

make the determination required by 37.203.

(e) An agency may make a determination regarding the availability of covered personnel for a class of proposals for which evaluation and analysis would require expertise so unique or specialized that it is not reasonable to expect such personnel to be available.

37.205 Contracting officer responsibilities.

The contracting officer shall ensure that the determination required in accordance with the guidelines at 37.204 has been made prior to issuing a solicitation.

Subpart 37.3—Dismantling, Demolition, or Removal of Improvements

37.300 Scope of subpart.

This subpart prescribes procedures for contracting for dismantling or demolition of buildings, ground improvements, and other real property structures and for the removal of such structures or portions of them (hereafter referred to as *dismantling, demolition, or removal of improvements*).

37.301 Labor standards.

Contracts for dismantling, demolition, or removal of improvements are subject to either the Service Contract Act (41 U.S.C. 351-358) or the Davis-Bacon Act (40 U.S.C. 276a-276a-7). If the contract is solely for dismantling, demolition, or removal of improvements, the Service Contract Act applies unless further work which will result in the construction, alteration, or repair of a public building or public work at that location is contemplated. If such further construction work is intended, even though by separate contract, then the Davis-Bacon Act applies to the contract for dismantling, demolition, or removal.

37.302 Bonds or other security.

When a contract is solely for dismantling, demolition, or removal of improvements, the Miller Act (40 U.S.C. 270a-270f) (see 28.102) does not apply. However, the contracting officer may

require the contractor to furnish a performance bond or other security (see 28.103) in an amount that the contracting officer considers adequate to (a) ensure completion of the work, (b) protect property to be retained by the Government, (c) protect property to be provided as compensation to the contractor, and (d) protect the Government against damage to adjoining property.

37.303 Payments.

(a) The contract may provide that the (1) Government pay the contractor for the dismantling or demolition of structures or (2) contractor pay the Government for the right to salvage and remove the materials resulting from the dismantling or demolition operation.

(b) The contracting officer shall consider the usefulness to the Government of all salvageable property. Any of the property that is more useful to the Government than its value as salvage to the contractor should be expressly designated in the contract for retention by the Government. The contracting officer shall determine the fair market value of any property not so designated, since the contractor will get title to this property, and its value will therefore be important in determining what payment, if any, shall be made to the contractor and whether additional compensation will be made if the contract is terminated.

37.304 Contract clauses.

(a) The contracting officer shall insert the clause at 52.237-4, Payment by Government to Contractor, in solicitations and contracts solely for dismantling, demolition, or removal of improvements whenever the contracting officer determines that the Government shall make payment to the contractor in addition to any title to property that the contractor may receive under the contract. If the contracting officer determines that all material resulting from the dismantling or demolition work is to be retained by the Government, use the basic clause with its Alternate I.

(b) The contracting officer shall insert the clause at 52.237-5, Payment by

37.400

Contractor to Government in solicitations and contracts for dismantling, demolition, or removal of improvements whenever the contractor is to receive title to dismantled or demolished property and a net amount of compensation is due to the Government, except if the contracting officer determines that it would be advantageous to the Government for the contractor to pay in increments and the government to transfer title to the contractor for increments of property only upon receipt of those payments.

(c) The contracting officer shall insert the clause at 52.237-6, Incremental Payment by Contractor to Government, in solicitations and contracts for dismantling, demolition, or removal of improvements if (1) the contractor is to receive title to dismantled or demolished property and a net amount of compensation is due the Government, and (2) the contracting officer determines that it would be advantageous to the Government for the contractor to pay in increments, and for the Government to transfer title to the contractor for increments of property only upon receipt of those payments. This determination may be appropriate, for example, if it encourages greater competition or participation of small business concerns.

Subpart 37.4—Nonpersonal Health Care Services

SOURCE: 54 FR 5056, Jan. 31, 1989, unless otherwise noted.

37.400 Scope of subpart.

This subpart prescribes policies and procedures for obtaining health care services of physicians, dentists and other health care providers by nonpersonal services contracts, as defined in 37.101.

37.401 Policy.

Agencies may enter into nonpersonal health care services contracts with physicians, dentists and other health care providers under authority of 10 U.S.C. 2304 and 41 U.S.C. 253. Each contract shall—

(a) State that the contract is a nonpersonal health care services contract, as defined in 37.101, under which the

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contractor is an independent contractor;

(b) State that the Government may evaluate the quality of professional and administrative services provided, but retains no control over the medical, professional aspects of services rendered (e.g., professional judgments, diagnosis for specific medical treatment);

(c) Require that the contractor indemnify the Government for any liability producing act or omission by the contractor, its employees and agents occurring during contract performance;

(d) Require that the contractor maintain medical liability insurance, in a coverage amount acceptable to the contracting officer, which is not less than the amount normally prevailing within the local community for the medical specialty concerned; and

(e) State that the contractor is required to ensure that its subcontracts for provisions of health care services, contain the requirements of the clause at 52.237-7, including the maintenance of medical liability insurance.

37.402 Contracting officer responsibilities.

Contracting officers shall obtain evidence of insurability concerning medical liability insurance from the apparent successful offeror prior to contract award and shall obtain evidence of insurance demonstrating the required coverage prior to commencement of performance.

[62 FR 237, Jan. 2, 1997]

37.403 Contract clause.

The contracting officer shall insert the clause at 52.237-7, Indemnification and Medical Liability Insurance, in solicitations and contracts for nonpersonal health care services. The contracting officer may include the clause in bilateral purchase orders for nonpersonal health care services awarded under the procedures in part 13.

Subpart 37.5—Management Oversight of Service Contracts

SOURCE: 62 FR 12694, Mar. 17, 1997, unless otherwise noted.