

806.304

(b) A justification prepared by the contracting officer in accordance with FAR 6.303.

[51 FR 23066, June 25, 1986, as amended at 61 FR 20492, May 7, 1996]

806.304 Approval of the justification.

(a) Approvals of justifications as specified in FAR 6.304, prepared in accordance with FAR 6.303, will be approved as follows:

(1) For a proposed contract not exceeding \$100,000, one contracting level above the contracting officer (see Subpart 801.6). However, if the contracting officer is also the head of the contracting activity approval will be made by:

(i) The medical center director for acquisitions at Veterans Health Administration (VHA) medical facilities, or

(ii) The Agency Competition Advocate (806.501(a)) in all other cases.

(2) For a proposed contract over \$100,000 but not exceeding \$1,000,000, by the Contracting Activity Competition Advocate (806.501(b)). However, if the Contracting Activity Competition Advocate is also the contracting officer, approval will be made by:

(i) The medical center director for acquisitions at VHA medical facilities, or

(ii) The Agency Competition Advocate in all other cases.

(3) For a proposed contract over \$1,000,000 but not exceeding \$10,000,000 by the Agency Competition Advocate (806.501(a)).

(4) For a proposed contract over \$10,000,000 by the Senior Procurement Executive (See 802.100).

(b) Class justifications as specified in FAR 6.304(c), will be approved by the Agency Competition Advocate regardless of dollar amount.

[51 FR 23066, June 25, 1986, and 52 FR 28559, July 31, 1987, as amended at 54 FR 40063, Sept. 29, 1989; 61 FR 20492, May 7, 1996; 63 FR 69218, Dec. 16, 1998]

48 CFR Ch. 8 (10-1-06 Edition)

Subpart 806.4—Sealed Bidding and Competitive Proposals

806.401 Sealed bidding and competitive proposals.

Contracting officers shall solicit sealed bids if the contract is expected to exceed the small purchase limitation or expected to exceed \$1,000 for contracts made for repairs to property acquired by VA under 38 U.S.C. Chapter 37 and the criteria in FAR 6.401(a) are met. The contract file shall include any findings by the contracting officer that sealed bidding is not appropriate.

[51 FR 23066, June 25, 1986, and 52 FR 28559, July 31, 1987, as amended at 54 FR 40063, Sept. 29, 1989]

Subpart 806.5—Competition Advocates

806.501 Requirement.

(a) The Associated Deputy Assistant Secretary for Acquisitions (90A) is designated as the Agency Competition Advocate.

(b) The Executive Director and Chief Operating Officers, VA National Acquisition Center, or designee, will serve as the Competition Advocate for the Center. Each head of the contracting activity (see Subpart 802.1) or designee will serve as the Contracting Activity Competition Advocate in all other cases.

[51 FR 23066, June 25, 1986, and 52 FR 28559, July 31, 1987, as amended at 54 FR 40063, Sept. 29, 1989; 61 FR 1527, Jan. 22, 1996; 63 FR 69218, Dec. 16, 1998]

806.502 Duties and responsibilities.

In addition to the responsibilities identified in FAR 6.502(a), the Agency Competition Advocate will coordinate the competition advocacy program as it is implemented at all VA contracting activities. The Agency Competition Advocate will:

(a) Establish program guidelines to be used by contracting activity competition advocates;

(b) Assist contracting activity competition advocates with obstacles to promoting competition;

(c) Utilize supply technical surveys, other facility reports, and the Federal Procurement Data System to monitor

Department of Veterans Affairs

807.304-76

contracting activity compliance with the advocacy program;

[51 FR 23066, June 25, 1986, as amended at 61 FR 20492, May 7, 1996]

806.570 Planning requirements.

Competition Plan. Each Contracting Activity Competition Advocate shall develop a Competition Plan and incorporate the Plan in the internal operating procedures of the facility or organization in which the contracting activity is located. It is essential that the plan be endorsed and supported by top level management and be clearly understood by the services and offices that the contracting activity support. As a minimum, the plan shall include:

- (a) The approval requirements for other than full and open competition specified in FAR 6.304;
- (b) A description of the synopsis requirements contained in FAR Subpart 5.2 in order that the necessity for Advance Procurement Planning is fully understood;
- (c) A description of how the Competition Plan should be integrated into Advance Procurement Planning;
- (d) Identification of any known obstacles to competition and a proposal for overcoming them;
- (e) A method for otherwise increasing competition for contracts on the basis of cost and other significant factors.

[51 FR 23066, June 25, 1986, as amended at 61 FR 20492, May 7, 1996; 63 FR 69218, Dec. 16, 1998]

PART 807—ACQUISITION PLANNING

Subpart 807.3—Contractor Versus Government Performance

- Sec.
- 807.300 Scope of subpart.
- 807.304 Procedures.
- 807.304-73 Bid opening/receipt of proposals.
- 807.304-75 Bid acceptance.
- 807.304-76 Contract effective date.
- 807.304-77 Right of first refusal.

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

SOURCE: 53 FR 43210, Oct. 26, 1988, unless otherwise noted.

Subpart 807.3—Contractor Versus Government Performance

807.300 Scope of subpart.

This subpart prescribes basic procedures and principles to be followed in performing the contracting aspect of the OMB Circular A-76 cost comparison process.

807.304 Procedures.

807.304-73 Bid opening/receipt of proposals.

The date established for bid opening or receipt of proposals will normally be 90 days after sending the request for publication to the Commerce Business Daily (CBD) (65 days after issuing the solicitation).

807.304-75 Bid acceptance.

Bid acceptance shall be 90 days from bid opening/receipt of proposals in order to accommodate the time necessary to evaluate bids/offers, finalize the cost comparison and process any appeals. Contracting officers will insert "90 days" in FAR clause 52.214-15.

807.304-76 Contract effective date.

(a) A transition from in-house performance to contract requires a period of time from contract award to beginning of contract performance (contract effective date). This time is necessary to allow for personnel adjustments, e.g., right of first refusal process, and to allow a reasonable period for the contractor to make necessary resource reallocations. The contract effective date should be carefully considered in conjunction with the A-76 Task Group and must be specified in the solicitation.

(b) Although outplacement planning to minimize the effect of any necessary reduction in force should be initiated in advance of bid opening/receipt of proposals as prescribed by Office of Personnel and Labor Relations, there are also employee and labor organization reduction-in-force notice requirements which must be satisfied.

(c) When bargaining unit employees will be affected, facility officials also