PART 816—TYPES OF CONTRACTS

Authority: 40 U.S.C. 121(c); 41 U.S.C. 1121(c)(3); 41 U.S.C. 1702; and 48 CFR 1.301 through 1.304.

Source: 73 FR 2717, Jan. 15, 2008, unless otherwise noted.

Subpart 816.1 [Reserved]

Subpart 816.2—Fixed-Price Contracts

816.203 Fixed-price contracts with economic price adjustment.

816.203-4 Contract clauses.

Subpart 816.5—Indefinite-Delivery Contracts

816.505 Ordering.

816.506-70 Requirements—supplement for mortuary services.

816.570 Ordering officers.

Subpart 816.7—Agreements

816.770 Consignment agreements.

Subpart 816.70 [Reserved]

Parent topic: SUBCHAPTER C—CONTRACTING METHODS AND CONTRACT TYPES

Subpart 816.1 [Reserved]

Subpart 816.2—Fixed-Price Contracts

Source: 83 FR 7403, Feb. 21, 2018, unless otherwise noted.

816.203 Fixed-price contracts with economic price adjustment.

816.203-4 Contract clauses.

(e) The contracting officer shall, when contracting by negotiation, use the following clauses.

(1) The contracting officer shall insert the clause at 852.216-71, “Economic Price Adjustment of Contract Price(s) Based on a Price Index,” in solicitations and firm fixed price contracts, subject to FAR 16.203-4(d)(1) and when changes to a price index will be used to calculate corresponding changes to the total contract price or unit prices of the contract.

(i) Exceptions:

(A) Do not use this clause when changes to the price index will apply to only a component part of the contract price.

(B) Do not publish or include the footnotes in the solicitation, they are only included herein to provide guidance to contracting officers.

(2) The contracting officer shall insert the clause at 852.216-72, “Proportional Economic Price Adjustment of Contract Price(s) Based on a Price Index,” in solicitations and firm fixed price contracts, and subject to FAR 16.203-4(d)(1) when changes to an industry price index shall be used to calculate changes to only a portion of the contract price or the unit prices of the contract.

(i) Exceptions:

(A) The clause should not be used when a change in the index price will be applied directly and totally to the contract price or the unit prices, i.e., when the Consumer Price Index is used to calculate changes and a 5% increase in the CPI would result in a 5% increase in the total contract price of the unit prices.

(B) Do not publish or include the footnotes in the solicitation, as they are only provided for guidance to the contracting officer.

(3) The contracting officer shall insert the clause at 852.216-73, “Economic Price Adjustment—State Nursing Home Care for Veterans,” in solicitations and firm fixed price contracts subject to FAR 16.203-4(d)(1) and the following circumstance: When changes to the Medicaid rate, as authorized by the State Medicaid Agency (SMA), shall be used to calculate corresponding changes in the total contract price or the per diem prices of the agreement or contract.

(4) The contracting officer shall insert the clause at 852.216-74, “Economic Price Adjustment—Medicaid Labor Rates,” in solicitations and firm fixed price contracts when the conditions specified in FAR 16.203-4(c)(1) apply. The clause is modifiable by increasing the 10-percent maximum limit on aggregate increases specified in paragraph (c)(4) of this section, upon the approval by the Head of the Contracting Activity (HCA) or designee.

(5) The contracting officer shall insert the clause at 852.216-75, “Economic Price Adjustment—Fuel Surcharge,” in solicitations and firm fixed price contracts when contracting by negotiation is subject to changes in the cost of fuel increases. The clause is subject to the conditions at FAR 16.203-4(d)(1).

(f) The contracting officer shall follow procedures as prescribed in FAR 16.203-4(c) and 38 CFR 51.41(b)

(1) for EPA fixed price contracts based on Medicaid rates. These procedures shall be used when contracting by negotiation between the VA and the State Veteran Home for making payments under contracts for nursing home care for Veterans.

Subpart 816.5—Indefinite-Delivery Contracts

816.505 Ordering.

(b)(8) Task-order and delivery-order ombudsman. The task-order contract and delivery-order ombudsman for VA is the Associate Deputy Assistant Secretary (ADAS) for Procurement Policy, Systems and Oversight. The VA Ombudsman shall review and resolve complaints from contractors concerning all task and delivery order actions. If any corrective action is needed after reviewing complaints from contractors, the VA Ombudsman shall provide a written determination of such action to the contracting officer. Contracting officers shall be notified of any complaints submitted to the VA Ombudsman.

816.506-70 Requirements—supplement for mortuary services.

Insert the clause 852.216-76, Requirements—Supplement for Mortuary Services, in contracts for mortuary services containing FAR clause 52.216-21, Requirements. The contracting officer shall insert activities authorized to place orders in paragraph (e) of the clause.

816.570 Ordering officers.

In accordance with 801.601, when authorized, ordering officers may place orders for supplies and services against established Indefinite-Delivery Contracts within the ordering limits identified in the contract or the specific ordering guide when funding is available. Ordering officers shall only place orders against the contract if it is awarded to a single awardee. When a contracting officer appoints an ordering officer in writing after award, the contracting officer will furnish the contractor with an updated list of individual ordering officers authorized to place orders against the contract. Ordering officers may not negotiate contract terms and conditions, determine price reasonableness, or determine best value.

Subpart 816.7—Agreements

Source: 83 FR 7404, Feb. 21, 2018, unless otherwise noted.

816.770 Consignment agreements.

Consignment agreements shall only be established under a contract and by a contracting officer. A consignment agreement is defined as a delivery method for a specified period of time in which the contractor provides an item/s for Government use and the contractor receives reimbursement only if and when the item is used by the Government. Consignment agreements are allowable and shall be considered in those instances when the requirement for an item is immediate and on-going and when it is impossible to predetermine the type or model of a particular item until the need is established, and it is determined to be in the best interest of the VA.

Subpart 816.70 [Reserved]