Part 5117 - Special Contracting Methods

The official AFARS regulation resides on the Army's Knowledge Management Portal PAM. If you do not have CAC access to PAM, please visit the Army Contracting Enterprise's public facing website "Army Connect" at https://www.army.mil/armycontracting#org-afars. The AFARS will return to Acquisition.gov upon completion of the RFO.

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Subpart 5117.1 - Multi-Year Contracting

5117.104 General.

(b) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) may authorize modifications of the requirements as set forth in FAR 17.1. See Appendix GG for further delegation.

5117.105 Policy.

5117.105-1 Uses.

(b) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) may enter into a multi-year contract for supplies as described in FAR 17.105-1(b). See Appendix GG for further delegation.

See DPCAP Class Deviation 2024-O0005— Temporary Authorizations for Covered Contracts Related to Ukraine, Taiwan, and Israel. See Appendix GG for further delegation.

5117.106 Procedures.

5117.106-3 Special procedures applicable to DoD, NASA, and the Coast Guard.

(e) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) makes the approval as described in FAR 17.106-3(e). See Appendix GG for further delegation.

(f) The head of the contracting activity (HCA) may authorize the use of a solicitation requesting only multi-year prices as described in FAR 17.106-3(f). See Appendix GG for further delegation.

(g) The HCA may approve the use of variable unit prices as described in FAR 17.106-3(f). See Appendix GG for further delegation.

5117.108 Congressional notification.

(b) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) gives the written notification as set forth in FAR 17.108(b). See Appendix - GG Table Of Contents for further delegation.

For contracts awarded in accordance with DPCAP Class Deviation 2024-O0005— Temporary Authorizations for Covered Contracts Related to Ukraine, Taiwan, and Israel, see AFARS 5153.206-93(b) and (c) Instructions for Congressional Notification Requirement When Utilizing the Authorities Conferred by paragraphs (B) – (G) of DPCAP Class Deviation 2024- O0005 – Temporary Authorizations for Covered Contracts Related to Ukraine, Taiwan, and Israel; Workload Forecasting Instructions.

5117.171 Multi-year contracts for services.

(a) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) may perform the duties as described in DFARS 217.171(a). See Appendix GG for further delegation.

(b) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) must be guided by the principles as described in DFARS 217.171(b). See Appendix GG for further delegation.

(c) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) must make a written determination as stated in DFARS 217.171(c). See Appendix GG for further delegation.

5117.172 Multi-year contracts for supplies.

(b) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) must be guided by the principles as described in DFARS 217.172(b). See Appendix GG for further delegation.

(d) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) may perform the duties as described in DFARS 217.172(d). See Appendix GG for further delegation.

(e) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) must be guided by the principles as described in DFARS 217.172(e). See Appendix GG for further delegation.

(f)(2) The HCA makes the determination as stated in DFARS 217.172(f)(2). See Appendix GG for further delegation.

(g) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) may perform the duties as described in DFARS 217.172(g). See Appendix GG for further delegation.

5117.174 Multi-year contracts for electricity from renewable energy sources.

(a) The HCA shall perform the functions as described in DFARS 217.174(a). See Appendix GG for further delegation.

(b) Limitations. The HCA may exercise the authority as stated in DFARS 217.174(b). See Appendix GG for further delegation.

Subpart 5117.2 - Options

5117.204 Contracts.

(e) The HCA approves the use of contract terms in excess of the limitations specified in FAR 17.204(e). See Appendix GG for delegation.

(i)(C) DFARS 217.204(e)(i)(C) requires an “exceptional circumstances” determination to authorize task and delivery order contracts (including contracts for information technology) with ordering periods that would exceed 10 years. The Assistant Secretary of the Army (Acquisition, Logistics and Technology) approves the “exceptional circumstances” determination. See Appendix GG for further delegation.

(iii) The senior procurement executive shall approve use of options that extend performance under the order that extend more than 1 year beyond the 10-year limit or extended limit as stated in DFARS 217.204(e)(iii). See Appendix GG for further delegation.

5117.206 Evaluation.

In awarding the basic contract, if a Contracting officer determines that the Government is reasonably likely to exercise the option at FAR 52.217-8, Option to Extend Services, the Contracting

officer shall evaluate the price of the option as part of the source selection. The solicitation shall include the basis for evaluating the option price (see FAR 17.203(b)). If the Contracting officer does not evaluate the option at FAR 52.217-8 at the time of award, but later decides to exercise the option, the Contracting officer shall prepare a justification and approval (J&A) in accordance with FAR 6.303 prior to exercising the option (see FAR 17.207(f)).

5117.207 Exercise of options.

(c) In addition to the requirements at FAR 17.207(c) and DFARS 217.207(c), the Contracting officer may exercise options only after determining, when applicable, that –

(i) Government performance monitors have used a written quality assurance surveillance plan to ensure that services and supplies conform to contractual requirements (see FAR 37.603, 37.604, 46.102 and 46.401);

(ii) The Contracting officer has appointed a properly trained Contracting officer's representative for the contract or task order, or has documented the file to support retention of surveillance duties by the Contracting officer (see DFARS PGI 201.602-2);

(iii) The Contracting officer has verified registration in the Contractor Performance Assessment Reporting System of the contract or task order for the current period (see FAR 42.1502, DFARS 242.1502, and 5142.1502), and that the assessing official will complete the final report within 120 days following the end of the current performance period; and

(iv) There are monthly surveillance reports in the Virtual Contracting Enterprise (VCE) PCF, along with necessary corrective actions.

5117.290 Addition of option clause or quantities to contracts after award.

Contracting officers shall obtain prior approval in accordance with FAR 6.304 before modifying a contract to incorporate option clauses or additional option quantities after award. Justifications shall include the reason for the proposed modification and the potential impact of disapproval.

Subpart 5117.5 - Interagency Acquisitions

5117.502 Procedures.

5117.502-1 General.

(a) *Written agreement on responsibility for management and administration.*

(1) Use the DD Form 448, Military Interdepartmental Purchase Request (MIPR) as Part B of the Office of Federal Procurement Policy (OFPP) model interagency agreement. If a non-DoD agency is unable to accept a MIPR for Part B, use the Part B provided in the OFPP model interagency agreement.

(b) *Business-case analysis requirements for multi-agency contracts and governmentwide acquisition contracts.* For guidance on business-case analysis, see FAR 17.502-1(b). Submit the business case to the Office of the Deputy Assistant Secretary of the Army (Procurement) at the email address listed in AFARS 5101.290(b)(2)(ii)(A).

(i) *Cover letter.* The SCO shall sign the cover letter, recommending the business case for approval. The letter must indicate whether there is any Congressional interest in the procurement.

(ii) *Business case review document.* The business case review document shall include the signatures of the preparer, Contracting officer, technical representative, requirements representative, program manager, program executive officer, legal counsel, and SCO.

(iii) *Business case.* Use the format provided at FAR 17.502-1(b). Include the command control number on the upper right hand corner of every page of the business case, including the review document and approval page, to enable the reassembling of the business case analysis if the documents become separated.

(iv) *Approval page.* Submit the approval language as the last page of the business case on a plain page, not letterhead.

5117.502-2 The Economy Act.

(a) Assisted acquisitions that are subject to the Economy Act shall comply with DoD Financial Management Regulation DoD 7000.14-R, Vol 11A Chapter 3 and

(c) The requiring activity is responsible for preparing the Economy Act determination and findings (D&F). Approval of the D&F is in accordance with FAR 17.502-2(c)(2). See Appendix GG for further delegation. The Economy Act D&F is required for both direct and assisted acquisitions, in addition to the approval to use a non-DoD contract, when applicable (see 5117.770).

Subpart 5117.7 - Interagency Acquisitions: Acquisitions by Nondefense Agencies on Behalf of the Department of Defense

5117.703 Policy.

(e) The Under Secretary of Defense for Acquisition and Sustainment (USD(A&S)) shall make the determination as described in FAR 17.703(e). See Appendix GG for further delegation.

5117.770 Procedures.

(1) The requiring activity is responsible for making the approval required by DFARS 217.770. A Government official who is of a grade not lower than O-6 or GS-15 and is assigned to the requiring activity makes the approval. The approval document shall address the elements listed in DFARS 217.770(a)-(c). The requiring activity obtains prior concurrence of the determination in accordance

with paragraph (2) of this section.

(2) The following officials from the requiring activity's responsible contracting office shall concur with the use of a non-DoD contract prior to public announcement of the requirement:

(i) For acquisitions valued at or above the simplified acquisition threshold, but less than $50 million, the HCA. See Appendix GG for further delegation.

(ii) For acquisitions valued at or above $50 million but less than $250 million, the HCA. See Appendix GG for further delegation.

(iii) For acquisitions valued at or above $250 million, the HCA. See Appendix GG for further delegation.

(3) If the proposed acquisition meets the requirements for a written acquisition plan, the Contracting officer should attach the approval to use a non-DoD contract to the acquisition plan for concurrent approval when routing the acquisition plan for coordination and approval.

(4) If the approving official approves the use of a non-DoD contract at the blanket purchase agreement level, the individual calls against the agreement do not require separate determinations.

(5) Contracting officers shall follow the reporting requirements in DFARS 204.6 to support the Army's data collection and reporting requirements at DFARS 217.770(d).

Subpart 5117.74 - Undefinitized Contract Actions

5117.7404 Limitations.

(a) Foreign military sales contracts.

(1)(ii) The HCA shall approve actions as stated in DFARS 217.7404(a)(1)(ii). See Appendix GG for further delegation.

5117.7404-1 Authorization.

The HCA shall approve actions as stated in DFARS 217.7404-1. See Appendix GG for further delegation.

5117.7404-4 Limitations on obligations.

(c) If a waiver under Section D of DPCAP Class Deviation 2024-O0005- Temporary Authorizations for Covered Contracts Related to Ukraine, Taiwan, and Israel is utilized, the Contracting officer shall obligate funds only in an amount consistent with the contractor's requirements for the definitization period, up to 100% of the total amount of the contract.

5117.7404-5 Exceptions.

(b) The Assistant Secretary of the Army (Acquisition, Logistics and Technology) may waive the limitations as described in DFARS 217.7404-5. See Appendix GG for further delegation.

In accordance with Section (D) of DPCAP Class Deviation 2024- O0005 – Temporary Authorizations for Covered Contracts Related to Ukraine, Taiwan, and Israel, the Assistant Secretary of the Army (Acquisition, Logistics and Technology) may waive the limitations DFARS 217.7404(a) Foreign military sales contracts; 217.7404-3 Definitization schedule; and 217.7404-4, Limitations on obligations. See Appendix GG for further delegation. See AFARS 5153.206-93 and AFARS 5153.303-12 Format for Advance Congressional Notification When Utilizing Authorities Conferred by DPCAP Class Deviation 2024-O0005—Temporary Authorizations for Covered Contracts Related to Ukraine, Taiwan, and Israel. for instructions and sample format for reporting covered contracts applicable under this subpart to congressional defense committees.

5117.7404-6 Allowable profit.

The HCA shall perform the duties as stated in DFARS 217.7404-6. See Appendix GG for further delegation.

Subpart 5117.75 - Acquisition of Replenishment Parts

5117.7504 Acquisition of parts when data is not available.

(4)(ii) The HCA authorizes the action described in DFARS PGI 217.7504(4)(ii). See Appendix GG for further delegation.

Subpart 5117.90 - Job Order Contracts

5117.9000 Scope of subpart.

A Job Order Contract (JOC) is an indefinite-delivery, indefinite-quantity contract and an alternative contracting method to fulfill repair, maintenance, and minor construction requirements on a variety of projects ranging from sustainment, restoration, and modernization, simplified acquisition of base repair requirements, civil works operations and maintenance, small renovations, real property repair and maintenance with an estimated value more than the micro-purchase threshold for acquisitions of construction. A JOC includes a comprehensive collection of detailed repair, maintenance, and minor construction task descriptions or specifications, units of measure, and pre-established unit prices for discrete tasks. Each JOC order is comprised of several pre-described and pre-priced tasks. In general, proposed projects valued at or below the micro-purchase threshold for acquisitions of construction are considered inappropriate for ordering under a JOC because of the administrative costs associated with processing JOC orders and the simplified purchase methods available for these actions.

5117.9001 Definitions.

As used in this subpart –

“JOC Price Book” (JOCPB) means the compilation of repair, maintenance, and minor construction tasks, associated units of measure and unit prices that are used in job order solicitations and a JOC. JOC unit prices include direct material, labor and equipment costs, but not indirect costs or profits which are addressed in the coefficient(s). The use of labor-only line items is appropriate for use when proper internal controls are in place and incidental to construction. Labor line items are not to provide services, typically performed under a separate service or requirements contract. The JOCPB reflects the current local costs in detail for construction tasks expected to be performed in the geographical area of the base contract with the primary use of developing a detailed line item price. For CONUS, the JOCPB shall be developed using commercially available pricing tools to ensure consistent and comprehensive pricing of tasks unless the Contracting officer determines the use of a commercially available pricing tool is not in the best interest of the government.

“Coefficient” means a numerical factor that represents costs (generally indirect costs) not included in JOCPB unit prices (e.g., general and administrative and other overhead costs, insurance costs, bonding and alternative payment protection costs, protective clothing,

5117.9002 Applicability.

(a) A JOC may be used to execute repair, maintenance, and minor construction requirements for the requiring activity and are subject to the requirements in other parts of the FAR, DFARS, and this regulation.

(b) A JOC must only be used for the projects covered at AFARS 5117.9000. The requiring activity’s reoccurring facilities engineering support services, such as utility plant operation, custodial, grounds maintenance, refuse collection and disposal, and similar work shall not be acquired using a JOC. Architect-engineer services as defined in FAR 36.102 and Design-Build requirements as defined in FAR 36.3 shall not be acquired under a JOC. However, informal (shop) and as-built drawings, incidental to the job, reflecting the plan of action and the completed project, are anticipated under a JOC.

5117.9003 Use of job order contracts.

5117.9003-1 Planning and coordination.

(a) A JOC should be considered when the workload is anticipated to be of such a yearly volume that benefits derived from a JOC utilization are greater than the costs of the Government resources and contractor overhead associated with establishing and using a JOC. These costs include the total Government resources required to award, use, monitor, and administer the JOC and JOC orders, and management oversight and functional support of the entire JOC process. The calculated workload for a potential JOC should exclude –

(1) Work normally reserved for 8(a) or set aside for small businesses; and

(2) Work that can be effectively and economically accomplished by in-house resources.

5117.9004 Procedures.

5117.9004-1 Presolicitation.

(a) To solicit for a JOC, the Government must develop task specifications and a JOCPB tailored to the needs of the requiring activity to be supported. Any special range pricing (to get quantity discounts) of units associated with the requirements of known JOC projects to be ordered must be specified.

5117.9004-2 Solicitation.

(a) The Contracting officer must ensure that the specifications and the JOCPB have undergone technical review and validation and are tailored to meet the projected requirements of the requiring activity and local economic conditions.

(b) The JOC solicitation must include realistic and reasonable annual minimum and maximum dollar amounts for projected requirements to encourage competition and lower coefficients. Generally, the higher the minimum is, the lower the coefficient proposed will be.

(c) The solicitation must explain the make-up of the Government unit prices and specify what types of costs, as a minimum, must be covered by the coefficient. Offerors may have multiple coefficients and must specify what additional types of costs are included in their coefficients in their proposal. These additional costs may be incorporated in the contract, if appropriate, and may preclude later disagreements over non-pre-priced tasks. Multiple coefficients may be used for normal working hours and other than normal working hours.

(d) The solicitation must explain that there will be no separate repayment(s) for bond premiums because the bond premium is repaid through the coefficient, and the coefficient is paid as an indirect cost under progress payment or other standard payment provisions.

(e) JOC solicitation and contracts must use either annual coefficient adjustments or an annually updated JOCPB, but not both. AFARS clause 5152.237-9000, Adjustments to Contractor’s Coefficient for Option Years, can be used in JOC contracts in accordance with this paragraph when annual coefficient adjustments are used.

5117.9004-3 Ordering.

(a) Except as otherwise specified in this subpart, orders must be executed in accordance with FAR 16.505(a).

(b) *Statement of work.*

(1) The SOW for the proposed order must contain sufficient detail to enable the Government to develop an independent government estimate (IGE), in accordance with FAR 36.203 and to ensure that the contractor can properly prepare a responsive and cost-effective proposal with a minimum of non-pre-priced tasks.

(2) The SOW must be updated before issuing the order to reflect the negotiated agreement’s details and to include significant quantities, methods of construction, quality levels, and the number of days

to complete the work.

(c) *Limitations.*

(1) Except as provided in paragraph (2), the value of non-pre-priced work under an order must not exceed 10 percent of the value of the pre-priced work.

(i) The value of the pre-priced work must be computed by multiplying the coefficient(s) times the appropriate unit price(s) in the JOCPB.

(ii) When the contract allows, indirect costs and profit for non-pre-priced work may be attributed by the application of a solicited and pre-agreed rate to be applied to the unburdened labor, equipment, and material costs of the non-pre-priced work.

(iii) Description of non-pre-priced work must not be manipulated or forced to fit under a pre-priced line item, either to avoid including non-pre-priced line items in the order or to reduce the value of non-pre-priced line items in an attempt to circumvent the limitation in (c)(2).

(2) Normally, if the value of the non-pre-priced work exceeds 10 percent, then the non-pre-priced work should be reduced, eliminated, performed in-house, or the job must be acquired using other contracting methods. However, Contracting officers may exceed the 10 percent if justified and approved in accordance with FAR 6.302. The Contracting officer shall negotiate the modification and make a determination that the price is fair and reasonable.

(d) *Distribution.* A copy of all JOC orders must be sent to the contracting office appointing ordering officers, the Finance and Accounting Office, the office or individual assigned responsibility for inspection and technical administration of the contract, and any appointed COR. The Contracting officer must maintain the permanent record of each transaction, and administration shall be done in accordance with the contracting activity procedures.

5117.9005 JOC ordering officers.

(a) *Appointment.* A "JOC ordering officer" appointment is authorized, but is only required when the Contracting officer will not be executing all task orders. Appointments of ordering officers under each JOC must be minimized. The JOC ordering officer shall be obtained in accordance with AFARS 5101.603-1, The Contracting officer is the appointing authority for each individual job order that is within the JOC ordering officer authorities. The requiring activity may recommend JOC ordering officers. The JOC ordering officer shall be appointed by letter similar to that in 5153.303-2 Sample ordering officer appointment. (see 5101.602-2-92 Ordering officer appointments.), tailored for JOC.

(b) *Training*. All JOC ordering officers must receive specific training and orientation from the responsible contracting office at least annually and must document completion in PCF. This training must cover policy and procedures for the operation of a JOC and shall specifically address the ordering officer's authority, limitations, and responsibilities, including ethics, conflict of interest, and potential pecuniary liabilities. JOC ordering officers shall, at a minimum, meet contracting activity COR training requirements.

(c) *Authorization and limitations*.

(1) JOC ordering officers are authorized to sign task orders on behalf of the Government between the micro-purchase threshold for acquisitions of construction and the Simplified Acquisition

Threshold (SAT) as long as the value of the non-pre-priced item(s) does not exceed five percent of the total order to include contract modifications.

(2) The HCA may authorize JOC ordering officers to sign task orders of greater value than SAT. However, the delegated authority may not exceed the thresholds specified in 10 U.S.C. 2805(c) and may only be authorized when the HCA determines, in writing it is necessary to realize the benefits of a JOC, and provided that –

(i) adequate management controls are in place (e.g., Contracting officer oversight);

(ii) adequate training is provided;

(iii) the Contracting officer approves; and

(iv) the value of any non-pre-priced item(s) does not exceed 5 percent.

(3) JOC ordering officers may execute modifications to existing task orders provided that -

(i) the Contracting officer delegates explicitly this authority in the JOC ordering officer appointment letter;

(ii) the absolute value of the order as modified does not exceed the ordering officer's authority; and

(iii) pricing is accomplished by using the JOCPB.

(iv) modifications shall be limited to changing quantities of JOCPB items in the existing order unless the Contracting officer signs an in-scope determination.

(4) JOC ordering officers must notify the Contracting officer immediately of any modifications. The Contracting officer shall execute any modification outside of paragraph 3 above.

(d) *Responsibilities*. JOC ordering officers--

(1) Are responsible for ensuring that all proposed JOC project descriptions and task orders express the Government's actual requirements, validated in accordance with the requiring activity's procedures;

(2) Must obtain concurrence from the Contacting officer that sufficient capacity exists on the JOC before issuing of a task order;

(3) Must obtain a valid Purchase Request and Commitment (PR&C) from resource management to ensure that adequate and proper funds are available for the project before issuing an order and/or modification;

(4) Must notify the Contracting officer of any additional bonding requirements associated with new orders or changes in the value of existing orders;

(5) As the principal point of contact for technical and engineering issues, must respond to requests for technical clarification from the JOC contractor, documenting both the request and the response, and conduct the joint pre-proposal site survey, assuring that the contractor is provided access to all required facilities, plans, and other documents required for full knowledge of the scope and conditions of the required job;

(6) For orders estimated to exceed the JOC ordering officer's signature authority, the JOC ordering

officer shall conduct an initial evaluation of contractor proposals; may be authorized to solicit such proposals and clarify and negotiate units and quantities of pre-priced tasks; and shall assist the Contracting officer, as requested, in negotiations, and resolution of variances between the IGE and the contractor’s proposal;

(7) Must maintain a contract file in PCF and complete contract documentation for each order and modification executed, including a record of all related correspondence and actions taken before award of the order and in the order administration phase; and

(8) Is responsible, along with a COR, if appointed, for assisting the Contracting officer in technical monitoring of the contractor’s performance of orders issued under a JOC to include --

(i) Monitoring compliance with the SOW and schedule;

(ii) Ensuring contractor or supplier compliance with the clause at FAR 52.225-5, Trade Agreements (Nov 2023);

(iii) Ensuring compliance with the Wage Rate Requirements (Construction) statute (40 U.S.C. Chapter 31, Subchapter IV, formerly known as the Davis Bacon Act, subpart 22.4);

(iv) Assessment and validation of percentage of completion for progress payment purposes;

(v) Recommending to the Contracting officer changes to existing orders, beyond the ordering officer’s authority;

(vi) Documenting and quickly reporting to the Contracting officer systemic or recurring problems in contractor performance;

(vii) Prioritization of orders when required (in coordination with the requiring activities), provided no increase in cost is involved;

(viii) Submitting performance evaluation reports (see AFARS 5136.201), as applicable; and

(ix) Providing to the requiring activity documents required for continuing customer responsibilities (e.g., as-built drawings and warranties).

5117.9006 Contracting officer responsibilities.

(a) At least once a year, the Contracting officer must ensure that ordering officer files and procedures are reviewed and that a representative sampling of orders is selected for tracking from initiation of the requirement to final payment and close-out of the order.