

236.701

**Subpart 236.7—Standard and Optional Forms for Contracting for Construction, Architect-Engineer Services, and Dismantling, Demolition, or Removal of Improvements**

**236.701 Standard and optional forms for use in contracting for construction or dismantling, demolition, or removal of improvements.**

(c) Do not use Optional Form 347, Order for Supplies or Services (see 213.307).

[56 FR 36421, July 31, 1991, as amended at 65 FR 63804, Oct. 25, 2000]

**PART 237—SERVICE CONTRACTING**

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AUTHORITY: 41 U.S.C. 421 and 48 CFR chapter 1.

SOURCE: 56 FR 36424, July 31, 1991, unless otherwise noted.

**Subpart 237.1—Service Contracts—General**

**237.101 Definitions.**

*Increased performance of security-guard functions*, as used in this subpart, means—

(1) In the case of an installation or facility where no security-guard functions were performed as of September 10, 2001, the entire scope or extent of the performance of security-guard functions at the installation or facility after such date; and

(2) In the case of an installation or facility where security-guard functions were performed within a lesser scope of requirements or to a lesser extent as of September 10, 2001, than after such date, the increment of the performance of security-guard functions at the installation or facility that exceeds such lesser scope of requirements or extent of performance.

[68 FR 7443, Feb. 14, 2003]

**237.102-70 Prohibition on contracting for firefighting or security-guard functions.**

(a) Under 10 U.S.C. 2465, the DoD is prohibited for entering into contracts for the performance of firefighting or

security-guard functions at any military installation or facility unless—

(1) The contract is to be carried out at a location outside the United States and its outlying areas at which members of the armed forces would have to be used for the performance of fire-fighting or security-guard functions at the expense of unit readiness;

(2) The contract will be carried out on a Government-owned but privately operated installation;

(3) The contract (or renewal of a contract) is for the performance of a function under contract on September 24, 1983; or

(4) The contract—

(i) Is for the performance of fire-fighting functions;

(ii) Is for a period of 1 year or less; and

(iii) Covers only the performance of firefighting functions that, in the absence of the contract, would have to be performed by members of the armed forces who are not readily available to perform such functions by reason of a deployment.

(b) Under Section 2907 of Public Law 103-160, this prohibition does not apply to services at installations being closed (see subpart 237.74).

(c) Under Section 1010 of Public Law 107-56, this prohibition does not apply to any contract that—

(1) Is entered into during the period of time that United States armed forces are engaged in Operation Enduring Freedom or during the period 180 days thereafter;

(2) Is for the performance of security functions at any military installation or facility in the United States;

(3) Is awarded to a proximately located local or State government, or a combination of such governments, whether or not any such government is obligated to provide such services to the general public without compensation; and

(4) Prescribes standards for the training and other qualifications of local government law enforcement personnel who perform security functions under the contract in accordance with criteria established by the Secretary of the department concerned.

(d) Under section 332 of Pub. L. 107-314, this prohibition does not apply to

any contract that is entered into for any increased performance of security-guard functions at a military installation or facility undertaken in response to the terrorist attacks on the United States on September 11, 2001, if—

(1) Without the contract, members of the Armed Forces are or would be used to perform the increased security-guard functions;

(2) The agency has determined that—

(i) Recruiting and training standards for the personnel who are to perform the security-guard functions are comparable to the recruiting and training standards for DoD personnel who perform the same security-guard functions;

(ii) Contractor personnel performing such functions will be effectively supervised, reviewed, and evaluated; and

(iii) Performance of such functions will not result in a reduction in the security of the installation or facility; and

(3) Contract performance will not extend beyond September 30, 2007.

[60 FR 61599, Nov. 30, 1995, as amended at 67 FR 11439, Mar. 14, 2002; 68 FR 7443, Feb. 14, 2003; 69 FR 35533, June 25, 2004; 70 FR 14577, Mar. 23, 2005; 70 FR 35545, June 21, 2005; 71 FR 34834, June 16, 2006]

**237.104 Personal services contracts.**

(b)(i) Authorization to acquire the personal services of experts and consultants is included in 10 U.S.C. 129b. Personal service contracts for expert and consultant services must also be authorized by a determination and findings (D&F) in accordance with department/agency regulations.

(A) Generally, the D&F should authorize one contract at a time; however, an authorizing official may issue a blanket D&F for classes of contracts.

(B) Prepare each D&F in accordance with FAR 1.7 and include a determination that—

(1) The duties are of a temporary or intermittent nature;

(2) Acquisition of the services is advantageous to the national defense;

(3) DoD personnel with necessary skills are not available;

(4) Excepted appointment cannot be obtained;

(5) A nonpersonal services contract is not practicable;