

(i) While such letters of availability may disclaim Government liability, they may induce potential contractors to initiate costly preparations in anticipation of contract award.

(ii) Procurements announced in such letters do not always materialize. The result may be costly to the Government, the prospective contractor, or both. If the author of the letter of availability is an authorized contracting officer of the Department, the Government may be bound by action, even though the action is contrary to sound procurement practices and/or fiscal regulations. If the author of the letter of availability lacks procurement authority, the prospective contractor may incur substantial expenditures which may not be recovered from the Government, but for which the prospective contractor may seek to hold the unauthorized author personally liable.

(iii) The issuance of a letter of availability may violate the "Anti-Deficiency Act" (31 U.S.C. 1341).

(2) It is recognized that potential contractors have a need to obtain procurement information at the earliest possible moment in order to make timely preparations. To this end, procurement personnel are expected to act as efficiently and expeditiously as possible on all procurement actions.

[49 FR 12607, Mar. 29, 1974, as amended at 54 FR 30044, July 18, 1989; 54 FR 40064, Sept. 29, 1989]

PART 817—SPECIAL CONTRACTING METHODS

Subpart 817.1—Multi-Year Contracting

Sec.
817.105 Policy.
817.105-1 Uses.

Subpart 817.2—Options

817.202 Use of options.

Subpart 817.4—Leader Company Contracting

817.402 Limitations.

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

SOURCE: 49 FR 12608, Mar. 29, 1984, unless otherwise noted.

Subpart 817.1—Multi-Year Contracting

817.105 Policy.

817.105-1 Uses.

(a) Pursuant to Title 38, United States Code, Chapter 1, Section 114 (as amended by Pub. L. 101-237), multiyear contracting not exceeding 5 years is authorized for obtaining supplies and services when the Secretary has made the following determinations:

(1) Appropriations are available for obligation for the total payments for the fiscal year the contract is entered into plus the estimated amount of any cancellation charges.

(2) The contract is in the best interest of the Government due to the effect it would have in:

- (i) Reducing cost;
- (ii) Achieving contract administration and other efficiencies;
- (iii) Increasing quality contract performance;
- (iv) Encouraging effective competition.

(3) During the contract period:

- (i) There is a continuing need for the supplies or services;
- (ii) There is little likelihood of substantial changes in need for the supplies and services in terms of quantity or rate of delivery; and
- (iii) The specifications for the supplies or services are expected to be reasonably stable.

(4) The risks relating to a prospective contractor's ability to perform in accordance with the specifications and other contract terms are not excessive;

(5) The use of a multiyear contract will not inhibit competition from small business firms;

(6) In the case of a pharmaceutical item for which a patent has expired less than 4 years before the solicitation issue date, there is no substantial likelihood that increased competition will occur during the term of the contract that would make the contract prices higher than would be reasonable.

(b) The authority of the Secretary to enter into multiyear contracts and to make the determinations specified in 817.102-1(a) of this section is delegated as follows:

(b) The authority of the Secretary to enter into multiyear contracts and to make the determinations specified in 817.102-1(a) of this section is delegated as follows: