

## NCO 22 Guide for VHA DIRECTIVE 2011-036

VHA Directive 2011-036 SAFETY AND HEALTH DURING CONSTRUCTION, effective September 22, 2011, [http://vaww1.va.gov/vhapublications/ViewPublication.asp?pub\\_ID=2448](http://vaww1.va.gov/vhapublications/ViewPublication.asp?pub_ID=2448) applies to all construction activities performed at VHA owned or leased facilities regardless of whether performed by VHA or contractor staff. This guide addresses Section 4.n.(7) in which Contracting Officers are to evaluate and consider past safety records of bidders/offerors prior to award. The requirement is a pass/fail; therefore, it is not required to be a technical evaluation factor in RFPs unless it is critical to the acquisition.

### 1. SOLICITATION INFORMATION

- a. All solicitations must contain the following verbiage under “**INFORMATION TO BIDDERS/OFFERORS**” section of the solicitation:

#### Safety or Environmental Violations and Experience Modification Rate

“All Bidders/Offerors shall submit the following information pertaining to their past Safety and Environmental record. The information shall contain, at a minimum, a certification that the bidder/offeror has no more than three (3) serious, or one (1) repeat or one (1) willful OSHA or any EPA violation(s) in the past three years.

All Bidders/Offerors shall submit information regarding their current Experience Modification Rate (EMR) equal to or less than 1.0. This information shall be obtained from the bidder's/offeror's insurance company and be furnished on the insurance carrier's letterhead.

Self insured contractors or other contractors that cannot provide their EMR rating on insurance letterhead must obtain a rating from the National Council on Compensation Insurance, Inc. (NCCI) by completing/submitting form ERM-6 and providing the rating on letterhead from NCCI. Note: Self insured contractors or other contractors that cannot provide EMR rating on insurance letterhead from the states or territories of CA, DE, MI, NJ, ND, OH, PA, WA, WY, and PR shall obtain their EMR rating from their state run worker's compensation insurance rating bureau.

A *Determination of Responsibility* will be accomplished for the apparent awardee prior to processing the award. The above information, along with other information obtained from Government systems, such as the OSHA and EPA online inspection history databases will be used to make the *Determination of Responsibility*. Failure to affirm being within the guidelines above or submit this information will result in a determination of “Non-Responsibility” for the bidder/offeror. NOTE: Any information received by the Government that would cause for a negative *Determination of Responsibility* will make the bidder/offeror ineligible for award.

This requirement is applicable to all subcontracting tiers, and prospective prime contractors are responsible for determining the responsibility of their prospective subcontractors. “

**OPTIONAL SAMPLE FORM FOR BIDDER/OFFEROR TO  
COMPLETE & SUBMIT WITH BID/PROPOSAL  
(FROM CFM WEBSITE)**

**Pre-Award Contractor Evaluation Form**

Company Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email: \_\_\_\_\_

Contact: \_\_\_\_\_

1. Utilizing your OSHA 300 Forms, please complete the following information:

<b>Category</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
Number of man hours (jobsite and office).				
Number of cases involving days away from work, restricted activity, or both (Column H and I of OSHA 300).				
Days away, restricted, or transferred rate (# of days away, restricted, or transferred cases x 200,000/# of man hours) (DART Rate).				
Number of serious, willful, or repeat violations from OSHA within the last 3 years. Please attach explanation for any violations. (Four serious, one repeat, or one willful disqualifies the contractor.)				

Please attach copies of the following documents: OSHA 300 and 300a Forms. These forms can be accessed through the OSHA publications search page:

<http://www.osha.gov/pls/publications/publication.html>.

2. Provide your six-digit North American Industrial Classification System (NAICS) Code for this acquisition: \_\_\_\_\_

3. Who administers your company's Safety and Health Program?

\_\_\_\_\_

4. Company's Insurance Experience Modification Rate (EMR) for the past 3 years (an EMR of greater than 1.0 disqualifies the contractor): \_\_\_\_\_