

**315.606-1**

receipt and processing of unsolicited proposals.

**315.606-1 Receipt and initial review.**

(d) OPDIVs may consider an unsolicited proposal even though an organization initially submitted it as a grant application. However, OPDIVs shall not award contracts based on unsolicited proposals that have been rejected for grant awards due to lack of scientific merit.

**PART 316—TYPES OF CONTRACTS**

**Subpart 316.3—Cost-Reimbursement Contracts**

Sec.

316.307 Contract clauses.

**Subpart 316.5—Indefinite-Delivery Contracts**

316.505 Ordering.

**Subpart 316.6—Time-and-Materials, Labor-Hour, and Letter Contracts**

316.603 Letter contracts.

316.603-3 Limitations.

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 121(c)(2).

SOURCE: 80 FR 72151, Nov. 18, 2015, unless otherwise noted.

**Subpart 316.3—Cost-Reimbursement Contracts**

**316.307 Contract clauses.**

(a)(1) If a contract for research and development is with a hospital (profit or nonprofit), the contracting officer shall modify the “Allowable Cost and Payment” clause at FAR 52.216-7 by deleting from paragraph (a) the words “Federal Acquisition Regulation (FAR) subpart 31.2” and substituting “45 CFR part 75.”

(2) The contracting officer shall also insert the clause at 352.216-70, Additional Cost Principles for Hospitals (Profit or Non-Profit), in solicitations and contracts with a hospital (profit or non-profit) when a cost-reimbursement contract is contemplated.

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**Subpart 316.5—Indefinite-Delivery Contracts**

**316.505 Ordering.**

(b)(8) The Department of Health and Human Services (HHS) Competition Advocate is the task-order and delivery-order ombudsman for the department. Ombudsmen for each of the HHS contracting activities shall be designated in writing by the head of the contracting activity. See part 306.

**Subpart 316.6—Time-and-Materials, Labor-Hour, and Letter Contracts**

**316.603 Letter contracts.**

**316.603-3 Limitations.**

An official one level above the contracting officer shall make the written determination, to be included in the contract file, that no other contract type is suitable and to approve all letter contract modifications. No letter contract or modification can exceed the limits prescribed in FAR 16.603-2(c).

**PART 317—SPECIAL CONTRACTING METHODS**

**Subpart 317.1—Multi-Year Contracting**

Sec.

317.104 General.

317.105 Policy.

317.105-1 Uses.

317.107 Options.

317.108 Congressional notification.

**Subpart 317.2—Options**

317.204 Contracts.

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 121(c)(2).

SOURCE: 80 FR 72151, Nov. 18, 2015, unless otherwise noted.

**Subpart 317.1—Multi-Year Contracting**

**317.104 General.**

(b) The Senior Procurement Executive (SPE) is the agency approving official for determinations under Federal Acquisition Regulation (FAR) 17.104(b).

## Health and Human Services

317.204

### 317.105 Policy.

#### 317.105-1 Uses.

(a) Each head of the contracting activity (HCA) determination to use multi-year contracting, as defined in FAR 17.103, is limited to individual acquisitions where the full estimated cancellation ceiling does not exceed 20 percent of the total contract value over the multi-year term or \$12.5 million, whichever is less. Cancellation ceiling provisions shall conform to the requirements of FAR 17.106-1(c). The determination is not delegable and shall address the issues in FAR 17.105-1(a).

(b)(1) SPE approval is required for any—

(i) Individual determination to use multi-year contracting with a cancellation ceiling in excess of the limits in 317.105-1(a); or

(ii) Class determination (see FAR subpart 1.7).

(2) A determination involving a cancellation ceiling in excess of the limits in 317.105-1(a) shall present a well-documented justification for the estimated cancellation ceiling. When the estimated cancellation ceiling exceeds \$12.5 million, the determination shall accompany a draft congressional notification letter pursuant to FAR 17.108 and 317.108.

### 317.107 Options.

When included as part of a multi-year contract, use of options shall not

extend the performance of the original requirement beyond 5 years. Options may serve as a means to acquire related services (severable or non-severable) and, upon their exercise, shall receive funding from the then-current fiscal year's appropriation.

### 317.108 Congressional notification.

(a) The SPE shall give the approval of the written notification required by FAR 17.108(a). Upon approval of the determination required by 317.105-1(b)(1), the HCA will finalize and sign the congressional notification letter and provide it to the appropriate House and Senate committees.

## Subpart 317.2—Options

### 317.204 Contracts.

(e)(1) *Information technology contracts.* Notwithstanding FAR 17.204(e), the 5-year limitations apply also to information technology contracts unless a longer period is authorized by statute.

(2) *Requests to exceed 5-year limitation.* A request to exceed the 5-year limitation specified in FAR 17.204(e) must follow guidance in FAR Part 1.7.

(3) *Approval authority.* All requests to exceed the 5-year limitations specified in FAR 17.204(e) must be supported with a Determination and Finding and approved by:

- (i) The HCA; and
- (ii) The HHS SPE.