

Federal Acquisition Regulation

ARNet

SUBPART 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 non-personal 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) Non-personal 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 [42 U.S.C. 13041](#), as amended, and agency procedures.