Part 5237 - SERVICE CONTRACTING

The official NMCARS regulation resides at
https://www.secnav.navy.mil/rda/DASN-P/Pages/NMCARS.aspx

Subpart 5237.1 - SERVICE CONTRACTS GENERAL

5237.102 Policy.

5237.102-71 Limitations on service contracts for military flight simulators.

5237.103 Contracting officer responsibility.

5237.104 Personal services contracts.

5237.170 Approval of contracts and task orders for services.

5237.170-2 Approval requirements.

5237.192 Services Acquisition Workshops.

Subpart 5237.2 - ADVISORY AND ASSISTANCE SERVICES

5237.204 Guidelines for determining availability of personnel.

Subpart 5237.5 - MANAGEMENT OVERSIGHT OF SERVICE CONTRACTS

5237.502 Exclusions.

5237.503 Agency-head responsibilities.

5237.504 Contracting officials responsibilities.

Subpart 5237.76 - CONTINUATION OF ESSENTIAL CONTRACTOR SERVICES

5237.7602 Policy.

Subpart 5237.90 - CONTRACTOR GUARD SERVICES

5237.9000 Contracting for contractor guard services.

Subpart 5237.1 - SERVICE CONTRACTS GENERAL

5237.102 Policy.

The consideration of using SeaPort to satisfy the requirements for the functional areas shown in Annex 22 is mandatory with the following exceptions:

1) Actions approved pursuant to authorities at FAR 6.302-1 through -7.

2) Actions with values below the Simplified Acquisition Threshold.

3) Actions set aside for 8(a) participants.

4) Actions for Commercial Items under Part 12.

5) Actions using Simplified Acquisition Procedures under Part 13.

(a)(1) Personal Medical services contracts are included as an exemption from performance-based acquisition methods.

5237.102-71 Limitations on service contracts for military flight simulators.

Submit requests for waivers and required economic analysis for the congressional defense committees via DASN(P) by email at usn.pentagon.asstsecnavrdadc.mbx.pabt@us.navy.mil with the subject "[Activity Name] DFARS 237.102-71 – Military Flight Simulator Service Contract Waiver Request."

5237.103 Contracting officer responsibility.

(a)(3)(iii) Consider the use of SeaPort to satisfy competition requirements for services as specified at 5237.102. If SeaPort is not used to satisfy competitive requirements, and a J&A has not been approved, a Determination and Findings (D&Fs) shall be submitted for approval to DASN(P) with an endorsement by the HCA. D&Fs shall address commerciality, contract type, competitiveness, and contract vehicle. Describe how the previous effort to achieve these services was met. Include contract and task order number(s), information on the use of options and surge CLINs, and previously approved SeaPort waivers. D&Fs for approval shall be submitted to DASN(P) by email at SeniorServicesManage.fct@navy.mil with the subject "NMCARS 5237.103(a)(3)(iii) – D&F Negating the Requirement to Consider SeaPort". Activities can expect disposition of the D&F within 10 business days.

5237.104 Personal services contracts.

(b)(ii)(C)(2) Commands outside the Bureau of Medicine and Surgery (BUMED) claimancy shall obtain review and approval of Statements of Work for clinical counselors, family advocacy program staff, and victim's services representatives as described in DFARS 237.104(b)(ii)(A)(3) from the Naval Medical Logistics Command (NAVMEDLOGCOM). See BUMEDINST 4200.2C, or version currently in effect, for information on appropriate contract procedures.

5237.170 Approval of contracts and task orders for services.

5237.170-2 Approval requirements.

(a) *Acquisition of services through a contract or task order that is not performance based.* Notwithstanding DFARS 237.170-2(a), when acquisition of services through a contract or task order that is not performance based will be used, the rationale shall be documented in the contract file.

(b) *Acquisition of services through use of a contract or task order issued by a non-DOD agency.* In addition to the requirements in 5237.5, comply with the review and approval requirements in 5217.770 when acquiring services through use of a contract or task order issued by a non-DoD agency.

5237.192 Services Acquisition Workshops.

(a) Except for acquisitions identified as a Special Interest, multi-functional teams that support services acquisition requirements with a total acquisition value of $500 million or more or an annual value of $250,000,000 or more, shall participate in a Services Acquisition Workshop (SAW), or an equivalent program in accordance with DoDI 5000.74, Defense Acquisition of Services. For multiple award, IDIQ contracts, a SAW is not required for the base contract, but is required for any task order valued at $100 million or more in accordance with DoDI 5000.74. However, within the DON, this requirement is waived for task orders valued below $250 million. Multi-functional teams are highly encouraged to apply SAW-like steps to all services acquisitions valued at $10 million or more but less than the values above. If the HCA determines that a waiver is necessary, the waiver request shall be submitted by email to SeniorServicesManage.fct@navy.mil with the subject "NMCARS 5237.192 - Services Acquisition Workshop (SAW) Waiver Request" for approval by:

(i) USD(A&S) or ASD(A) for Special Interest acquisitions;

(ii) The DON Senior Services Manager DASN(P) for all other waiver requests.

(b) The waiver request shall include: the rationale for not participating in a SAW; an assessment of the quality of the requirements documents; and, steps taken to reduce costs, improve competition, and shorten acquisition lead times and whether the acquisition has been designated as a special interest acquisition by USD(A&S) or ASD(A).

(c) Participation in a SAW or approved waiver is required before a services strategy will be approved.

(d) Multi-functional teams are permitted to use abbreviated SAW options offered by Defense Acquisition University (DAU) when a SAW has already been completed on a recurring services acquisition requirement in the past five years and there is no change in scope. Abbreviated SAW options are considered equivalent programs to a SAW and are encouraged to be used in lieu of requesting a SAW waiver. Other types of mission assistance workshops that are considered equivalent include, Acquisition and Management (DAU iCatalog "WSM") and DAU's Source Selection Simulation ("Triple-S") workshop.

Subpart 5237.2 - ADVISORY AND ASSISTANCE SERVICES

5237.204 Guidelines for determining availability of personnel.

(a) Approval by the SSA of a source selection plan identifying only agency/FFRDC personnel as evaluators may constitute the determination that sufficient personnel are available within the agency to evaluate or analyze proposals. Determinations that sufficient personnel are not readily available within the agency nor within another Federal agency shall be made in accordance with (d) below.

(b)(1)(i) Activities should use common sense and reasonably available information in determining which other Federal agencies or Navy/Marine Corps activities may have personnel with the training and capabilities required to support evaluation of proposals. The nature and extent of efforts an activity should pursue in obtaining information depend on the circumstances of the procurement, taking into consideration such factors as those listed in FAR 37.204(b), the specialized nature of the qualifications and expertise required, and the activity's previous experience in attempting to identify similarly qualified personnel.

(ii) Qualified employees of another agency who could only be available at times other than when needed to conduct a planned evaluation of proposals may be considered "not readily available" if it is not practical to adjust the evaluation schedule to accommodate using them.

(c) If another agency will make personnel available on a reimbursable basis, Subpart 17.5 will generally apply.

(d) HCAs are delegated authority to determine that personnel with the required training and capabilities needed to conduct evaluations or analyses of any aspect of proposals for an initial contract award are not readily available within the agency or other Federal agencies. The procedures in FAR Subpart 1.7 apply to HCA determinations made under this section.

Subpart 5237.5 - MANAGEMENT OVERSIGHT OF SERVICE CONTRACTS

5237.502 Exclusions.

(b) When services incidental to supply contracts are valued at greater than the SAT, even when the item of supply does not require a STRAP, a MOPAS-S is required.

5237.503 Agency-head responsibilities.

(S-90)(a) All acquisition of services valued in excess of the SAT shall comply with the policy and procedures set forth in the in 5207.103(j) and (l) unless the services are not applicable in accordance with DODI 5000.74, paragraph 1.1.b.

(b) Use Annex 21, MOPAS-S, for services when the total cost of all contracts is less than $50 million for all years or less than $25 million for any fiscal year. See Annex 4 for STRL deviations applicable hereto.

(c) For all other services acquisitions, when the total cost of all contracts is estimated at $50 million or more for all years or $25 million or more for any fiscal year, use a PSTRAP-M or an ISTRAP-M. See 5207.103 (j) and (l) and Table 5207-1.

(d) The level of detail expected for each MOPAS-S shall be commensurate with the complexity, total planned value, and performance risk of the procurement.

(e) See FAR 7.104(a) for the requirements for updates and revisions.

5237.504 Contracting officials responsibilities.

SeaPort is the Navy's best practice for acquisition of the types of services shown in Annex 22 (see 5237.102 for exceptions).

Subpart 5237.76 - CONTINUATION OF ESSENTIAL CONTRACTOR SERVICES

5237.7602 Policy.

(c) When requirements are designated as essential contractor services, ensure a separate section, paragraph, line, or other designation in the contract, task or delivery order for these essential services is created so it can be tracked to an option or separate contract line item (see DFARS PGI 207.105(b)(20)(C)).

Subpart 5237.90 - CONTRACTOR GUARD SERVICES

5237.9000 Contracting for contractor guard services.

All requirements for contractor guard services for facilities, with the exception of those required to be obtained through the General Services Administration (GSA), shall be obtained through NAVFACENGCOM, unless specific authority is otherwise granted.