970.1706-1 Award, renewal, and extension.

(a) *Contract term.* Effective performance under an M&O contract is facilitated by the use of a relatively long contract term. Only the Secretary can authorize the use of an M&O contract and only the Secretary can renew the original authorization of an M&O contract.

(1) An M&O contract shall—after the Secretary has authorized its original use (either by a competitive award or by a sole source award), its maximum term, and any other limits on its terms (options or other terms)—provide for a base term not to exceed the lesser of five years or the maximum term the Secretary authorized.

(2) The contract may include option terms provided no option term exceeds the lesser of five years or the maximum term the Secretary authorized (for options or the contract) and the sum of base term and the option terms does not exceed the lesser of 10 years or the maximum term the Secretary authorized for the contract. In addition to the base term and the option terms just described, an M&O contract for a national laboratory that is competitively awarded may provide for award term incentives provided none exceed the maximum term the Secretary authorized for each. The sum of base term, option terms, and award terms shall not exceed the lesser of 20 years or the maximum term the Secretary authorized for the contract.

(3) After the Secretary's original authorization of the use of the M&O contract has expired, any continuation of work under an M&O contract must be preceded by the Secretary's renewal of his/her authorization for use of an M&O contract. Whether work is to be continued by a competitive award to a new contractor or to the incumbent, by a sole source award to a new contractor, or by a sole source extension of the contract to the incumbent, the Secretary's renewal of his/her authorization for use of an M&O contract to perform the work is required before work may continue.

(4) In addition to requiring the Secretary's renewal of his/her authorization for use of an M&O contract, a sole source extension of an M&O contract to the incumbent must be justified under one of the statutory authorities listed in FAR 6.302 and authorized by the Secretary.

(5) The specific duration of the base term, option terms, and award terms of an M&O contract must be established concurrent with the Secretary's authorization (or renewal of his/her authorization) to use an M&O contract (for original use, sole source award to a new contractor, competitive award to a new contractor or to the incumbent, or sole source extension of the contract to the incumbent).

(b) *Exercise of option.* The contracting officer's decision to exercise an option (if the Secretary's authorization to use an M&O contract covers the option period) must be approved by the Senior Procurement Executive and the cognizant Assistant Secretary(s). In deciding to exercise the option, the contracting officer shall:

(1) Consider the extent to which performance-based management contract provisions are present or can be negotiated into the contract.

(2) Make the determinations required by FAR 17.605 in the manner described therein. As part of the review required by FAR 17.605(b), the Contracting Officer shall assess whether competing the contract will produce a more advantageous offer than exercising the option. The incumbent contractor's past performance under the contract, the extent to which performance-based management contract provisions are present, or can be negotiated into the contract, and the impact of a change in a contractor on the Department's discharge of its programs are considerations that

shall be addressed in the Contracting Officer's decision that the exercise of the option is in the Government's best interest. The Contracting Officer's decision shall be approved by the Senior Procurement Executive and the cognizant Assistant Secretary(s). The determinations described in FAR 17.207(d) and (e)(2) are not required, and because of the way in which the evaluation of cost to the Government is performed in the award of an M&O contract that includes options, the Contracting Officer need only determine the option was evaluated as part of the initial competition and contains a maximum fee. The Contracting Officer need not, for example: issue a new solicitation; informally analyze prices; or determine the option is the more advantageous offer.

(c) *Conditional Authorization of Non-competitive Extension Made Pursuant to Authority Under CICA.* Authorization to extend a management and operating contract by the Head of the Agency shall be considered conditional upon the successful negotiation of the contract to be extended in accordance with the Department's negotiation objectives. The Head of the Contracting Activity shall advise the Senior Procurement Executive no later than 6 months after receipt of the conditional authorization as to whether the Department's objectives will be met and, if not, the contracting activity's plans for competing the requirement.

Parent topic: Subpart 970.17—Special Contracting Methods