

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 [subpart 4.17](#), Service Contracts Inventory.

Parent topic: [Subpart 37.1 - Service Contracts-General](#)