

# VAAR Part 817 - Special Contracting Methods

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## **Part 817 - Special Contracting Methods**

AUTHORITY: 38 U.S.C. 8127.

### **Subpart 817.1 - Multi-year Contracting**

#### **817.105 Policy.**

#### **817.105-1 Uses.**

(a) Under 38 U.S.C. 114, VA contracting officers may enter into multi-year contracts for supplies and services not to exceed 5 years (unless otherwise authorized by statute), provided the Secretary or designee makes the following determinations:

(1) Appropriations are available for obligation to pay for the total payments for the fiscal year in which the contract is awarded plus the estimated amount of any cancellation charges.

(2) The contract serves the best interest of the Government by:

(i) Reducing cost;

(ii) Achieving contract administration and other efficiencies;

(iii) Increasing quality contract performance; and

(iv) Encouraging effective competition.

(3) That, during the contract period:

(i) Demand for the supplies or services will continue;

(ii) Substantial changes in demand for supplies and services in terms of quantity or rate of delivery are unlikely; and

(iii) Specifications for the supplies or services will remain reasonably stable.

(4) The risk of the contractor's inability to perform under the terms and conditions of the contract is low.

(5) A multi-year contract will not inhibit competition from small businesses.

(6) For a pharmaceutical item for which a patent has expired less than 4 years before the solicitation issue date, that there is no substantial likelihood that increased competition among potential contractors would occur during the term of the contract as the result of the availability of generic equivalents increasing during the term of the contract.

(b) The Secretary has delegated authority to make the determinations specified in [817.105-1\(a\)](#) as follows:

(1) HCAs may make the above determinations and approve contracts that do not require legal/technical reviews under [801.602-70](#) and that do not contain a first year cancellation ceiling exceeding 20 percent of the contract value over the full multi-year term.

(2) Authority to make the above determinations and to approve all other proposed multi-year contracts is delegated to the SPE and is further delegated to the DSPE. For approval purposes, the HCA will justify and document the use of a multi-year contract against each of the criteria specified in paragraphs [\(a\)\(1\) through \(a\)\(6\)](#) of this section and forward to the DSPE for approval. The justification must explain the cancellation ceiling and the method used to calculate that ceiling. The justification also must explain the advantages of multi-year contracts over other alternative methods, e.g., option year contracts.

(c) The contracting officer must develop the cancellation ceilings in accordance with [FAR 17.106-1](#) . (38 U.S.C. 114)

## **Subpart 817.2 - Options**

### **817.202 Use of options.**

All solicitations developed under Office of Management and Budget Circular A-76 (Revised) cost comparisons will provide for four one-year renewal options as prescribed in [FAR Subpart 17.2](#) . The contracting officer must forward requests to use less or more than the prescribed contract period for Circular A-76 (Revised) cost comparisons to the DSPE for approval.

[Deviation per [Class Deviation](#) 817.204, Contracts Regarding Option Year Contracts and Terms Exceeding 5 Years (VAIQ 7640793), dated December 2, 2015, to delegate authority to approve periods of service beyond 5 years from the DSPE to the HCAs or designee. This class deviation will remain in effect until incorporated into the VAAR or the VAAM or is otherwise rescinded.]

### **817.204 Contracts.**

(a) The contracting officer must obtain the approval of the HCA or designee before awarding a

contract that includes options exceeding the 5-year limitation specified in [FAR 17.204\(e\)](#). This requirement does not apply to contracts to be awarded by or on behalf of the VA Office of the Inspector General. The request for approval must include the following:

(1) Supporting documentation, rationale, and justifications for the use of options (see [FAR 17.205](#)) and for exceeding the 5-year limitation.

(2) Documentation that the contracting officer has considered and addressed the limitations specified in [FAR 17.202\(b\) and \(c\)](#).

(b) Solicitations that require technical review in accordance with [801.602-71 through 801.602-73](#) shall be submitted for review concurrently as provided therein.

(c) HCAs shall report, no later than December 31st of each calendar year, to the Senior Procurement Executive (SPE) and the DSPE, on the number of contracts containing options exceeding 5 years. The report shall include-

(1) Contract number;

(2) Contractor name;

(3) Contracting activity;

(4) Total amount of contract;

(5) Total number of years of contract or period of performance;

(6) Total number of options;

(7) Value (amount) of base year of contract;

(8) Value (amount) of option year exercised and number of option;

(9) Remaining value (amount) and number of options remaining;

(10) Identification of the type of procurement (supplies, services, construction); and

(11) Identify the item(s) or service(s) procured.

## **Subpart 817.4 - Leader Company Contracting**

### **817.402 Limitations.**

(a) Except as provided in paragraph [\(b\) of this section, the Government shall not initiate or execute leader company contracts.](#)

(b) The DSPE may designate a contracting officer to enter into a leader company contract for the benefit of VA and the Government. The DSPE must designate a contracting officer by name for a specific contract. The named contracting officer will submit the proposed contract, with a determination and finding, for legal review in accordance with [801.602-75](#).

## **Subpart 817.5 - Interagency Acquisitions Under the Economy Act**

[Deviation per [Class Deviation](#)-Veterans First Contracting Program (VFCP 2016), dated July 25, 2016, replaces the language in VAAR 817.502 in its entirety and renumbers the section as 817.501. The deviation applies the Veterans First Contracting Program to any agreement or arrangement with any governmental entity to acquire goods and services on behalf of VA by contract. This deviation is effective until incorporated in the VAAR or the VAAM or is otherwise rescinded.]

### **817.501 General.**

(d) All contracts, agreements, or other arrangements with any governmental entity to acquire goods and services, including construction, that permits the governmental entity to award contracts on behalf of the Department of Veterans Affairs shall include a requirement that the entity will comply with the provisions of 38 U.S.C. 8127 and 8128 and the Veterans First Contracting Program as implemented at subpart [819.70](#). The governmental entity shall award contracts (see [FAR 2.101](#) for the definition of contracts) to capable service-disabled Veteran-owned small businesses (SDVOSBs) and Veteran-owned small businesses (VOSBs) listed as verified in the Vendor Information Pages (VIP) database.