1644.170 Policy for FEHB Program subcontracting.

(a) *General policy.* Carriers must follow commercially reasonable procurement procedures that comply, when required, with the Federal Acquisition Regulations (FAR) policies and procedures relating to competition and contract pricing for the acquisition of both commercial and noncommercial items.

(b) *Consent.* For all experience-rated contracts, carriers will notify the Contracting officer in writing at least 30 days in advance of entering into any subcontract or subcontract modification, or as otherwise specified by the contract, if: the amount of the subcontract or the amount of the subcontract and modification charged to the FEHB Program equals or exceeds $550,000 and is at least 25 percent of the total subcontract's costs. The amount of the dollar charge to the FEHB Program shall be adjusted by the same amount and at the same time as any change to the threshold for application of the Truth in Negotiations Act pursuant to 41 U.S.C. 254b(a)(7). Failure to provide advance notice may result in a Contracting officer's disallowance of subcontract costs or a penalty when considering the performance aspect of the carriers' service charge.

(1) All subcontracts or subcontract modifications that equal or exceed the threshold are subject to audit under FAR 52.215-2 “Audit and Records-Negotiations” if based on cost analysis, and subject to the provisions of 48 CFR 1646.301 and 1652.246-70 “FEHB Inspection” if based on price analysis.

(2) In determining whether the amount chargeable to the FEHB Program contract for a given subcontract or modification equals or exceeds the $550,000 threshold, the following rules apply:

(i) For initial advance notification, the carrier shall provide the total cost/price for the base year.

(ii) The carrier shall provide advance notification of any modifications, options, including quantity or service options and option periods, and renewals of “evergreen contracts” that cause the total price to equal or exceed the threshold. OPM's review will be of the modification(s), itself, but documentation for the original subcontract will be required to perform the review.

(iii) The $550,000 threshold will be adjusted by the same amount and at the same time as any change to the threshold for application of the Truth in Negotiations Act.

Parent topic: Subpart 1644.1—General