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[59 FR 40283, Aug. 8, 1994]

PART 1235—RESEARCH AND DEVELOPMENT CONTRACTING

AUTHORITY: 5 U.S.C. 301; 41 U.S.C. 418(b); 48 CFR 3.1.

1235.003 Policy.

(b) *Cost sharing.* DOT cost sharing policies shall be in accordance with (FAR) 48 CFR 16.303, (FAR) 48 CFR 42.707(a), and OA procedures.

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PART 1236—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

Subpart 1236.3—Special Aspects of Sealed Bidding in Construction Contracting

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1236.305 Preconstruction conference.

Subpart 1236.5—Contract Clauses

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Subpart 1236.6—Architect-Engineer Services

1236.602 Selection of firms for architect-engineer contracts.

1236.602-1 Selection criteria.

AUTHORITY: 5 U.S.C. 301; 41 U.S.C. 418(b); 48 CFR 3.1.

SOURCE: 59 FR 40284, Aug. 8, 1994, unless otherwise noted.

Subpart 1236.3—Special Aspects of Sealed Bidding in Construction Contracting

1236.305 Preconstruction conference.

When the contracting officer considers such action warranted, he/she shall arrange a preconstruction conference with the contractor and such subcontractors as the contractor may designate to assure that there is a clear understanding of the contract requirements (including labor standards provisions) and the rights and obligations of the parties.

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Subpart 1236.5—Contract Clauses

1236.570 Special precautions for work at operating airports.

Where any acquisition will require work at an operating airport, insert the clause at (TAR) 48 CFR 1252.236-70, Special Precautions for Work at Operating Airports, in solicitations and contracts.

Subpart 1236.6—Architect-Engineer Services

1236.602 Selection of firms for architect-engineer contracts.

1236.602-1 Selection criteria.

(b) If a design competition is to be used, written approval by the COCO shall be obtained prior to soliciting proposals.

[59 FR 40284, Aug. 8, 1994, as amended at 62 FR 67751, Dec. 30, 1997]

PART 1237—SERVICE CONTRACTING

Subpart 1237.1—Service Contracts—General

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1237.104 Personal services contracts. (USCG)

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1237.104-91 Personal services contracts with individuals under the authority of 10 U.S.C. 1091 (USCG).

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1237.9000 Solicitation provisions and contract clauses. (USCG)

AUTHORITY: 5 U.S.C. 301; 41 U.S.C. 418(b); 48 CFR 3.1.

**Subpart 1237.1—Service
Contracts—General****1237.104 Personal services contracts.
(USCG)****1237.104-90 Delegation of authority.
(USCG)**

(a) Section 733(a) of Pub. L. 104-106, the DOD Authorization Act of 1996, amended Title 10 of the United States Code to include a new provision which authorizes the Secretary, with respect to the Coast Guard, to enter into personal services contracts at medical treatment facilities (10 U.S.C. 1091).

(b) The authority of the Secretary of Transportation under Pub. L. 104-106 to award personal services contracts for medical services at facilities for the Coast Guard is delegated to the HCA with the authority to redelegate to contracting officers under procedures established by the HCA, who will address applicable statutory limitations under section 1091A of Title 10 U.S.C.

[64 FR 2438, Jan. 14, 1999]

**1237.104-91 Personal services con-
tracts with individuals under the
authority of 10 U.S.C. 1091. (USCG)**

(a) Personal services contracts for health care services are authorized by 10 U.S.C. 1091 for the Coast Guard. Sources for contracts for health care services under the authority of 10 U.S.C. 1091 shall be selected through procedures established in this section. These procedures do not apply to contracts awarded to business entities other than individuals. Selections made using the procedures in this section are exempt by statute from (TAR) 48 CFR part 1206 competition requirements (see (TAR) 48 CFR part 1206.9000 (USCG)) and from (FAR) 48 CFR part 6 competition requirements.

(b) The contracting officer must provide adequate advance notice of contracting opportunities to individuals residing in the area of the facility. The notice should include the qualification criteria against which individuals responding shall be evaluated. Contracting officers shall solicit offerors through the most effective means of seeking competition, such as a local publication which serves the area of the facility. Acquisitions for health

care services using personal services contracts are exempt from posting and synopsis requirements of (FAR) 48 CFR part 5.

(c) The contracting officer shall provide the qualifications of individuals responding to the notice to the representative(s) responsible for evaluation and ranking in accordance with the evaluation procedures. Individuals must be considered solely on the professional qualifications established for the particular health care services being acquired and the Government's estimate of reasonable rates, fees, or costs. The representative(s) responsible for the evaluation and ranking shall provide the contracting officer with rationale for the ranking of the individuals consistent with the required qualifications.

(d) Upon receipt of the ranked listing of offerors, the contracting officer shall either:

(1) Enter into negotiations with the highest ranked offeror. If a mutually satisfactory contract cannot be negotiated, the contracting officer shall terminate negotiations with the highest ranked offeror and enter into negotiations with the next highest, or;

(2) Enter into negotiations with all qualified offerors and select on the basis of qualifications and rates, fees, or other costs.

(e) In the event only one individual responds to an advertised requirement, the contracting officer is authorized to negotiate the contract award. In this case, the individual must still meet the minimum qualifications of the requirement and the contracting officer must be able to make a determination that the price is fair and reasonable.

(f) If a fair and reasonable price cannot be obtained from a qualified individual, the requirement should be canceled and acquired using procedures other than those set forth in this section.

(g) The total amount paid to an individual in any year for health care services under a personal services contract shall not exceed the paycap in COMDTINST M4200.19 (series), Coast Guard Acquisition Procedures.

(h) The contract may provide for the same per diem and travel expenses authorized for a Government employee,

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including actual transportation and per diem in lieu of subsistence for travel between home or place of business and official duty station and only for travel outside the local area in support of the statement of work.

(i) Coordinate benefits, taxes and maintenance of records with the appropriate office(s).

(j) The contracting officer shall insure that contract funds are sufficient to cover all contingency items that may be cited in the statement of work for health care services.

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1237.110 Solicitation provisions and contract clauses.

Contracting officers shall insert the clause at (TAR) 48 CFR 1252.237-70, Qualifications of Employees, in all solicitations and contracts for services which require contract performance at a Government facility.

[59 FR 40284, Aug. 8, 1994]

Subpart 1237.70—Department of Transportation Procedures for Acquiring Training Services

SOURCE: 61 FR 392, Jan. 5, 1996, unless otherwise noted.

1237.7000 Policy.

When training services are provided under contract to DOT, it is the policy of DOT that all prospective contractors:

(a) Certify that the data provided concerning company qualifications, background statements, etc., is current, accurate, and complete; and

(b) Agree to not solicit or advertise private, non-Government training while conducting a training course.

1237.7001 Certification of data.

Towards fulfilling DOT's policy at (TAR) 48 CFR 1237.7000(a), contracting officers shall request information from prospective contractors for certification purposes. The type of information requested is dependent upon the criticality of the service and/or any unique or essential qualification requirements.

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1237.7002 Applicability.

The policy at (TAR) 48 CFR 1237.7000 applies to all DOT contracts as defined in FAR 2.101 for training services when DOT controls the content and/or presentation of the course. This policy does not apply to courses attended by DOT employees which are offered and sponsored by Government sources of supply, educational institutions, or private entities where DOT does not control the course content or presentation. (See (TAR) 48 CFR 1213.7100 for examples.)

1237.7003 Solicitation provision and contract clause.

(a) The contracting officer shall insert the provision at (TAR) 48 CFR 1252.237-71, Certification of Data, in solicitations and the clause at (TAR) 48 CFR 1252.237-72, Prohibition on Advertising, in solicitations and contracts for training services when the content and/or presentation of the course is controlled by DOT.

(b) Contracting officers shall incorporate the successful offeror's certified data into any resultant contract(s). Certified data may be incorporated by reference, if the contracting officer determines it contains sufficient descriptive information (i.e., dated material such as résumés, company and/or personnel qualifications) to reliably describe the certified data submitted.

Subpart 1237.90—Mortuary Services

1237.9000 Solicitation provisions and contract clauses. (USCG)

(a) The contracting officer shall insert the following clauses in solicitations and contracts for mortuary services. However, USCG clauses (TAR) 48 CFR 1252.237-91 and 1252.237-97 shall not be inserted in solicitations and contracts that include port of entry requirements:

(1) (TAR) 48 CFR 1252.237-90, Requirements;

(2) (TAR) 48 CFR 1252.237-91, Area of Performance;

(3) (TAR) 48 CFR 1252.237-92, Performance and Delivery;

(4) (TAR) 48 CFR 1252.237-93, Subcontracting;

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(5) (TAR) 48 CFR 1252.237-94, Termination for Default;

(6) (TAR) 48 CFR 1252.237-95, Group Interment;

(7) (TAR) 48 CFR 1252.237-96, Permits;

(8) (TAR) 48 CFR 1252.237-97, Facility Requirements; and

(9) (TAR) 48 CFR 1252.237-98, Preparation History.

(b) The contracting officer shall insert USCG provision (TAR) 48 CFR 1252.237-99, Award to Single Offeror, in all sealed bid solicitations for mortuary services. Use the basic provision with Alternate I in negotiated solicitations for mortuary services.

(c) The contracting officer shall insert (FAR) 48 CFR 52.245-4, Government-Furnished Property (Short Form) in solicitations and contracts that include port of entry requirements.

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PART 1242—CONTRACT ADMINISTRATION

Subpart 1242.2—Assignment of Contract Administration

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1242.203 Retention of contract administration.

1242.203-70 Contract clauses.

1242.205 Designation of the paying office.

Subpart 1242.3—Contract Administration Office Functions

1242.302 Contract administration functions.

Subpart 1242.70—Contracting Officer's Technical Representative

1242.7000 Contract clause.

AUTHORITY: 5 U.S.C. 301; 41 U.S.C. 418(b); 48 CFR 3.1.

SOURCE: 59 FR 40285, Aug. 8, 1994, unless otherwise noted.

Subpart 1242.2—Assignment of Contract Administration

1242.203 Retention of contract administration.

(a) Contracting offices may obtain contract administration assistance from the Defense Logistics Agency (DLA), Defense Contract Management Command, Alexandria, VA, when the contracting officer determines that

such action is to be in the best interest of DOT.

1242.203-70 Contract clauses.

(a) The contracting officer may use the clause at (TAR) 48 CFR 1252.242-70, Dissemination of Information—Educational Institutions, in lieu of the clause at (TAR) 48 CFR 1252.242-72, Dissemination of Contract Information, in DOT research contracts with educational institutions, except contracts that require the release or coordination of information.

(b) The contracting officer shall insert the clause at (TAR) 48 CFR 1252.242-71, Contractor Testimony, in all solicitations and contracts issued by NHTSA. Other OAs may use the clause as deemed appropriate.

(c) The contracting officer may insert the clause at (TAR) 48 CFR 1252.242-72, Dissemination of Contract Information, in all DOT contracts except contracts that require the release or coordination of information.

1242.205 Designation of the paying office.

(a) The assignment of contract administration to a DLA Contract Administration Office (CAO) by the contracting officer does not affect the designation of the paying office unless a transfer of DOT funds to the agency of the CAO is effected, and the funds are converted to the agency's account for payment purposes.

(b) When the contracting officer proposes to delegate the contract payment function to another agency (e.g., DLA), the contracting officer shall discuss the transfer of funds procedures with the OA cognizant payment office.

Subpart 1242.3—Contract Administration Office Functions

1242.302 Contract administration functions.

(a)(13) The CAO, or the contracting officer's designee under fixed price contracts, shall review and approve the contractor's invoice for payment. The CAO shall review and approve contractors' vouchers under cost-reimbursement contracts, and this function cannot be delegated to a COTR. All payments to contractors will be made by