

Department of Veterans Affairs

Pt. 825

SOURCE: 49 FR 12610, Mar. 29, 1984, unless otherwise noted.

Subpart 822.3—Contract Work Hours and Safety Standards Act

822.304 Variations, tolerances, and exemptions.

When a contract is entered into for nursing home care, the clause prescribed by FAR 22.305 will be modified to reflect the variation contained in 29 CFR 5.15(d)(3) as set forth in 852.222-70.

Subpart 822.4—Labor Standards for Contracts Involving Construction

822.478 Contract terminations.

(a) Prior to terminating any contract because of violations of the labor standards provisions of the contract, contracting officers, other than those in the Office of Facilities will, through the Deputy Assistant Secretary for Acquisition and Materiel Management, present the facts in detail to the General Counsel for review. The contracting officer will be advised by the Deputy Assistant Secretary for Acquisition and Materiel Management as to the recommended action to be taken.

(b) Prior to terminating a contract managed by the Office of Facilities for labor standards violation, the contracting officer will, through the Deputy Assistant Secretary for Facilities, present the facts in detail to the General Counsel for review. The contracting officer will be advised by the Deputy Assistant Secretary for Facilities as to the recommended action.

(c) If the contract is to be terminated, the Deputy Assistant Secretary for Acquisition and Materiel Management or the Deputy Assistant Secretary for Facilities will submit the reports required by 29 CFR 5.7(d).

[49 FR 12610, Mar. 29, 1984, as amended at 54 FR 40064, Sept. 29, 1989]

PART 824—PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION

Subpart 824.1—Protection of Individual Privacy

Sec.
824.102 General.

Subpart 824.2—Freedom of Information Act

824.202 Policy.

AUTHORITY: 38 U.S.C. 210 and 40 U.S.C. 486(c).

Subpart 824.1—Protection of Individual Privacy

824.102 General.

(a) The pertinent Department rules regarding the implementation of the Privacy Act of 1974 consist of 38 CFR 1.575 through 1.584.

[49 FR 12611, Mar. 29, 1984, as amended at 54 FR 40064, Sept. 29, 1989]

Subpart 824.2—Freedom of Information Act

824.202 Policy.

Department rules implementing the Freedom of Information Act are contained in 38 CFR 1.550 through 1.559.

[49 FR 12611, Mar. 29, 1984; as amended at 54 FR 40064, Sept. 29, 1989]

PART 825—FOREIGN ACQUISITION

Subpart 825.1—Buy American Act—Supplies

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Subpart 825.2—Buy American Act—Construction Materials

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Subpart 825.3—Balance of Payments Program

825.302 Policy.
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825.304 Excess and near-excess foreign currencies.
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Subpart 825.6—Customs and Duties

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Subpart 825.9—Omission of the Examination of Records Clause

825.902 Policy.
825.904 Determination and findings.

AUTHORITY: 38 U.S.C. 210 and 40 U.S.C. 486(c).

SOURCE: 49 FR 12611, Mar. 29, 1984, unless otherwise noted.

Subpart 825.1—Buy American Act—Supplies

825.102 Policy.

825.102-70 Nonavailability in the United States.

(a) If articles, materials, and supplies required for a particular procurement are not excepted in FAR 25.108, or when only foreign bids or offers are received, the determination concerning non-availability required by FAR 25.108(b) will be prepared by the contracting officer for foreign construction materials costing less than \$1 million. Each determination will be factually supported in writing and included in the contract file.

(b) Nonavailability determinations for foreign materials costing over \$1 million must be requested by field fa-

cility contracting officers from the Deputy Assistant Secretary for Acquisition and Materiel Management (93). Each request for a determination must be fully justified with all pertinent facts.

(c) A copy of all determinations made in accordance with paragraph (a) of this section shall be forwarded to the Deputy Assistant Secretary for Acquisition and Materiel Management (93) concurrently with the submissions required by FAR 25.108 (b) and (c).

[49 FR 12611, Mar. 29, 1984, as amended at 50 FR 794, Jan. 7, 1985; 54 FR 40064, Sept. 29, 1989]

825.105 Evaluating offers.

When a determination is required under FAR 25.105, the contracting officer will submit the proposed award to the Deputy Assistant Secretary for Acquisition and Materiel Management (93) for approval by the Secretary. The submission will contain all the facts, including a comparison of all the bids or offers received, and any other pertinent information upon which a determination may be made. If approved, a report of the transaction will be prepared and submitted by the Deputy Assistant Secretary for Acquisition and Materiel Management in accordance with Executive Order 10582, dated December 17, 1954, as amended.

825.108 Excepted articles, materials and supplies.

The following items are added to the list of exceptions contained in FAR 25.108(d):

Glass, Wire
Glass, Lead
Insulin, Human.

[52 FR 32012, Aug. 25, 1987]

Subpart 825.2—Buy American Act—Construction Materials

825.202 Policy.

825.202-70 Nonavailability in the United States.

(a) If articles, materials, and supplies required for a particular procurement are not excepted in FAR 25.108, or when only foreign bids or offers are received,

the determination concerning non-availability required by FAR 25.202(a)(3) will be made by the contracting officer for foreign construction material costing \$100,000 or less. Each determination will be factually supported in writing and included in the contract file.

(b) Field facility contracting officers must request approval of nonavailability determinations from the Deputy Assistant Secretary for Acquisition and Materiel Management (93).

(c) A copy of all determinations made in accordance with paragraph (a) of this section shall be forwarded to the Deputy Assistant Secretary for Facilities (08) through the Deputy Assistant Secretary for Acquisition and Materiel Management (93).

(d) Each solicitation will include the clause specified in 852.236-89. This provision reflects the general policy of not authorizing nondomestic materials on VA construction contracts.

[49 FR 12611, Mar. 29, 1984, as amended at 50 FR 794, Jan. 7, 1985; 52 FR 32012, Aug. 25, 1987; 54 FR 40064, Sept. 29, 1989]

825.203 Evaluating offers.

When a contracting officer believes that the requirement of the "Buy American Act" is impracticable as provided in FAR 25.202(a)(2), or that it would be advantageous to VA to deviate from the provisions of the Act as authorized by FAR 25.203, authority to consummate the contract will be requested. The request containing all the facts, including a comparison of all the bids or offers received and any other pertinent information upon which a determination may be made, will be submitted through the Deputy Assistant Secretary for Acquisition and Materiel Management (93), for approval by the Secretary. If approved, a report of the transaction will be prepared and transmitted by the Deputy Assistant Secretary for Facilities in accordance with Executive Order 10582, dated December 17, 1954, as amended.

[49 FR 12611, Mar. 29, 1984, as amended at 52 FR 32012, Aug. 25, 1987; 54 FR 40064, Sept. 29, 1989]

Subpart 825.3—Balance of Payments Program

825.302 Policy.

825.302-70 Deviations from the Balance of Payments Program.

When a contracting officer believes that the requirement of the "Balance of Payments Program" is not practicable as set forth in FAR 25.302 (b)(2) or (b)(3), he/she will request authority to consummate the contract through the Deputy Assistant Secretary for Acquisition and Materiel Management (93) for approval. Each request must be fully justified, containing all pertinent facts.

825.304 Excess and near-excess foreign currencies.

825.304-70 Determination of feasibility to use excess or near-excess foreign currency.

In accordance with FAR 25.304(c), contracting officers will submit requests for determination to utilize excess or near-excess foreign currencies to the Deputy Assistant Secretary for Acquisition and Materiel Management (93).

Subpart 825.6—Customs and Duties

825.603 Procedures.

825.603-70 Technical assistance.

Should the regulations contained in FAR 25.6 be inadequate to meet particular needs of a contracting officer in clearing items through customs and/or obtaining Duty Free Entry of goods, the nearest Regional Office of the United States Customs Service should be contacted for technical assistance. These offices are located as follows:

Regional Commissioner, U.S. Customs Service, 100 Summer St., Boston, Massachusetts 02110

Regional Commissioner, U.S. Customs Service, 99 S.E. 5th St., Miami, Florida 33131

Regional Commissioner, U.S. Customs Service, 585 Felipe St., Houston, Texas 77057

Regional Commissioner, U.S. Customs Service, 6 World Trade Center, New York, New York 10048

825.701

Regional Commissioner, U.S. Customs Service, 423 Canal St., New Orleans, Louisiana 70130

Regional Commissioner, U.S. Customs Service, 300 N. Los Angeles St., Los Angeles, California 90053

Regional Commissioner, U.S. Customs Service, 55 E. Monroe St., Chicago, Illinois 60603

Subpart 825.7—Restrictions on Certain Foreign Purchases

825.701 Policy.

825.703 Exceptions.

When felt to be in the best interest of the Government, the contracting officer may request exceptions to the requirements of FAR 25.7 for purchases in excess of \$10,000 from the Secretary through the Deputy Assistant Secretary for Acquisition and Materiel Management (93). Each such request must be fully justified, containing all pertinent facts.

Subpart 825.8—International Agreements and Coordination

825.870 Technical assistance

Contracting officers may obtain technical information or guidance on international agreements and treaties for procurements outside the United States by contacting the Director, VA Marketing Center.

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Subpart 825.9—Omission of the Examination of Records Clause

825.902 Policy.

If the contracting officer determines that the “Examination of Records Clause” should be omitted after all reasonable efforts to include the clause have failed, and providing that omission of the clause is authorized in the instances cited in FAR 25.903, he/she may request, with appropriate documentation, a determination from the Secretary, through the Deputy Assistant Secretary for Acquisition and Materiel Management (93). The Secretary, should he/she concur in the contracting officer’s determination that the clause should be omitted, will then forward an agency request for omission of the clause to the Comptroller General for a final determination as required by FAR 25-903(a)(1), or submit the report required by FAR 25.903(b).

[49 FR 12611, Mar. 29, 1984, as amended at 54 FR 40064, Sept. 29, 1989]

825.904 Determination and findings.

All determinations to omit the “Examination of Records Clause” will be supported by a determination and findings prepared by the contracting officer containing the information set forth in FAR 25.904. The completed determinations and findings will be made a part of the contract file. One copy of the determinations and findings will be forwarded to the Deputy Assistant Secretary for Acquisition and Materiel Management (93).