

PART 817—SPECIAL CONTRACTING METHODS

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PART 817 - SPECIAL CONTRACTING METHODS

SUBPART 817.1 - MULTI-YEAR CONTRACTING

| 817.105 Policy.

| 817.105-1 Uses.

(a) Pursuant to Title 38, United States Code, Chapter 1, Section 114 (as amended by Pub. L. 100-237), multiyear contracting not exceeding 5 years is authorized for obtaining supplies and services when the Secretary has made the following determinations:

(1) Appropriations are available for obligation for the total payments for the fiscal year the contract is entered into plus the estimated amount of any cancellation charges.

(2) The contract is in the best interest of the Government due to the effect it would have in:

- (i) Reducing cost;
- (ii) Achieving contract administration and other efficiencies;
- (iii) Increasing quality contract performance;
- (iv) Encouraging effective competition.

(3) During the contract period:

- (i) There is a continuing need for the supplies or services;
- (ii) There is little likelihood of substantial changes in need for the supplies and services in terms of quantity or rate of delivery; and
- (iii) The specifications for the supplies or services are expected to be reasonably stable.

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(4) The risks relating to a prospective contractor's ability to perform in accordance with the specifications and other contract terms are not excessive;

(5) The use of a multiyear contract will not inhibit competition from small business firms;

(6) In the case of a pharmaceutical item for which a patent has expired less than 4 years before the solicitation issue date, there is no substantial likelihood that increased competition will occur during the term of the contract that would make the contract prices higher than would be reasonable.

(b) The authority of the Secretary to enter into multiyear contracts and to make the determinations specified in 817.105-1(a) of this section is delegated as follows:

(1) *Heads of contracting activities.* For contracts not requiring legal/technical reviews pursuant to 801.602-70 (for purposes of determining applicability of the thresholds, the total dollar amount of the contract over its full multiyear term will be used), and which do not contain a first year cancellation ceiling which exceeds 20 percent of the total dollar of the contract over the full multiyear term.

(2) *Deputy Assistant Secretary for Acquisition and Materiel Management,* will approve all proposed uses of multiyear contracts not authorized for approval by heads of contracting activities. For approval purposes, the head of the contracting activity will justify and document the use of a multiyear contract against each of the criteria specified in 817.105-1(a)(1) through (a)(6) of this section. The justification will additionally delineate the cancellation ceiling and the method used for calculating that ceiling and will specify the advantages of multiyear contracts over other alternative methods, e.g., option year contracts.

(c) Cancellation ceilings will be carefully developed in accordance with FAR 17.106-1.

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SUBPART 817.2 - OPTIONS

817.202 Use of options.

All solicitations developed pursuant to Office of Management and Budget Circular A-76 (Revised) cost comparisons will provide for one year renewal options as prescribed in FAR Subpart 17.2. Requests to use less or more than the prescribed contract period for Circular A-76 (Revised) cost comparisons will be forwarded to the Deputy Assistant Secretary for Acquisition and Materiel Management (90).

SUBPART 817.4 - LEADER COMPANY CONTRACTING

817.402 Limitations.

(a) Except as provided in 817.402(b), no leader company contracts shall be initiated or consummated.

(b) The Deputy Assistant Secretary for Acquisition and Materiel Management (90) may designate a contracting officer to enter into a leader company contract when considered beneficial to the Department and the Government. When a contracting officer is designated the authority to enter into a leader company contract, the designation will be by name for a specific contract. The proposed contract with a determination and finding will be submitted for legal review in accordance with 801.602-71.

:::SUBPART 817.5 - INTERAGENCY ACQUISITIONS UNDER THE ECONOMY ACT:::

:::817.500 Scope of Subpart.

(a) This subpart prescribes policies and procedures to be followed in administering interagency agreements when providing to or receiving from other Government departments or agencies materials, supplies, equipment, or services pursuant to the Economy Act of June 30, 1932, as amended (31 U.S.C. 1535). The policy and procedures outlined herein are also applicable when another Government department or agency desires to enter into an agreement when authority is derived from other than 31 U.S.C. 1535.

(b) This subpart is not applicable to commodities/services authorized by 38 U.S.C. 8153 (formerly section 5053) and 8154 (formerly section 5054) and 38 U.S.C. 8111 (formerly 5011) as amended by Pub. L. 97-74 and sections

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201-206 of Pub. L. 102-585 (see M-1, Part 1, Chapter 1, Section XI); and commodities for which VA is the established source of supply as prescribed in Federal Property Management Regulation 101-26 (41 CFR).:::

:::817.502 General.

VA will utilize the support services of other agencies to the extent feasible. Examples of such services are: preaward surveys, quality assurance and technical inspection of contract items; and review of contractors procurement systems.:::

:::817.503-70 Approval procedures.

(a) All proposed interagency agreements with any Government department or agency, regardless of expenditures, will be submitted to the Deputy Assistant Secretary for Acquisition and Materiel Management in accordance with VA Manual MP-2, Part 108-77. (For Department of Defence Sharing Agreements, see VAAR 817.500(b)). Submissions will consist of an original and three copies with complete justification for entering into the proposed agreement to reach VA Central Office 60 days prior to the effective date of the agreement. The Deputy Assistant Secretary for Acquisition and Materiel Management (90) is the only official authorized to execute Central Office administered interagency agreements on behalf of VA. Those interagency agreements administered by field facilities are to be executed by an individual authorized by the Contracting Officer Certification Program (see VAAR 801.602(b)).

(b) Requests for contract audit service will be made in accordance with 815.805.5.

(c) Reimbursement for any charges for services obtained under cross-servicing arrangements will be made from funds available for the related contract. The hourly rate established under the cross-servicing agreement of the Department of Defense and the National Aeronautics and Space Administration may be employed to facilitate reimbursement arrangements (ref. OFPP Policy Letter No. 78-4, August 8, 1978).

(d) Both the requesting and supporting activities are responsible for prudent use of support services provided under cross-servicing arrangements. Accordingly, servicing activities will, when deemed appropriate, counsel the requesting agency concerning the desirability and practicality of relaxing or waiving any controls or surveillance not necessary to ensure satisfactory performance of contracts.:::

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:::SUBPART 817.6 - MANAGEMENT AND OPERATING CONTRACTS:::

:::817.602 Policy.

All proposals for management and operating contracts, regardless of dollar value, will be submitted to the Deputy Assistant Secretary for Acquisition and Materiel Management (90), for review and consideration. If the concept is approved, the proposal will be returned to the contracting officer for preparation of the proposed contract which is to be resubmitted for legal review in accordance with 801.602-71.:::

:::SUBPART 817.70 - DEPARTMENT OF VETERANS AFFAIRS/DEPARTMENT OF DEFENSE HEALTH RESOURCES SHARING AND EMERGENCY OPERATIONS ACT:::

:::817.7001 Policy.

Pursuant to Pub. L. 97-174, it is the policy of VA and Department of Defense (DOD) to share their respective health resources. Sharing of resources includes potential sharing of equipment.:::

:::817.7002 Authority.

The authority citation, 38 U.S.C. 8111 (formerly section 5011), as amended by Pub. L. 97-174 and sections 201-206 of Pub. L. 102-585, may be used in accordance with their terms as a basis for a sharing agreement with DOD (see M-1, Part I, Chapter 1, Section XI).:::

:::817.7003 Procedure.

Prior to taking procurement action on any equipment anticipated to exceed \$400,000 the contracting officer will ensure that if a DOD Medical Treatment Facility (MTF) is within a 50-mile radius of the VA medical center, necessary coordination with the MTF has occurred in accordance with local procedures. This coordination is taken in order to determine if the MTF has similar equipment which can be shared or if the MTF would be interested in sharing the equipment to be purchased. The facility procurement file will be annotated to indicate that such coordination has occurred and the results of such coordination.:::

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