

## 36.606 Negotiations.

(a) Unless otherwise specified by the selection authority, the final selection authorizes the contracting officer to begin negotiations. Negotiations shall be conducted in accordance with [part 15](#) of this chapter, beginning with the most preferred firm in the final selection (see [15.404-4\(c\)\(4\)\(i\)](#) on fee limitation).

(b) The contracting officer should ordinarily request a proposal from the firm, ensuring that the solicitation does not inadvertently preclude the firm from proposing the use of modern design methods.

(c) The contracting officer shall inform the firm that no construction contract may be awarded to the firm that designed the project, except as provided in [36.209](#).

(d) During negotiations, the contracting officer should seek advance agreement (see [31.109](#)) on any charges for computer-assisted design. When the firm's proposal does not cover appropriate modern and cost-effective design methods (*e.g.*, computer-assisted design), the contracting officer should discuss this topic with the firm.

(e) Because selection of firms is based upon qualifications, the extent of any subcontracting is an important negotiation topic. The clause prescribed at [44.204\(b\)](#), Subcontractors and Outside Associates and Consultants (Architect-Engineer Services) (see [52.244-4](#)), limits a firm's subcontracting to firms agreed upon during negotiations.

(f) If a mutually satisfactory contract cannot be negotiated, the contracting officer shall obtain a written final proposal revision from the firm, and notify the firm that negotiations have been terminated. The contracting officer shall then initiate negotiations with the next firm on the final selection list. This procedure shall be continued until a mutually satisfactory contract has been negotiated. If negotiations fail with all selected firms, the contracting officer shall refer the matter to the selection authority who, after consulting with the contracting officer as to why a contract cannot be negotiated, may direct the evaluation board to recommend additional firms in accordance with [36.602](#).

**Parent topic:** [Subpart 36.6 - Architect-Engineer Services](#)