## 37.103 Contracting officer responsibility.

- (a) The *contracting officer* is responsible for ensuring that a proposed contract for services is proper. For this purpose the *contracting officer shall-*
- (1) Determine whether the proposed service is for a personal or *nonpersonal services contract* using the definitions at 2.101 and 37.101 and the guidelines in 37.104;
- (2) In doubtful cases, obtain the review of legal counsel; and
- (3) Document the file (except as provided in paragraph (b) of this section) with-
- (i) The opinion of legal counsel, if any,
- (ii) A memorandum of the facts and rationale supporting the conclusion that the contract does not violate the provisions in 37.104(b), and
- (iii) Any further documentation that the *contracting* agency *may* require.
- (b) *Nonpersonal services contracts* are exempt from the requirements of paragraph (a)(3) of this section.
- (c) Ensure that *performance-based acquisition* methods are used to the maximum extent practicable when acquiring services.
- (d) Ensure that contracts for *child care services* include requirements for criminal history background checks on employees who will perform *child care services* under the contract in accordance with 34 U.S.C. 20351 and agency procedures.
- (e) Ensure that service contractor reporting requirements are met in accordance with <u>subpart 4.17</u>, *Service Contracts* Inventory.

Parent topic: Subpart 37.1 - Service Contracts-General