

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](#)