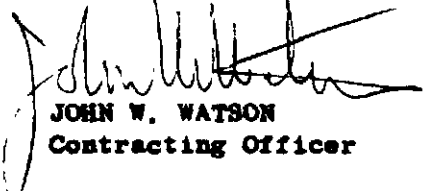


CONTRACTING OFFICER'S DETERMINATION

as to

Nonpersonal Nature of Services to be Obtained UnderContract/Modification Number DASA01-69-C-0131-P001with University of Cincinnati

Pursuant to ASPR 22-102.4, I have reviewed the purchase request applicable to the proposed contract/modification in light of the personal services criteria in ASPR 22-102.2, set forth in Incl 1 hereto, and have determined that the services to be called for by the proposed contract are nonpersonal in nature.



JOHN W. WATSON
Contracting Officer

Date: 13 April 1970

1 Incl: Extract, ASPR 22-102.2

Preaward Survey

Contr./Mod. 69-C-0131-P001DASA Form 447
3 Mar 70

ASPR 22-102.2 - CRITERIA FOR RECOGNIZING PERSONAL SERVICES. There are no definitive rules for characterizing particular services as "personal" or "non-personal." There are many factors involved, all of which are not of equal importance. The characterization of services in a particular case cannot be made by simply counting factors, but can only be the result of a balancing of all the factors in accordance with their relative importance. The following factors shall be considered, as well as any others which are relevant (some of the following factors include parenthetical explanations or qualifications which indicate the type of judgment that the contracting officer should exercise):

(1) the nature of the work --

(A) to what extent the Government can obtain civil servants to do the job, or whether the contractor has specialized knowledge or equipment which is unavailable to the Government (this is a factor which might be useful in a doubtful case, but should not in its self create doubt about services which are otherwise clearly nonpersonal);

(B) to what extent the services represent the discharge of a Governmental function which calls for the exercise of personal judgment and discretion on behalf of the Government (this factor, if present in a sufficient degree, may alone render the services personal in nature); and

(C) to what extent the requirement for services to be performed under the contract is continuing rather than short-term or intermittent (this is a factor which might be useful in a doubtful case, but should not in its self create doubt about services which are otherwise clearly nonpersonal);

(ii) contractual provisions concerning the contractor's employees (in considering the following, it should be noted that supervision and control of the contractor or his employees, if present in a sufficient degree, may alone render the services personal in nature) --

(A) to what extent the Government specifies the qualifications of, or reserves the right to approve, individual contractor employees (but granting or denying security clearance and providing for necessary health qualifications are always permissible controls over contractor employees; also, it is permissible to some extent to specify in the contract the technical and experience qualifications of contractor employees, if this is necessary to assure satisfactory performance);

(B) to what extent the Government reserves the right to assign tasks to and prepare work schedules for contractor employees during performance of the contract (this does not preclude inclusion in the contract, at its inception, of work schedules for the contractor, or the establishment of a time of performance for orders issued under a requirements or other indefinite delivery-type contract);

(C) to what extent the Government retains the right (whether actually exercised or not) to supervise the work of the contractor employees, either directly or indirectly:

(D) to what extent the Government reserves the right to supervise or control the method in which the contractor performs the service, the number of people he will employ, the specific duties of individual employees, and similar details (however, it is always permissible to provide in the contract that the contractor's employees must comply with regulations for the protection of life and property; also, it is permissible to specify a recommended, or occasionally even a minimum, number of people the contractor must employ, if this is necessary to assure performance -- but in that event it should be made clear in the contract that this does not in any way minimize the contractor's obligation to use as many employees as are necessary for proper contract performance);

(E) to what extent the Government will review performance by each individual contractor employee, as opposed to reviewing a final product on an overall basis after completion of the work;

(F) to what extent the Government retains the right to have contractor employees removed from the job for reasons other than misconduct or security;

(iii) other provisions of the contract --

(A) whether the services can properly be defined as an end product;

(B) whether the contractor undertakes a specific task or project that is definable either at the inception of the contract or at some point during performance, or whether the work is defined on a day-to-day basis (however, this does not preclude use of a requirements or other indefinite delivery-type contract, provided the nature of the work is specifically described in the contract, and orders are formally issued to the contractor rather than to individual employees);

(C) whether payment will be for results accomplished or solely according to time worked (this is a factor which might be useful in a doubtful case, but should not in its self create doubt about services which are otherwise clearly nonpersonal); and

(D) to what extent the Government is to furnish the office or working space, facilities, equipment, and supplies necessary for contract performance (this is a factor which might be useful in a doubtful case, but should not in its self create doubt about services which are otherwise clearly nonpersonal); and

(iv) administration of the contract --

(A) to what extent the contractor employees are used interchangeably with Government personnel to perform the same functions;

(B) to what extent the contractor employees are integrated into the Government's organizational structure; and

(C) to what extent any of the elements in (ii) and (iii) above are present in the administration of the contract, regardless of whether they are provided for by the terms of the contract.