

## Subpart 536.1 - General

**Parent topic:** [Part 536 - Construction and Architect-Engineer Contracts](#)

### 536.101 Applicability.

This part supplements FAR 36 policies and procedures applicable to contracting for construction and architect engineer services. Contracts for construction management services are covered by FAR 37 and GSAM [part 537](#). [part 536](#) shall take precedence when the acquisition involves (1) construction or architect-engineer services, and (2) when the requirement is inconsistent with another part of the GSAR.

### 536.102 Definitions.

“Construction activity” means the organizational level of the agency that has authority and responsibility for the architectural, engineering, and other technical or administrative aspects of design and construction.

“Construction-Manager-as-Constructor” (CMc) means the project delivery method where design and construction are contracted concurrently through two separate contracts and two separate contractors. Unlike the traditional design-bid-build delivery method, under the CMc delivery method, the Government awards a separate contract to a designer (*i.e.*, architect-engineer contractor) and to a construction contractor (*i.e.*, CMc contractor) prior to the completion of the design documents. The Government retains the CMc contractor during design to work with the architect-engineer contractor to provide constructability reviews and cost estimating validation. The CMc contract includes design phase services at a firm-fixed-price and an option for construction at a guaranteed maximum price.

“Statutory cost limitations” means the cost limits included in the agency’s statutory authorization or annual appropriations act (by law).

### 536.103 Methods of Contracting.

(a) Except as provided in paragraph (b) of this subsection, although CMc contracts are considered incentive-type contracts (see [536.207](#)), contracting officers are authorized to use the CMc project delivery method without completing a determination and finding as required by [FAR 16.401\(d\)](#). Contracting officers shall discuss the CMc project delivery method as part of the acquisition plan (see [FAR 7.105](#)).

(b) To the extent the contracting officer incorporates an award-fee component into the CMc (in addition to the shared savings incentive), then the determination and finding required by [FAR 16.401\(d\)](#) is required to support any such award-fee.

(c) The contracting officer shall use the tradeoff process as described in [FAR 15.101-1](#), unless a

different source selection approach is approved in writing by the HCA, for selecting a construction contractor under the CMc project delivery method, and select sources in accordance with subpart [536.7103](#).