

# PART 437 - SERVICE CONTRACTING

Authority: 5 U.S.C. 301 and 40 U.S.C. 486(c).

Source: 61 FR 53646, Oct. 15, 1996, unless otherwise noted.

## Subpart 437.1 - Service Contracts - General

### 437.104 Personal services contracts.

### 437.110 Solicitation provisions and contract clauses.

## Subpart 437.2 - Advisory and Assistance Services

### 437.203 Policy.

### 437.204 Guidelines for determining availability of personnel.

### 437.270 Solicitation and contract clauses.

**Parent topic:** SUBCHAPTER F - SPECIAL CATEGORIES OF CONTRACTING

## **Subpart 437.1 - Service Contracts - General**

### **437.104 Personal services contracts.**

USDA has the following specific statutory authorities to contract for personal services:

(a) Section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225) authorizes contracting with persons or organizations on a temporary basis, without regard to civil service compensation classification standards in 5 U.S.C., Chapter 51 and Subchapter III of Chapter 53, *Provided:*

(1) That no expenditures shall be made unless specifically provided for in the applicable appropriation, and

(2) Expenditures do not exceed any limitations prescribed in the appropriation.

(b) 7 U.S.C. 1627 authorizes the Secretary of Agriculture to contract with technically qualified persons, firms or organizations to perform research, inspection, classification, technical, or other special services, without regard to the civil-service laws, *Provided:* it is for a temporary basis and for a term not to exceed six months in any fiscal year.

### **437.110 Solicitation provisions and contract clauses.**

(a) The contracting officer shall insert a clause substantially the same as the clause at 452.237-70, Loss Damage, Destruction or Repair, in contracts for equipment rental, whether the equipment is furnished with or without operator.

(b) The contracting officer shall insert a provision substantially the same as the clause at 452.237-71, Pre-Bid/Pre-Proposal Conference, in all solicitations if a conference with prospective offerors will be held prior to the submittal of bids or proposals.

(c) The contracting officer shall insert the provision at 452.237-73, Equipment Inspection visit, in solicitations if work is to be done on Government equipment and an offeror's inspection is encouraged for an understanding of the work to be performed prior to submittal of bids or proposals.

(d) The contracting officer shall insert a clause substantially the same as the clause at 452.237-74, Key Personnel, in contracts if contract performance requires identification of the contractor's key personnel.

(e) The contracting officer shall insert a clause substantially the same as the clause at 452.237-75, Restrictions Against Disclosure, in service contracts (including architect-engineer contracts) requiring restrictions on release of information developed or obtained in connection with performance of the contract.

## **Subpart 437.2 - Advisory and Assistance Services**

### **437.203 Policy.**

Contracting for advisory and assistance services is subject to the policy and procedures in Departmental Regulations (5000 series).

### **437.204 Guidelines for determining availability of personnel.**

The head of the contracting activity (HCA) is authorized to approve the use of non-Government evaluators in proposal evaluation. Each such decision shall be supported by a written determination in accordance with FAR 37.204.

### **437.270 Solicitation and contract clauses.**

(a) The contracting officer shall insert a clause substantially the same as the clause at 452.237-76, Progress Reporting, in all contracts for advisory and assistance services. It may also be used in other service contracts.

(b) The contracting officer shall insert a clause substantially the same as the clause at 452.237-78, Contracts with Consulting Firms for Services, in solicitations and contracts for consulting services which prohibit follow-on contracts with the contracting firm.