

distribution to prospective bidders and plan file rooms.

(b) The total cost of the architect or engineer services contracted for may not exceed 6 percent of the estimated cost of the construction project plus the estimated cost of related services and activities such as those shown in paragraph (a) of this section. To support project submissions, VA Form 10-1193, Application for Health Care Facility Project, and VA Form 10-6238, EMIS Construction Program-Estimate Worksheet, will be used and the proposed technical services shown where necessary and applicable.

[49 FR 12618, Mar. 29, 1984, as amended at 61 FR 20493, May 7, 1996; 67 FR 49260, July 30, 2002]

PART 837—SERVICE CONTRACTING

Subpart 837.1—Service Contracts—General

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837.7004 Administrative necessity.

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

SOURCE: 49 FR 12620, Mar. 29, 1984, unless otherwise noted.

Subpart 837.1—Service Contracts—General

837.103 Contracting officer responsibility.

When the contracting officer determines that legal assistance is necessary in determining whether a proposed service contract is for personal or nonpersonal services, he/she shall gather all the pertinent facts and request the opinion of District Counsel responsible for servicing the VA facility involved.

837.104 Personal services contracts.

(a) Personal service contracts having an employer-employee relationship shall not be awarded but will be consummated in accordance with VA Manual MP-5, Parts I and II.

(b) In addition to the elements used in assessing whether or not a contract is personal in nature identified in FAR 37.104(d), the following circumstances may also indicate a possible personal service contract.

(1) The contract does not call for an end product which is adequately described in the contract.

(2) The contract price or fee is based on the time actually worked rather than the results to be accomplished.

(3) Office space, equipment and supplies for contract performance are to be furnished by the Department of Veterans Affairs.

(4) Contractor personnel are to be used interchangeably with Department of Veterans Affairs personnel to perform the same function.

(5) The Department of Veterans Affairs retains the right to control and direct the means and methods by which contractor personnel accomplish the work.

[49 FR 12620, Mar. 29, 1984, as amended at 50 FR 794, Jan. 7, 1985; 61 FR 20493, May 7, 1996]

Subpart 837.2—Advisory and Assistance Services

837.203 Policy.

For the purpose of this subpart the definition of advisory and assistance services shall, in addition to examples listed in FAR 37.203, include services to