

# Part 5337 - Service Contracting

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## Subpart 5337.1 - SERVICE CONTRACTS (GENERAL)

### 5337.102-70 Prohibition on Contracting for Firefighting or Security-Guard Functions

(a)(S-90) For purposes of complying with 10 U.S.C. 2465, which prohibits the DoD from “entering into a contract for the performance of firefighting or security-guard functions at any military installation or facility,” the term security guard functions should be understood to mean those functions which are the responsibility of an installation commander or stand-alone military facility commander. If there is no military commander, this prohibition shall apply to the senior DoD civilian at the location. The prohibited security guard functions include: performing or supervising protective services work that involves the protection of federally owned or leased buildings and property at the installation level or at a stand-alone military facility; protecting government equipment and material at the installation level or at a stand-alone military facility; controlling access to federal installations by employees, visitors, residents and patients; and monitoring of intrusion detection systems. The statutory prohibition on contracting for security guard functions in 10 U.S.C. 2465 does not apply to security support functions that a unit or organization performs as part of security in depth at a location or area on an installation, or performs within a stand-alone

building, so long as the commander and their unit is not responsible for installation-level security or overall security at a stand-alone military facility. Contractors performing security support functions may not engage in any law enforcement functions, i.e., criminal investigative work, the preservation of peace; the prevention, detection and investigation of crimes; the arrest or apprehension of violators; and the provision of assistance to citizens in emergency situations, including the protection of civil rights, preservation of crime scenes; issuances of citations; and arrests and apprehensions of suspects.

### **5337.104 Personal Services Contracts**

(b) See the tailorable [Determination and Findings](#) template.

(i) For “Operational and Enterprise Contracting,” the installation commander is authorized to approve the D&F at [DFARS 237.104\(b\)\(i\)](#). For PEO programs and acquisitions, the PEO is authorized to approve this D&F.

(iii)(A)(2) See [MP5301.601\(a\)\(i\)](#).

### **5337.106 Funding and Term of Service Contracts**

See [DFARS 204.7103-1](#) and [DFARS 237.106](#) for guidance on considering severability when forming Service contracts.

### **5337.113-1 Waiver of Cost Allowability Limitations**

(a) See [MP5301.601\(a\)\(i\)](#).

### **5337.170-2 Approval Requirements**

(a)(1) The Services Designated Official (SDO) (see [DAFI 63-138, Acquisition of Services](#)) will approve acquisitions of services to be purchased through a contract or task order above the SAT that is not performance based.

(i) If more than 50 percent of the requirement (contract or task order), measured in dollars, is performance-based, the requirement can be considered a performance-based service acquisition.

(ii) Purchase requests for services acquisitions that are not performance based will include the following statement:

“IAW [10 USC 4501](#) the Services Designated Official (SDO) has approved the attached Performance Work Statement and Quality Assurance Surveillance Plan ensuring requirements are performance based to the maximum extent practicable.”

## **Subpart 5337.2 - ADVISORY AND ASSISTANCE SERVICES**

### **5337.204 Guidelines for Determining Availability of Personnel**

(a) See [MP5301.601\(a\)\(i\)](#)

## **Subpart 5337.5 - MANAGEMENT AND OVERSIGHT OF SERVICE CONTRACTS**

### **5337.503 Agency-head Responsibilities**

See [DAFI 63-138](#), *Acquisition of Services*.

## **Subpart 5337.74 - SERVICES AT INSTALLATIONS BEING CLOSED**

### **5337.7401 Policy**

(c) See [MP5301.601\(a\)\(i\)](#).