4. These appropriate officials may make recommendations to the Bureau concerning measures necessary to meet these requirements. Such officials may also make recommendations concerning measures which should be taken in the construction or alteration of the building to account for local conditions. Project managers are to give due consideration to such recommendations and ensure that a written response is made to them.

5. 40 U.S.C. 619 stipulates that the United States and its contractors are not to be required to pay any amount for any action taken by a State or a political subdivision of a State to carry out any portion of its requirements (including reviewing plans, carrying out on-site inspections, issuing building permits, and making recommendations).

6. 40 U.S.C. 619 also stipulates that nothing in its Section 1, related to State and local government consultation, review, and inspection requirements are to impose an obligation on any State or political subdivision to take any action for consultation, review or inspections.

4.10 SEISMIC DESIGN AND CONSTRUCTION STANDARDS

A. New Bureau institutions are to be designed and constructed to comply with the seismic safety requirements set forth in one of the following:

1. The 1994 or latest edition of The Uniform Building Code (UBC) of the International Conference of Building Officials (ICBO).

2. The 1992 or latest Supplement to the National Building Code (NBC) of the Building Officials and Code Administrators International (BOCA).

3. The 1992 or latest Amendments to the Standard Building Code (SBC) of the Southern Building Code Congress (SBCC).

4. The latest edition or version of the selected building code’s seismic safety requirements current at the time of award of the design contract, is to be used.

5. If the State where the institution is located has additional or more stringent seismic safety requirements included in its adaptation of the nationally recognized building code they should also apply to the project.

B. Project Managers must identify the appropriate seismic safety requirements applicable to the project and its location and ensure that the requirement to design the institution to comply with those requirements is included in the A/E contract or design-build contract for the project. This requirement is to include provision of adequate professional architect and engineering services to review the design and construction documents and ensure compliance as follows:

1. Include with final construction document submittals a final report confirming that the construction documents comply with the required seismic safety requirements. The report is to include written certification from the registered architect and the registered engineers for each of the major design disciplines (structural, civil, plumbing, fire protection, mechanical, and electrical) responsible for approving the construction documents, that the design and the construction documents comply with the applicable codes and seismic safety requirements.

2. Provide intermediate inspections during construction, a semi-final inspection, final inspection, and written reports by registered professional engineers from each of the disciplines as described above, as necessary to certify compliance of the final construction with the applicable codes and seismic safety requirements.

   a. The intermediate inspections and written reports must occur as frequently as necessary and prior to closing in of any relevant building systems to allow time for rectification of deficient conditions.

   b. The semi-final inspection by the required architects and engineers must occur prior to or simultaneously with semi-final building inspections that take place after substantial completion of construction so that findings of deficiencies can be included on the “punch lists” generated for correction by the Contractor.

   c. The final inspection must occur simultaneously with the final building inspection for acceptance of the facility. The A/E or design-build contractor must submit the certification of seismic safety compliance for the facility to the Bureau not later than two weeks after this final building inspection.

CHAPTER 5

OTHER APPLICABLE LAWS, REGULATIONS AND STANDARDS

5.1 INTRODUCTION

A. 42 U.S.C. 4151 - ARCHITECTURAL BARRIERS ACT OF 1968, and 29 U.S.C. 701 - REHABILITATION ACT OF 1973 include requirements concerning facility accessibility for disabled persons. The requirements applicable to federal facilities, including new institutions developed for the Bureau, are set forth in “Uniform Federal Accessibility Standards / Fed. Std. - 795, 4/1/88 Edition” (UFAS).

B. The NATIONAL ENVIRONMENTAL POLICY ACT OF 1969 (NEPA) includes provisions applicable to development of new Bureau facilities. In addition, Executive Order 12088, “Federal Compliance with Pollution Control Standards,” as amended, requires Federal facilities to comply with applicable Federal, State, local and interstate pollution control standards.

C. 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).

D. Requirements applicable to new Bureau facilities, related to energy conservation and planning, are contained in the Title 10 CFR Part 435, “Energy Conservation Voluntary Performance Standards for New Buildings; Mandatory for Federal Buildings” and Part 436, “Federal Energy Management and Planning Programs.”

E. Executive Order 12196, Occupational Safety and 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 CFR Part 1910, Occupational Safety and Health Standards.

F. OMB CIRCULAR NO. A-131 Value Engineering, dated May 21, 1993, issued pursuant to 31 U.S.C., (requires federal agencies to use value engineering (VE) as a management tool, where appropriate, to reduce program and acquisition costs.

G. American Correctional Association referenced physical plant standards for adult detention and correctional facilities.

5.2 **PURPOSE**

The purpose of this chapter is to establish Bureau policy for its new institution development program to meet the requirements of portions of the U.S.C., CFR, and the Executive Orders and other applicable regulations identified in Section 5.1 above.

5.3 **ACCESSIBILITY STANDARDS**

New Bureau institutions are to be designed and constructed to comply with the “Uniform Federal Accessibility Standards / Fed. Std. - 795, 4/1/88 Edition” (UFAS) except for specific deviations approved by the Bureau’s Facility Management Branch in “Accessibility Guidelines for Design and Construction of Federal Bureau of Prisons Facilities” (Bureau Accessibility Guidelines).

Project managers must ensure that the requirement to design the institution to comply with the UFAS and the latest edition of the Bureau Accessibility Guidelines is included in the A/E contract or design-build contract for the project.

5.4 **OCCUPATIONAL SAFETY AND HEALTH STANDARDS**

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

Project managers must ensure that the requirement to design the institution to comply with the latest edition of the OSHA standard is included in the A/E contract or design-build contract for the project.

5.5 **METRIC MEASUREMENTS**

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

Project managers are to ensure that the following requirement is included in the A/E contract or design-build contract for the project: "All drawings and specifications shall be produced using modern metric units (System International or SI), designs shall be conceived and executed in metric units."

B. The DCB is to identify any additional information and requirements to be used in implementing the metric system of measurements and include them in its "Technical Design Guidelines."

5.6 ENERGY CONSERVATION STANDARDS

A. New Bureau institutions are to be designed to comply with the energy conservation guidelines contained in Title 10 CFR Part 435, "Energy Conservation Voluntary Performance Standards for New Buildings; Mandatory for Federal Buildings" (10 CFR 435).

Project Managers are to ensure that the requirement to design the institution to comply with 10 CFR 435 is included in the A/E contract or design-build contract for the project.

B. New Bureau institutions are to be designed to comply with the guidelines and life cycle costing procedures contained in the Title 10 CFR Part 436, "Federal Energy Management and Planning Programs" (10 CFR 436). Project Managers are to ensure that the requirement to design the institution to comply with 10 CFR 436 is included in the A/E contract or design-build contract for the project.

C. The DCB must identify any additional information and requirements to be used in implementing 10 CFR 435 and 10 CFR 436 and include them in its "Technical Design Guidelines."

5.7 ENVIRONMENTAL STANDARDS

A. The Bureau's Site Evaluation and Environmental Review Branch is responsible for meeting the requirements of the National Environmental Policy Act of 1969 (NEPA) for projects, including preparation of required Draft and Final Environmental Impact Statements (FEIS) and through the issuance of a Record of Decision (ROD) authorizing a project to proceed. There will usually

be studies, approvals or other requirements identified in the FEIS for a project that must be implemented by the DCB during development of the institution.

Project Managers are to ensure that the requirement to design the institution in accordance with any requirements contained in the FEIS is included in the A/E contract or design-build contract for the project.

B. New Bureau institutions are to be designed and constructed to comply with applicable Federal, State, local and interstate pollution control standards.

Project Managers must ensure that the requirement to design the facility to comply with applicable pollution control standards is included in the A/E contract or design-build contract for the project. This requirement is to include providing the following with final construction document submittals:

1. A final report identifying applicable Federal, State, local and interstate pollution control standards, including those regulations governing air quality, water quality, soil disturbance and storm drainage and erosion control and solid waste and hazardous waste and confirming that the construction documents comply with these regulations.

2. A final report of all required design, construction or operating permits necessary to comply with these regulations. This report is to include information concerning:

   a. the type of permits required,
   b. the permitting authority,
   c. designation of each party responsible for obtaining each permit,
   d. procedures and time required to apply for and receive permits,
   e. any fees required,
   f. any potential exemptions or variances available, and
   g. any monitoring requirements.

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

5.8 VALUE ENGINEERING

A. New Bureau institutions are to be designed in a manner which allows for the value engineering process outlined in the OMB CIRCULAR A-131, “Value Engineering” to take place.

1. Project Managers are to ensure that the requirement to include a documented VE process during the institution’s design is included in the A/E contract or design-build contract for the project.

   a. New institutions or alterations costing in excess of $1 million are to include the VE process.

   b. Consideration is to be given to environmentally sound and energy efficient proposals.

   c. Files are to be maintained to document the process, the cost of performing the process, and the net life-cycle cost savings from the VE.

2. Annually submit a report to the Chief, Property and Procurement Branch for inclusion in their report to OMB, outlining the VE activities as prescribed in the circular.

3. Reserved for Design-Build.

5.9 AMERICAN CORRECTIONAL ASSOCIATION REFERENCED STANDARDS

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

1. Project Managers are to ensure that a requirement to comply with this list of applicable ACA standards is included in the A/E contract or design-build contract for the project.

2. Architect/engineer or design-build contractors must supply the following items to ensure adherence to the required ACA physical plant standards.

   a. As applicable, include with the design development phase submittals, a report confirming that the design complies with all ACA physical plant standards (detention or correctional) as 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.

   b. Include with final construction document submittals, a final report confirming that the construction documents comply with the referenced ACA physical plant standards.

   c. Provide a final inspection/verification that the standards have been met and certify that the final construction complies with the ACA physical plant standards. The certificate must be submitted not later than two weeks after this final inspection.

CHAPTER 6

INITIATION AND APPROVAL OF PROJECTS

6.1 INTRODUCTION

A. Projects for development of new institutions are approved through the budget process leading to appropriation of funds by Congress and are assigned to the DCB for implementation. The Chief of the DCB is the designated Program Manager for these new institution projects.

B. Other projects may be assigned to the DCB or identified internally for carrying out its mission.

6.2 PURPOSE

The purpose of this Chapter is to establish specific policies and procedures for initiating new institution projects; for assigning responsibility for project management; and for providing for management oversight and approval of project development.

6.3 PROJECT INITIATION

A. The Chief of the DCB is to confirm that specific new institution projects may be initiated and must issue a “Project Initiative” to define the project and assign responsibility for project management. This Project Initiative is to consist of a memorandum with attachments as necessary and is to include a summary of the following:

1. Designation of the Project Manager assigned to the project.

2. The general scope of the project.

3. The project budget and funding status.

4. Objectives for the schedule for developing and completing the project.

5. The applicable Design Criteria (Design Program Guidelines and Technical Design Guidelines) for the project.

6. The general scope and types of contracts necessary to deliver the project.

7. Available information regarding the project site.

8. Any other relevant information or requirements deemed necessary.

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

C. Responsibility for project management may be reassigned by the Chief of the DCB during development of a project.

6.4 INITIAL PROJECT DEVELOPMENT

D. The project is to be developed in accordance with the requirements established by the Project Initiative including any revisions approved by the Chief of the DCB.

C. As he or she implements the project’s development, the Project Manager assigned to the project must identify any potential conflicts with the requirements of the Project Initiative. If any conflict can not be resolved, the Project Manager is to prepare a written request for revision to the Project Initiative and submit it to the Chief of the DCB for approval.

D. Revisions to the Project Initiative are also to be used to document deviations from the Design Criteria applied to the project requiring approval by the Chief of the DCB.

6.5 PROJECT DIRECTIVE

A. Upon completing the Design Development Phase of the project’s development and prior to approval to proceed with the Construction Documents Phase, the Project Manager for the project is to develop a Project Directive to confirm and clarify the requirements for the project. This Project Directive is to consist of a cover memorandum with attachments as necessary to confirm compliance with the project requirements to include a summary of the following:

1. An updated description of the project.

2. The current estimate for each planned contract and the overall project, and a comparison with the project's budget and funding allocation.

3. A comparison of the planned building areas with the program requirements, including individual rooms and spaces as well as overall building net and gross areas.

4. The current estimate of the project schedule.

5. Confirmation of the general scope and types of contracts necessary to deliver the project.

6. The status of acquiring the project site and any problems encountered related to the project site.

7. Any proposed deviations from the Design Criteria applied to the project requiring approval by the Chief of the DCB.

8. Any other potential conflicts with the requirements of the Project Initiative and options identified for their resolution.

9. Any other relevant information or concerns deemed necessary.

B. All conflicts between the proposed Project Directive and the Project Initiative must be resolved and a final Project Directive approved by the Chief of the DCB to authorize final design and development of the construction documents.

6.6 FINAL PROJECT DEVELOPMENT

A. Final development of the project is to be done in accordance with the requirements established by the Project Directive including any revisions the Chief of the DCB has approved.

B. As the final development of the project proceeds, the Project Manager must identify any potential conflicts with the requirements of the Project Directive. If any conflict can not be resolved, the Project Manager is to prepare a written request for revision to the Project

Directive and submit it to the Chief of the DCB for approval.

C. Revisions to the Project Directive are also to be used to document any additional deviations from the Design Criteria applied to the project requiring approval by the Chief of the DCB.

6.7 FINAL CONSTRUCTION DOCUMENTS

A. The Project Manager is to oversee the development of the final construction documents to be used for construction under a design-build contract or for bidding or negotiation, if for a separate construction contract.

B. When the final construction documents are to be used for competitively bidding a contract, the Project Manager must forward these documents with a written recommendation for approval by the Projects Administrator. The Projects Administrator is to provide this approval to the Contracting Officer to authorize issuance of the documents with an Invitation for Bids.

C. When the final construction documents are to be used for a portion of the construction work under a design-build contract, the Project Manager must forward these documents with a written recommendation for approval by the Projects Administrator. The Projects Administrator is to provide this approval to the Contracting Officer to authorize issuance of the Notice to Proceed for that portion of the work.

D. Revisions to the Project Directive must also be used to document any additional deviations from the project requirements requiring approval by the Chief of the DCB.

CHAPTER 7

PROCUREMENT AND CONTRACT SUPPORT

7.1 INTRODUCTION

A. Procurement and contracting support for the Bureau's program for developing new institutions is provided by the Procurement and Property Branch (PPB). DCB program administration and project management staff must coordinate work with PPB personnel.

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

C. Only Contracting Officers (CO) have authority to enter into or modify contracts. Certain DCB staff are generally designated as Contracting Officer's Technical Representatives (COTR) for contracts for which they have management responsibility. COTRs are appointed, in writing, by the CO, who also specifies the extent and limits of the COTRs authority for contractual matters.

7.2 PURPOSE

This Chapter's purpose is to establish, emphasize, or clarify certain specific policies and procedures related to procurement and contract administration for the Bureau's new institution development program.

7.3 ACQUISITION PLANNING

A. The Chief of the DCB is to review approved projects and identify the general scope and types of contracts necessary to deliver the projects. This information is to be included in the Project Initiative assigning project management responsibility for the project. The Chief of the DCB must approve changes in the general scope and type of contracts used for a project.

B. The DCB is to develop Advance Procurement Plans in accordance with applicable acquisition regulations and policies.

7.4 REQUESTS FOR CONTRACT ACTION

C. Requests for a contract or modifications to a contract must be transmitted from the DCB to the PPB by a written Request for Contract Action (RCA).

D. A Request for Contract Action (RCA) is to be prepared by the Project Manager or other DCB staff member assigned responsibility for management of the project, transmitted to the CO and must include the following:

1. For a proposed new contract, a copy of the Advance Procurement Plan for the contract.

2. A Purchase Request with approval signature and fund control number as required by Bureau policy or procedures.

3. A scope or statement of work that defines and states the Government’s requirements. Initially this may be a preliminary description to be further refined and developed as the procurement process progresses and as the work of supporting consultants is developed. Both the Project Manager and Projects Administrator responsible for the project must approve the final scope or Statement of Work (SOW), and a notated copy is to be placed in the project file.

   a. For contracts for architect/engineer services or contracts for construction management services this definition of the work required will be in an SOW to be included in the Request for Proposal (RFP) along with exhibits or references to further define the requirements.

   b. For construction contracts this definition of the work required will be the plans and specifications to be included in the Invitation for Bids (IFB).

c. For design-build contracts this definition of the work required will be the requirements of the contract, a combination of a SOW; preliminary plans and specifications; and design and performance criteria to be included in the RFP along with exhibits or references to define the requirements further.

4. An Independent Government Estimate (IGE) for each proposed contract or contract modification anticipated to cost $100,000 or more (Re: FAR 36.203 and FAR 36.605). Initially this may be a preliminary estimate to be further refined and developed as the procurement process progresses and as the work of supporting consultants is developed.

5. A draft of a proposed synopsis for use to publicize the proposed contract action in accordance with FAR Part 5 - Publicizing Contract Actions. This draft synopsis must include:

a. A summary description of the contract requirement.

b. Selection criteria for A/E contracts.

c. Evaluation criteria for CM or Design-Build contracts.

d. The Project Manager and Contracting Officer are to work together to clarify the contract requirements and finalize the synopsis.

7.5 ARCHITECT/ENGINEER CONTRACTS

A. Re: FAR Part 36 - Construction and Architect-Engineer Contracts for specific and detailed requirements, and particularly:

1. FAR Subpart 36.1 - General, Section 36.102 - Definitions.

2. FAR Subpart 36.6 - Architect-Engineer Services.

B. Architect-Engineer (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 A/E contracts may also include related services, including bidding and construction administration services. A/E contracts are also used for certain support services for the DCB.

C. A/E contracts must 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 design-build contract (Re: FAR 36.302).

D. Evaluation and selection of firms for A/E services are to be accomplished through evaluation boards and the designated selection authority in accordance with FAR Section 36.602 - Selection of Firms for Architect-Engineer Contracts.

1. Under the general direction of the contracting activity, responsibility for administration of the selection of A/E firms for contracts to support the new institution development program has been delegated to the Chief of the DCB (Re: BPAP).

2. Architect-engineer evaluation boards must be recommended for appointment via memorandum by the Chief of the DCB and appointment is to be approved by the Assistant Director for Administration. Appointment includes designation of one member as the chairperson of the evaluation board.

3. The designated selection authority for these A/E contracts is to be the Deputy Assistant Director for Administration assigned responsibility for the DCB.

4. 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.

5. For A/E contracts for new institutions, the selection criteria is to include the following requirement:

a. “The architect-engineer firm, or the principal or lead firm of a joint venture, must have an existing active office, which will have responsibility for the plans and specifications, located within the State (the State where the project is located).”

b. Any exception to including this requirement in the selection criteria must be approved by the designated selection authority.

6. Even though it would normally be included in a required contract clause, for A/E contracts for new institutions, the selection criteria is to note the following requirement (Re: FAR 36.609-4):

“The design of architectural, structural, mechanical, electrical, civil, or other engineering features of the work shall be accomplished or reviewed and approved by architects or engineers registered to practice in the particular professional field involved in a State.”

7. The Project Manager must prepare the technical analysis of the A/E’s proposal for the Projects Administrator’s approval. A copy of the approved technical analysis is to be maintained in the Central Office project files.

E. The DCB is not required to receive and maintain data on firms as described in FAR Section 36.603. Qualification data will be obtained from responses to public notice for each particular individual contract required.

F. For each A/E contract over $25,000, performance evaluation reports must be prepared in accordance with FAR Section 36.604 - Performance Evaluation and as follows:

1. The DCB Project Manager assigned responsibility for monitoring the A/E contractor’s performance for the contract is to be the evaluating official (or rating official) who prepares the report. The reviewing official should normally be the Project Manager’s immediate supervisor.

2. In addition to the FAR requirement for a report

after final acceptance of the A/E's design work or after contract termination, an interim report is also required after completion of the design development phase of the contract.

3. When the A/E provides services during construction of a project, an interim report at approximately 50% completion and a final report after 100% completion and final inspection of the construction is also to be prepared.

4. Note that SF-1421, Performance Evaluation (Architect-Engineer) must be used for these evaluation reports.

5. Reports may be prepared for contracts of $25,000 or less.

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

1. "For architect-engineer 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."

2. For determining compliance with this statutory limitation, the following are examples of services that can be considered not an integral part of the actual 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 limited by this limitation.

   a. Site analysis, field investigations, topographic and other surveys and reports.

   b. Subsurface explorations and borings, soils and materials testing, and resultant reports.

   c. Feasibility and conceptual studies.

d. Master planning and budget studies and reports.

e. Preparation and verification of as-built drawings.

f. Preparation and presentation of models, renderings, or photographs.

g. The services of consultants where such services are not specifically applied to the preparation of plans, drawings, specifications, and foreign consultant fees where their use is required by local laws.

h. Coordination of work performed by consultants separately retained by DCB.

i. Design services for special building systems, for which no equivalent system function is normally encountered for private or public facilities with like functions and purpose.

j. Value engineering analysis and reports.

k. Market studies for determining project costs of construction materials, equipment, and services at the project site; preparation of bills of quantities; and any construction cost estimating services in excess of those normally required, such as life-cycle costing of alternatives before system choice.

l. Reproduction and printing costs of plans, drawings, and specifications submitted for reviews and bidding.

m. Interior furniture and furnishings services.

n. Construction phase services, except when design services are required as a result of construction change orders resulting from design errors and omissions adjudged to be the design A/E’s responsibility.

o. Travel and per diem allowance, and travel and per diem allowances in connection with excluded services.

p. All other services that are not integrally a part of the production and delivery of designs, plans, drawings, and specifications.

H. Note the requirements in FAR Section 36.608 - Liability for Government Costs Resulting from Design Errors or Deficiencies.

1. When a modification to a construction contract is required, the DCB Project Manager is to review the modification and advise the Contracting Officer of the extent the Project Manager determines the modification was required because of an error or deficiency in the services provided under the A/E contract and must also advise the CO of what the PM determines the extent to which the A/E contractor may be reasonably liable.

2. The PM must also provide any additional technical advice requested by the CO in making the decision to recover or not to recover the costs from the firm.

I. The requirements for contract clauses included in FAR Section 36.609 - Contract Clauses must be included for A/E contracts for new institution projects, including the optional requirements and clause described in FAR Subsection 36.609-1 - Design Within Funding Limitations, and the PM is to assist the CO with developing the requirements related to these contract clauses.

7.6 CONSTRUCTION MANAGEMENT CONTRACTS

A. Re: FAR Part 15 - Contracting by Negotiation and particularly:

FAR Subpart 15.3 - Source Selection.

B. Construction management contracts are used to provide administrative support and inspection services during the construction of a project. 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 DCB.

C. Selection of firms to provide construction management

services is to be accomplished through negotiated procurement in accordance with FAR Part 15 - Contracting By Negotiation.

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

2. To support the CO, the DCB is to provide evaluation boards as needed to conduct technical evaluations of proposals. These technical evaluation boards are to be recommended for appointment via memorandum by the Chief of the DCB and appointment approved by the Assistant Director for Administration. Appointment is to include designation of one member as the chairperson of the evaluation board.

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

D. For each construction management contract over $25,000, performance evaluation reports are to be prepared in a similar manner to that required for A/E contracts in FAR Section 36.604 - Performance Evaluation and as follows:

1. The DCB Supervisory Construction Representative (SCR) assigned responsibility for monitoring the contractor’s performance for the contract is to be the evaluating official (or rating official) who prepares the report. The reviewing official should normally be the Project Manager who is the SCR’s immediate supervisor.

2. For the construction management services provided during construction of a project, an interim report at approximately 50% construction completion and a final report after 100% completion and final inspection of the construction are to be prepared.

3. Note that SF-1421, Performance Evaluation (Architect-Engineer) may be used for these evaluation reports, using relevant portions of the form.

4. Evaluation reports may be prepared for contracts of $25,000 or less.

7.7 CONSTRUCTION CONTRACTS

A. Re: FAR Part 36 - Construction and Architect-Engineer Contracts for specific and detailed requirements, and particularly:

1. FAR Subpart 36.1 - General, Section 36.102 - Definitions.

2. FAR Subpart 36.2 - Special Aspects of Contracting for Construction.

B. 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. There may be more than one construction contract used for a project.

C. The acquisition of construction contracts is to be by sealed bidding procedures in accordance with FAR Part 14 - Sealed Bidding.

D. For each construction contract of $500,000 or more (or of more than $10,000, if the contract was terminated for default), performance evaluation reports are to be prepared in accordance with FAR Section 36.201 - Evaluation of Contractor Performance and as follows:

1. The DCB Supervisory Construction Representative (SCR) assigned responsibility for monitoring the construction contractor’s performance for the contract is to be the evaluating official who prepares the report. The reviewing official should normally be the Project Manager who is the SCR’s immediate supervisor.

2. An interim report at approximately 50% completion of construction and a final report after 100% completion and final inspection of the construction are also to be prepared.

3. Note that a Performance Evaluation (Construction Contracts) (SF-1420) is to be used for these evaluation reports.
4. Reports may be prepared for contracts of less than $500,000.

E. FAR Subpart 36.5 - Contract Clauses prescribes clauses for insertion in solicitations and contracts for construction. The use and application of many of these clauses depends on the circumstances related to the project and proposed contract. The PM must assist the CO with the application of these contract clauses and provide technical information and advice as requested.

7.8 DESIGN-BUILD CONTRACTS

A. Re: FAR Part 36 - Construction and Architect-Engineer Contracts for specific and detailed requirements, and particularly:

1. FAR Subpart 36.1 - General, Section 36.102 - Definitions.

2. FAR Subpart 36.3 - Two-Phase Design-Build Selection Procedures.

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

C. A/E contracts are to 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 design-build contract (Re: FAR 36.302).

D. Acquisition of design-build contracts are to be done through the use of the two-phase design-build selection procedures prescribed in FAR Subpart 36.3 - Two-Phase Design-Build Selection Procedures and as a negotiated procurement in accordance with FAR Part 15 - Contracting By Negotiation.

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

2. To support the CO, the DCB is to provide evaluation boards as needed to conduct technical evaluations of proposals. These technical evaluation boards are to be recommended for appointment via memorandum by the Chief of the DCB and the appointment approved by the Assistant

Director for Administration. Appointment is to include designation of one member as the chairperson of the evaluation board.

E. For design-build contracts for new institutions, the evaluation criteria must include the following requirement:

1. “For the design member of the design-build team, the architect-engineer firm, or the principal or lead A\E firm of a joint venture, must have an existing major active office, which will have responsibility for the plans and specifications, located within the State (the State where the project is located).”

2. The designated selection authority must approve any exception to including this requirement in the selection criteria.

F. Even though it would normally be included in a required contract clause, for design-build contracts for new institutions, the evaluation criteria are to note the following requirement (Re: FAR 36.609-4):

“The design of architectural, structural, mechanical, electrical, civil, or other engineering features of the work shall be accomplished or reviewed and approved by architects or engineers registered in the State to practice in the particular professional field involved.”

G. For each design-build contract, performance evaluation reports are to be prepared for the design phase portion of the contract in accordance with FAR Section 36.604 - Performance Evaluation and as follows:

1. The DCB Project Manager (PM) assigned responsibility for monitoring the design-build contractor’s performance for the contract is to be the evaluating official (or rating official) who prepares the report. The reviewing official should normally be the PM’s immediate supervisor.

2. In addition to a report after final acceptance of the design-build contractor’s design work or after contract termination, an interim report is also required after completion of the design development phase of the contract.

3. Note that a Performance Evaluation (Architect-Engineer) (SF-1421) is to be used for these evaluation reports.

H. For each design-build contract, performance evaluation reports are to be prepared for the construction portion of the contract in accordance with FAR Section 36.201 - Evaluation of Contractor Performance and as follows:

1. The DCB Supervisory Construction Representative assigned responsibility for monitoring the design-build contractor’s performance for the construction portion of the contract is to be the evaluating official who prepares the report. The reviewing official should normally be the Project Manager who is the Supervisory Construction Representative’s immediate supervisor.

2. An interim report at approximately 50% completion of construction and a final report after 100% completion and final inspection of the construction are to be prepared.

3. Note that a Performance Evaluation (Construction Contracts) (SF-1420) is to be used for these evaluation reports.

I. Note the requirements in FAR Section 36.608 - Liability for Government Costs Resulting from Design Errors or Deficiencies. These requirements should be incorporated into design-build contracts.

1. When a modification to a design-build contract is required, the DCB PM is to review the modification and advise the CO of the extent the PM determines the modification was required because of an error or deficiency in the services provided under the design portion of the design-build contract and must also advise the CO of what the PM determines the extent to which the design-build contractor may be reasonably liable.

2. The PM must also provide any additional technical advice the CO requested in making the decision to recover or not to recover the costs from the design-build contractor.

CHAPTER 8

PROJECT FILE DOCUMENTATION

8.1 INTRODUCTION

This section establishes procedures for maintaining project files.

8.2 PURPOSE

The DCB musyt develop a process for maintaining files that contain project and contract related materials. These files contain documents of U.S. Government and Contractor operational or technical activities, events, and actions associated with the planning, programming, site evaluation and selection, contracting, design and construction management, close-out, and transfer of a completed project to the activation staff.

Generally, each authorized DCB project will have three sets of project files established and maintained.

8.3 FILES. The required sets of files are as follows:

A. **Official Contract Files.** These files are the responsibility of the Contracting Officer (CO). Maintenance of these files is provided by the Procurement and Property Branch.

B. **Field Office Project Files.** These files are the responsibility of the on-site Construction Representatives and contain documentation of on-site actions and correspondence. In many instances selected documents will be copies of originals maintained in the CO's file. The Construction Management Guidelines are to include an outline for these files. During the project close-out process, 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 will also be transferred to the institution but may be retained by the Central Office until all contract disputes are settled. These files must still be accessible after transfer, for use in resolving any contract disputes or claims.

C. **Central Office Project Files.** These files are the Project Manager's responsibility. The files will contain documents spanning the start to finish of each project including, but not limited to, contractor evaluation boards/processes, site selection, information, and design and construction. The files for the construction phase of a project will normally include duplicates of some documents from the on-site files.

The project files will be set up according to a standard matrix. The Project Manager will maintain a copy of the award document and attachments as necessary, for each contract over $25,000, and all related modifications. Included in this are to be the technical construction documents (plans and specifications).

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