

## 36.104 Policy.

(a) Unless the traditional *acquisition* approach of *design-bid-build* established under 40 U.S.C. chapter 11, Selection of Architects and Engineers, or another *acquisition* procedure authorized by law is used, the *contracting officer shall* use the two-phase selection procedures authorized by 10 U.S.C. 3241 or 41 U.S.C.3309 when entering into a *contract* for the *design* and *construction* of a public building, facility, or work, if the *contracting officer* makes a determination that the procedures are appropriate for use (see subpart 36.3). Other *acquisition* procedures authorized by law include the procedures established in this part and other parts of this chapter and, for DoD, the *design-build* process described in 10 U.S.C. 2862.

(b) Agencies *shall* implement high-performance sustainable building *design, construction, renovation, repair, commissioning, operation and maintenance, management, and deconstruction* practices so as to—

(1) Ensure that—

(i) All new *construction* and modernization projects greater than 25,000 gross square feet are designed, constructed, and maintained to meet and, wherever practicable, exceed Federal sustainable *design* and operations principles for new *construction* and modernization projects in accordance with the Council on Environmental Quality's Guiding Principles for Sustainable Federal Buildings and Associated Instructions (Guiding Principles) (available at [https://www.sustainability.gov/pdfs/guiding\\_principles\\_for\\_sustainable\\_federal\\_buildings.pdf](https://www.sustainability.gov/pdfs/guiding_principles_for_sustainable_federal_buildings.pdf)); and

(ii) All renovation projects of existing Federal buildings *must* use, to the greatest extent technically feasible and practicable, Federal sustainable *design* and operations principles for existing buildings in accordance with the Guiding Principles;

(2) Identify alternatives to renovation that reduce existing assets' deferred maintenance costs;

(3) Ensure that rehabilitation of Federally-owned historic buildings utilizes best practices and technologies in retrofitting to promote long-term viability of the buildings; and

(4) Ensure *pollution prevention* and eliminate waste by diverting at least 50 percent of non-hazardous *construction and demolition materials and debris*.

(c)

(1) Agencies *shall* require the use of a project labor agreement for Federal *construction* projects with a total estimated *construction* cost at or above \$35 million, unless an exception applies (see subpart 22.5).

(2) *Contracting officers* conducting *market research* for Federal *construction contracts*, valued at or above the threshold in paragraph (c)(1) of this section, *shall* ensure that the procedures at 10.002(b)(1) involve a current and proactive examination of the market conditions in the project area to determine national, regional, and local entity interest in participating on a project that requires a project labor agreement, and to understand the availability of unions, and unionized and non-unionized contractors. *Contracting officers may* coordinate with agency labor advisors, as appropriate.

**Parent topic:** Subpart 36.1 - General