

Department of Housing and Urban Development

2452.237-75

projects, the contractor shall notify the Contracting Officer reasonably in advance and shall submit justification (including proposed substitutions) in sufficient detail to permit evaluation of the impact on the program. No diversion shall be made by the contractor without the written consent of the Contracting Officer. Key personnel shall perform as follows: [List Key Personnel and/or positions, and tasks, percentage of effort, number of hours, etc., for which they are responsible, as applicable.]

(End of clause)

[71 FR 2440, Jan. 13, 2006, as amended at 77 FR 73537, Dec. 10, 2012]

2452.237-73 Conduct of work and technical guidance.

As prescribed in 2437.110(e)(2), insert the following clause in all contracts for services:

CONDUCT OF WORK AND TECHNICAL GUIDANCE (APR 2019)

(a) The Contracting Officer will provide the Contractor with the name and contact information of the Contracting Officer’s Representative (COR) assigned to this contract. The COR will serve as the Contractor’s liaison with the Contracting Officer with regard to the conduct of work. The Contracting Officer will notify the Contractor in writing of any change to the current COR’s status or the designation of a successor COR.

(b) The COR for liaison with the Contractor as to the conduct of work is [to be inserted at time of award] or a successor designated by the Contracting Officer.

(c) The COR will provide guidance to the Contractor on the technical performance of the contract. Such guidance shall not be of a nature which:

(1) Causes the Contractor to perform work outside the statement of work or specifications of the contract;

(2) Constitutes a change as defined in FAR 52.243-1;

(3) Causes an increase or decrease in the cost of the contract;

(4) Alters the period of performance or delivery dates; or

(5) Changes any of the other express terms or conditions of the contract.

(d) The COR will issue technical guidance in writing or, if issued orally, he/she will confirm such direction in writing within five (5) calendar days after oral issuance. The COR may issue such guidance via telephone, facsimile (fax), or electronic mail.

(e) Other specific limitations [to be inserted by Contracting Officer];

(f) The Contractor shall promptly notify the Contracting Officer whenever the Contractor believes that guidance provided by

any government personnel, whether or not specifically provided pursuant to this clause, is of a nature described in paragraph (b) of this clause.

(End of clause)

[84 FR 15132, Apr. 15, 2019]

2452.237-75 Access to HUD facilities.

As prescribed in 2437.110(e)(3), insert the following clause in solicitations and contracts:

ACCESS TO HUD FACILITIES (APR 2019)

(a) Definitions. As used in this clause—

“Access” means physical entry into and, to the extent authorized, mobility within a Government facility.

“Contract” means any authorized contractual instrument, including, but not restricted to, task orders, purchase orders, Blanket Purchase Agreement calls, etc.

“Contractor employee” means an employee of the prime contractor or of any subcontractor, affiliate, partner, joint venture, or team members with which the Contractor is associated. It also includes consultants engaged by any of those entities.

“Facility” and “Government facility” mean buildings, including areas within buildings that are owned, leased, shared, occupied, or otherwise controlled by the Federal Government.

“NACI” means National Agency Check with Inquiries, the minimum background investigation prescribed by the U.S. Office of Personnel Management.

“PIV Card” means the Personal Identity Verification (PIV) Card, the Federal Government-issued identification credential (identification badge).

(b) General. The performance of this contract requires contractor employees to have access to HUD facilities. All such employees who do not already possess a current PIV Card acceptable to HUD shall be required to provide personal background information, undergo a background investigation (NACI or other OPM-required or approved investigation), including an FBI National Criminal History Fingerprint Check, and obtain a PIV Card prior to being permitted access to any such facility in the performance of this contract.

Unescorted access to any such facility in performance of this contract. HUD may accept a PIV Card issued by another Federal Government agency but shall not be required to do so. No contractor employee will be permitted unescorted access to a HUD facility without a proper PIV Card.

(c) Background information. (1) For each contractor employee subject to the requirements of this clause and not in possession of a current PIV Card acceptable to HUD, the

Contractor shall submit the following properly completed forms: Electronic Standard Form (SF) 85, "Questionnaire for Non-Sensitive Positions via e-QIP," completed USAccess enrollment (electronic fingerprinting) and Optional Form (OF) 306 (Items 1 through 17). Forms SF-85 and OF-306 are available from OPM's website, <http://www.opm.gov>. The electronic questionnaire is available on OPM's e-QIP site, <https://www.opm.gov/investigations/e-qip-application/>. The COR will provide all other forms that are not obtainable via the internet.

(2) The Contractor shall deliver the forms and information required in paragraph (c)(1) of this clause to the COR as secure as possible.

(3) The information provided in accordance with paragraph (c)(1) of this clause will be used to perform a background investigation to determine the suitability of the contractor employees to have access to Government facilities. After completion of the investigation, the COR will notify the Contractor in writing when any contractor employee is determined to be unsuitable for access to a Government facility. The Contractor shall immediately remove such employee(s) from work on this contract that requires physical presence in a Government facility.

(4) Affected contractor employees who have had a Federal background investigation without a subsequent break in Federal employment or Federal contract service exceeding 2 years may be exempt from the investigation requirements of this clause subject to verification of the previous investigation. For each such employee, the Contractor shall submit the following information in lieu of the forms and information listed in paragraph (c)(1) of this clause: completed PIV and Pre-Security Form.

(d) *PIV Cards.* (1) HUD will issue a PIV Card to each contractor employee who is to be given access to HUD facilities and who does not already possess a PIV Card acceptable to HUD (see paragraph (b) of this clause). HUD will not issue the PIV Card until the contractor employee has (1) successfully cleared the FBI National Criminal History Fingerprint Check, (2) HUD has initiated the background investigation for the contractor employee, and (3) a Security Approval Notice from HUD PSD via PSDContractorIn-box@hud.gov has been received. Initiation is defined to mean that all background information required in paragraph (c)(1) of this clause has been delivered to HUD. The employee may not be given access prior to those three events. HUD may issue a PIV Card and grant access pending the completion of the background investigation. HUD will revoke the PIV Card and the employee's access if the background investigation process for the employee, including adjudication of the investigation results, has

not been completed within 6 months after the issuance of the PIV Card.

(2) PIV Cards shall identify individuals as contractor employees. Contractor employees shall display their PIV Cards on their persons at all times while working in a HUD facility, and shall present cards for inspection upon request by HUD officials or HUD security personnel.

(3) The Contractor shall be responsible for all PIV Cards issued to the Contractor's employees and shall immediately notify the COR if any PIV Card(s) cannot be accounted for. The Contractor shall promptly return PIV Cards to HUD, as required by the FAR clause at 52.204-9. The Contractor shall notify the COR immediately whenever any contractor employee no longer has a need for his/her HUD-issued PIV Card (*e.g.*, employee terminates employment with the contractor, employee's duties no longer require access to HUD facilities). The COR will instruct the Contractor on how to return the PIV Card, and upon expiration of this contract, the COR will instruct the Contractor on how to return all HUD-issued PIV Cards not previously returned. Unless otherwise directed by the Contracting Officer, the Contractor shall not return PIV Cards to any person other than the COR.

(4) The Contractor shall submit a report to the Contracting Officer and COR no later than five (5) calendar days after the end of each calendar quarter that provides the status of each employee who is required to work in a HUD facility during the performance of the contract. At a minimum, the report shall identify the contractor and the contract number, and list for each employee the following information:

- (i) Employee name;
- (ii) Name of HUD facility where employee works;
- (iii) Date background check submitted;
- (iv) Date PIV Card issued;
- (v) PIV card number;
- (vi) Date employee no longer has need of the HUD PIV Card;
- (vii) Date Contracting Officer and COR were notified that employee no longer had need of the HUD PIV Card; and
- (viii) Date PIV Card was returned to COR.

(e) *Control of access.* HUD shall have, and exercise, complete control over granting, denying, withholding, and terminating access of contractor employees to HUD facilities. The COR will notify the Contractor immediately when HUD has determined that an employee is unsuitable or unfit to be permitted access to a HUD facility. The Contractor shall immediately notify such employee that he/she no longer has access to any HUD facility, remove the employee from any such facility that he/she may be in, and provide a suitable replacement in accordance with the requirements of this clause.

(f) *Access to HUD information systems.* If this contract requires contractor employees to have access to HUD information system(s), application(s), or information contained in such systems, the Contractor shall comply with all requirements of HUDAR clause 2452.239-70, Access to HUD Systems, including providing for each affected employee any additional background investigation forms prescribed in that clause.

(g) *Subcontracts.* The Contractor shall incorporate this clause in all subcontracts where the requirements specified in paragraph (b) of this section are applicable to performance of the subcontract.

(End of clause)

[84 FR 15132, Apr. 15, 2019]

2452.237-77 Temporary closure of HUD facilities.

As prescribed in 2437.110(e)(4), insert the following clause:

Temporary Closure of HUD Facilities (MAR 2016)

(a)(1) The Department of Housing and Urban Development observes the following days as holidays—
 New Year's Day
 Martin Luther King's Birthday
 Washington's Birthday
 Memorial Day
 Independence Day
 Labor Day
 Columbus Day
 Veterans Day
 Thanksgiving Day
 Christmas Day

Any other day designated by Federal law, Executive Order or Presidential Proclamation.

(2) When any holiday specified in (a)(1) falls on a Saturday, the preceding Friday shall be observed. When any such holiday falls on a Sunday, the following Monday shall be observed. Observances of such days by Government personnel shall not be cause for additional period of performance or entitlement to compensation except as set forth in the contract. If the contractor's personnel work on a holiday, no form of holiday or other premium compensation will be reimbursed either as a direct or indirect cost, unless authorized pursuant to an overtime clause elsewhere in this contract.

(b)(1) HUD may close a HUD facility for all or a portion of a business day as a result of—

(A) Granting administrative leave to non-essential HUD employees (e.g., unanticipated holiday);

(B) Inclement weather;

(C) Failure of Congress to appropriate operational funds;

(D) Or any other reason.

(2) In such cases, contractor personnel not classified as essential, i.e., not performing critical round-the-clock services or tasks, who are not already on duty at the facility shall not report to the facility. Such contractor personnel already present shall be dismissed and shall leave the facility.

(3) The contractor agrees to continue to provide sufficient personnel to perform round-the-clock requirements of critical tasks already in operation or scheduled for performance during the period in which HUD employees are dismissed, and shall be guided by any specific instructions of the Contracting Officer or his/her duly authorized representative.

(c) When contractor personnel services are not required or provided due to closure of a HUD facility as described in this clause, the contractor shall be compensated as follows—

(1) For fixed-price contracts, deductions in the contractor's price will be computed as follows—

(A) The deduction rate in dollars per day will be equal to the per month contract price divided by the number of business days in each month.

(B) The deduction rate in dollars per day will be multiplied by the number of days services are not required or provided.

If services are provided for portions of days, appropriate adjustment will be made by the Contracting Officer to ensure that the contractor is compensated for services provided.

(2) For cost-reimbursement, time-and-materials and labor-hour type contracts, HUD shall not reimburse as direct costs, the costs of salaries or wages of contractor personnel for the period during which such personnel are dismissed from, or do not have access to, the facility.

(End of clause)

[64 FR 46100, Aug. 23, 1999, as amended at 71 FR 2441, Jan. 13, 2006; 77 FR 73538, Dec. 10, 2012; 81 FR 13754, Mar. 15, 2016]

2452.237-79 Post award conference.

As prescribed in 2437.110(e)(5), insert the following clause in all contracts for services:

Post Award Conference (MAR 2016)

The Contractor shall be required to attend a post-award conference on DATE_____ to be held at ADDRESS_____, unless other arrangements are made. All Contractors must have a valid ID for security clearance into the building.

(End of clause)

Alternate I Post Award Conference (MAR 2016) If the conference will be