

SUBCHAPTER E—GENERAL CONTRACTING REQUIREMENTS

PART 828—BONDS AND INSURANCE

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AUTHORITY: 38 U.S.C. 501 and 40 U.S.C. 486(c).

SOURCE: 49 FR 12612, Mar. 29, 1984, unless otherwise noted.

Subpart 828.1—Bonds and Other Financial Protections

828.101 Bid guarantees.

828.101-2 Contract clause.

Where a bid bond is required for supplies or services, the phrase “any cost of acquiring the work” in paragraph (e) of the BID GUARANTEE clause in FAR 52.228-1 may be modified to refer to the cost of “supplies,” “services,” etc.

[49 FR 12612, Mar. 29, 1984. Redesignated at 64 FR 40519, July 27, 1999.]

828.101-70 Safekeeping and return of bid guarantee.

(a) Certified checks or other negotiable security furnished as bid security with the three lowest acceptable

bids will be retained in a safe. These will be returned by any method that will provide evidence of receipt, or in person upon presentation of proper receipt, after the contract and contract bonds have been signed and approved.

(b) Certified checks or other negotiable security furnished in support of other than the three lowest acceptable bids should be returned promptly to the respective bidders by any method that will provide evidence of receipt or in person upon presentation of proper receipt.

(c) Commercial bid bonds are not returned unless specifically requested by the bidders, and, even if requested by any of the three low bidders, are not returned until the contract and contract bonds have been executed by the successful bidder, or all bids have been rejected.

[49 FR 12612, Mar. 29, 1984, as amended at 64 FR 40519, July 27, 1999]

828.106 Administration.

828.106-6 Furnishing information.

For all contracts except contracts awarded by the Office of Facilities Management, the head of the contracting activity, as defined in 802.100, shall be the Department designee referenced in FAR 28.106-6(c) to furnish copies of payment bonds to requestors. For contracts awarded by the Office of Facilities Management, the Office of Facilities Management contracting officer shall be the Department designee.

[64 FR 40519, July 27, 1999]

828.106-70 Bond premium adjustment.

When performance and payment bonds are required, the contract will contain the clause prescribed in 852.228-70.

[49 FR 12612, Mar. 29, 1984. Redesignated at 64 FR 40519, July 27, 1999]

Subpart 828.2—Sureties and Other Security for Bonds

SOURCE: 64 FR 40519, July 27, 1999, unless otherwise noted.

828.203-7 Exclusion of individual sureties.

The Deputy Assistant Secretary for Acquisition and Materiel Management is delegated authority to make the determinations referenced in FAR 28.203-7 to exclude individuals from acting as surety on bonds and to accept bonds from individuals named on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

Subpart 828.3—Insurance**828.306 Insurance under fixed-price contracts.**

(a) Term contracts, or contracts of a continuing nature, for ambulance, automobile and aircraft service, will contain the provision in 852.237-71.

(b) *Exceptions.* The provisions of paragraph (a) of this section do not apply to emergency or sporadic ambulance service authorized by VA Manual MP-1, part II, chapter 3; or other emergency or sporadic vehicle or aircraft services. *Provided,* That such service is not used solely for the purpose of avoiding entering into a continuing contract. *Provided further,* That such services will be obtained from firms known to carry insurance coverage in accordance with State or local requirements.

[49 FR 12612, Mar. 29, 1984, as amended at 64 FR 40519, July 27, 1999]

Subpart 828.71—Indemnification of Contractors, Medical Research or Development Contracts**828.7100 Scope of subpart.**

(a) This subpart sets forth the policies and procedures concerning indemnification of contractors performing contracts covering medical research or development which involve risks of an unusually hazardous nature, as authorized by 38 U.S.C. 7317.

(b) The authority to indemnify the contractor under this subpart does not create any rights to third parties which would not otherwise exist by law.

(c) As used in this subpart the term "contractor" includes subcontractors of any tier under a contract containing

an indemnification provision pursuant to 38 U.S.C. 7317.

[49 FR 12612, Mar. 29, 1984, as amended at 63 FR 69221, Dec. 16, 1998; 64 FR 40519, July 27, 1999]

828.7101 General.

(a) The approval for the indemnification of contractors will be made by the Secretary of Veterans Affairs.

(b) Contracting Officers shall submit requests for approval, together with all available information, to the Deputy Assistant Secretary for Acquisition and Materiel Management (95) for transmittal to the Secretary.

[49 FR 12612, Mar. 29, 1984, as amended at 54 FR 24173, June 6, 1989; 54 FR 30044, July 18, 1989; 63 FR 69221, Dec. 16, 1998]

828.7102 Extent of indemnification.

(a) Any contract for medical research or development authorized by 38 U.S.C. 7303, the performance of which involves a risk of an unusually hazardous nature, may provide that the Government will indemnify the contractor against either or both of the following, but only to the extent that they arise out of the direct performance of the contract and to the extent not covered by the financial protection required under 828.7103.

(1) Liability (including reasonable expenses of litigation or settlement) to third persons, except liability under State or Federal worker's injury compensation laws to employees of the contractor employed at the site of and in connection with the contract for which indemnification is granted, for death, bodily injury, or loss of or damage to property, from a risk that the contract defines as unusually hazardous.

(2) Loss of or damage to property of the contractor from a risk that the contract defines as unusually hazardous.

(b) A contract that provides for indemnification in accordance with this subpart must also provide for:

(1) Notice to the contracting officer of any claim or suit against the contractor for death, bodily injury, or loss of or damage to property; and

(2) Control of or assistance in the defense by the Government, at its election, of such suit or claim for which indemnification is provided in the contract.

[49 FR 12612, Mar. 29, 1984, as amended at 63 FR 69221, Dec. 16, 1998]

828.7103 Financial protection.

(a) The amount of financial protection that the contractor is required to have and maintain to cover liability to third persons and loss of or damage to the contractor's property shall be the maximum amount of insurance available from private sources; however, the Secretary may establish a lesser amount after taking into consideration the cost and terms of private insurance.

(b) The financial protection may include private insurance, private contractual indemnities, self-insurance, other proof of financial responsibility, or a combination of such forms to provide the maximum amount required. When the contractor elects to utilize self insurance, proof of such financial responsibility up to the maximum amount required will be furnished the contracting officer prior to award.

[49 FR 12612, Mar. 29, 1984, as amended at 64 FR 40519, July 27, 1999]

PART 829—TAXES

Sec.

829.000 Scope of part.

Subpart 829.2—Federal Excise Taxes

829.202 General exemptions.

829.202-70 Tax exemptions for alcohol products.

AUTHORITY: 38 U.S.C. 501 and 40 U.S.C. 486(c).

SOURCE: 49 FR 12614, Mar. 29, 1984, unless otherwise noted.

829.000 Scope of part.

This part prescribes policies and procedures for exemptions from Federal excise taxes imposed on alcohol products purchased for use in the Department of Veterans Affairs medical care program.

[64 FR 38593, July 19, 1999]

Subpart 829.2—Federal Excise Taxes

829.202 General exemptions.

829.202-70 Tax exemptions for alcohol products.

(a) *General.* (1) The procurement of spirits free of tax for nonbeverage purposes is permitted to Government agencies by regulations of the Bureau of Alcohol, Tobacco, and Firearms (ATF) (see 27 CFR 211.231-237, 213.141-146 and 240.720-722). The use of tax-free alcohol, whiskey, beer, wine and denatured spirits for nonbeverage purposes shall include but not be limited to medicinal and scientific purposes and in the treatment of patients.

(2) Authority is hereby delegated to the Director, Marketing Center, Hines, Illinois, and to the Chief, Acquisition and Materiel Management Service, Department of Veterans Affairs medical facilities to sign application permits on Bureau of Alcohol, Tobacco, and Firearms (ATF) prescribed forms. This authority is not to be redelegated.

(b) *Whiskey, alcohol, and denatured alcohol.* (1) Application forms for tax-free purchases are to be obtained from and submitted to the Director, Bureau of Alcohol, Tobacco, and Firearms, Washington, DC 20226.

(2) ATF Form 1486, Specially Denatured Spirits for Use of United States, is the application/permit required for denatured spirits, and ATF Form 1444, Tax-Free Spirits for Use of United States, is required for distilled spirits (whiskey and alcohol). These are continuing permits to procure items tax free. Copies must be made available to the supplier in support of each procurement.

(3) Purchases for excise tax-free whiskey and alcohol, not available through the depot can only be made from a distillery or a bonded premises. In accordance with 27 CFR 213.144, the vendor will also support each shipment with ATF 1473, Shipment and Receipt Specifically Denatured Tax-Free, or Recovered Spirits. The ATF 1473 will be completed by the accountable officer and the original copy will be forwarded to the Regional Regulatory Administrator whose address is shown in item