

815.607

which will be evaluated. The log will indicate:

(1) The date the proposal was received;

(2) The date that the unsolicited proposal has been determined to warrant a comprehensive evaluation;

(3) A description of the proposal;

(4) The offices requested to evaluate the proposal and the date such offices are requested to return their evaluations;

(5) The date the reviewing offices finalize their respective evaluation; and

(6) The final disposition of the proposal.

(c) Each office which is assigned responsibility for reviewing an unsolicited proposal will be advised of the need to evaluate the proposal against the criteria set forth in FAR 15.507(a) (1) through (3), i.e., is the proposal available to the Government without restriction from another source, does it closely resemble a pending competitive acquisition, is the proposal lacking in demonstrated innovation or uniqueness? If the reviewers conclude in the affirmative as to any one of these questions, the VA contact point shall be advised and return the proposal to the proposer.

(d) With regard to an unsolicited proposal being processed at a field facility, if the reviewing offices conclude that the unsolicited proposal should be accepted and provide the justification and certification required by FAR 15.507, the VA contact point will obtain the prior approval of the Deputy Assistant Secretary for Acquisition and Materiel Management (93) prior to proceeding with negotiation. In order to obtain the approval, the VA contact point will submit all necessary documentation supporting the noncompetitive negotiation including any justification and approval required by FAR Subpart 6.3 and results of any synopsis required by FAR Subpart 5.2. The Deputy Assistant Secretary for Acquisition and Materiel Management will coordinate the proposal with the cognizant VA Central Office program official(s) and furnish the VA contact point with the final decision.

(e) All copies of the unsolicited proposal will be controlled by the contact point by numbering each copy. If a re-

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viewing office requires additional copies, the reviewing office will obtain approval of the VA contact point prior to duplication, numbering the copies as specified by the contact point. All copies will be returned to the VA contact point once review is completed.

[51 FR 6005, Feb. 19, 1986, as amended at 54 FR 40063, Sept. 29, 1989]

Subpart 815.6—Source Selection

815.607 Disclosure of mistakes before award.

The Head of the Contracting Activity (as defined in 802.1) is delegated authority to permit correction of mistakes in proposals before award consistent with FAR 15.607.

[54 FR 45736, Oct. 31, 1989]

Subpart 815.8—Price Negotiation

815.804-70 Preproduction and start-up and other nonrecurring costs.

In evaluating start-up and other nonrecurring costs, the extent to which these costs are included in the proposed price and the intent to absorb or recover any such costs in any future noncompetitive procurement or other pricing action will be determined. The contracting officer will ascertain, with the assistance of the Assistant Inspector General for Policy, Planning and Resources (53), as required or considered necessary, that payment of such costs is not duplicated. For example, cost of equipment paid for by the Government through a setup or connection agreement will not be included in depreciation costs of a subsequently negotiated agreement.

[49 FR 12604, Mar. 29, 1984, as amended at 50 FR 792, Jan. 7, 1985; 54 FR 40063, Sept. 29, 1989]

815.805-4 Technical analysis.

(a) Contracting officers are responsible for the technical and administrative sufficiency of the contracts they enter into and ensuring that all legal and technical reviews are accomplished. To this end, initial and revised pricing of all negotiated prime contracts (including subcontract pricing

under them) and contract modifications will be subject to technical analyses to the degree the contracting officer deems necessary (see 801.602-70 for required legal reviews). Technical analyses of the proposals will be requested by the contracting officer from the appropriate technical personnel to address, as a minimum, the items set forth in FAR Subpart 15.805-4. Contracting officers shall not begin negotiation of or award any negotiated contracts or contract modifications before receipt, analysis and consideration of documented technical evaluations for every procurement action requiring such analysis under the conditions prescribed in FAR 15.805-4. The results of such analyses will be documented in the contract file and will also be made available to the auditor performing the preaward audit required by 815.805-5.

(b) When, in the opinion of the contracting officer, the complexity of the proposed contract warrants, he/she will submit the proposed contract to the Deputy Assistant Secretary for Acquisition and Materiel Management (93) for review and comment. When deemed advisable, the Deputy Assistant Secretary for Acquisition and Materiel Management (93) will request the General Counsel to accomplish a legal review. This review is in addition to the legal review specified in 801.602-70.

PART 816—TYPES OF CONTRACTS

Subpart 816.1—Selecting Contract Types

Sec.
816.102 Policies.

Subpart 816.70—Unauthorized Agreements

816.7001 Letters of availability.

AUTHORITY: 38 U.S.C. 501 and 40 U.S.C. 486(c).

Subpart 816.1—Selecting Contract Types

816.102 Policies.

(a) Contracts which include an economic price adjustment provision other than those contracts awarded by the National Cemetery System for monuments or those contracts that contain the clause for service contracts (FAR 22.1006(c)) require the prior approval of

the Deputy Assistant Secretary for Acquisition and Materiel Management (90). The request for approval shall clearly set forth the need for the provision.

(b) Any contract involving direct obligation of appropriations and which extends beyond the appropriation of the year in which the contract period begins or which is for more than one fiscal year, is to contain provisions to the effect that:

(1) It is made for the period covered by the contract, subject to the availability of appropriations in the ensuing year(s), and

(2) No service is to be performed by the contractor after September 30 of each fiscal year unless and until specifically authorized by the contracting officer or representative.

(c) Architect-engineer contracts, construction contracts, or professional engineer contracts, financed by “no year appropriations” are not subject to the requirements of paragraph (b) of this section.

[49 FR 12607, Mar. 29, 1984, as amended at 50 FR 792, Jan. 7, 1985; 54 FR 30045, July 18, 1989; 61 FR 20492, May 7, 1996]

Subpart 816.70—Unauthorized Agreements

816.7001 Letters of availability.

(a) *Description.* A letter of availability (sometimes inappropriately called a letter of intent) is a letter to a supplier primarily for the purpose of obtaining a place on the supplier’s production or delivery schedule for long lead time items. Such a letter typically indicates that products or services are being considered for procurement, but that the statement of intent is not to be construed as a commitment. Such letters of availability are sometimes solicited by prospective contractors, or they may be originated by Government personnel. A letter of availability is distinguished from a letter contract which is specifically authorized in FAR 16.603.

(b) *Policy.* (1) Unless specifically authorized by the Deputy Assistant Secretary for Acquisition and Materiel Management, letters of availability are not to be utilized for the following reasons: