16.504 Indefinite-quantity contracts.

- (a) *Description*. An indefinite-quantity contract provides for an indefinite quantity, within stated limits, of *supplies* or services during a fixed period. The Government places orders for individual requirements. Quantity limits *may* be stated as number of units or as dollar values.
- (1) The contract *must* require the Government to order and the contractor to furnish at least a stated minimum quantity of *supplies* or services. In addition, if ordered, the contractor *must* furnish any additional quantities, not to exceed the stated maximum. The *contracting officer should* establish a reasonable maximum quantity based on *market research*, trends on recent contracts for similar *supplies* or services, survey of potential users, or any other rational basis.
- (2) To ensure that the contract is binding, the minimum quantity *must* be more than a nominal quantity, but it *should* not exceed the amount that the Government is fairly certain to order.
- (3) The contract *may* also specify maximum or minimum quantities that the Government *may* order under each task or *delivery order* and the maximum that it *may* order during a specific period of time.
- (4) A solicitation and contract for an indefinite quantity must-
- (i) Specify the period of the contract, including the number of *options* and the period for which the Government *may* extend the contract under each *option*;
- (ii) Specify the total minimum and maximum quantity of *supplies* or services the Government will acquire under the contract;
- (iii) Include a statement of work, specifications, or other description, that reasonably describes the general scope, nature, complexity, and purpose of the *supplies* or services the Government will acquire under the contract in a manner that will enable a prospective *offeror* to decide whether to submit an *offer*;
- (iv) State the procedures that the Government will use in issuing orders, including the ordering media, and, if multiple awards may be made, state the procedures and selection criteria that the Government will use to provide awardees a fair opportunity to be considered for each order (see 16.505(b)(1));
- (v) Include a description of the activities authorized to issue orders; and
- (vi) Include authorization for placing oral orders, if appropriate, provided that the Government has established procedures for obligating funds and that oral orders are confirmed *in writing*.
- (b) Application. Contracting officers may use an indefinite-quantity contract when the Government cannot predetermine, above a specified minimum, the precise quantities of supplies or services that the Government will require during the contract period, and it is inadvisable for the Government to commit itself for more than a minimum quantity. The contracting officer should use an indefinite-quantity contract only when a recurring need is anticipated.
- (c) Multiple award preference-

- (1) Planning the acquisition.
- (i) Except for indefinite-quantity contracts for *advisory and assistance services* as provided in paragraph (c)(2) of this section, the *contracting officer must*, to the maximum extent practicable, give preference to making multiple awards of indefinite-quantity contracts under a single *solicitation* for the same or similar *supplies* or services to two or more sources.

(ii)

- (A) The contracting officer must determine whether multiple awards are appropriate as part of acquisition planning. The contracting officer must avoid situations in which awardees specialize exclusively in one or a few areas within the statement of work, thus creating the likelihood that orders in those areas will be awarded on a sole-source basis; however, each awardee need not be capable of performing every requirement as well as any other awardee under the contracts. The contracting officer should consider the following when determining the number of contracts to be awarded:
- (1) The scope and complexity of the contract requirement.
- (2) The expected duration and frequency of task or *delivery orders*.
- (3) The mix of resources a contractor *must* have to perform expected task or *delivery order* requirements.
- (4) The ability to maintain competition among the awardees throughout the contracts' period of performance.
- (B) The contracting officer must not use the multiple award approach if-
- (1) Only one contractor is capable of providing performance at the level of quality required because the *supplies* or services are unique or highly specialized;
- (2) Based on the *contracting officer*'s knowledge of the market, more favorable terms and conditions, including *pricing*, will be provided if a single award is made;
- (3) The expected cost of administration of multiple contracts outweighs the expected benefits of making multiple awards;
- (4) The projected *task orders* are so integrally related that only a single contractor can reasonably perform the work;
- (5) The total estimated value of the contract is at or below the *simplified acquisition threshold*; or
- (6) Multiple awards would not be in the best interests of the Government.
- (C) The *contracting officer must* document the decision whether or not to use multiple awards in the *acquisition* plan or contract file. The *contracting officer may* determine that a class of *acquisitions* is not appropriate for multiple awards (see subpart 1.7).

(D)

(1) No task or delivery order contract in an amount estimated to exceed \$150 million (including all

options) may be awarded to a single source unless the head of the agency determines in writing that-

- (i) The task or *delivery orders* expected under the contract are so integrally related that only a single source can reasonably perform the work;
- (ii) The contract provides only for firm-fixed price (see 16.202) task or delivery orders for-
- (A) Products for which unit prices are established in the contract; or
- (B) Services for which prices are established in the contract for the specific tasks to be performed;
- (iii) Only one source is qualified and capable of performing the work at a reasonable price to the Government; or
- (iv) It is necessary in the public interest to award the contract to a single source due to exceptional circumstances.
- (2) The *head of the agency must* notify Congress within 30 days after any determination under paragraph (c)(1)(ii)(D)(1)(iv) of this section.
- (3) The requirement for a determination for a single-award contract greater than \$150 million-
- (i) Is in addition to any applicable requirements of subpart 6.3; and
- (ii) Is not applicable for architect-engineer services awarded pursuant to subpart 36.6.
- (2) Contracts for advisory and assistance services.
- (i) Except as provided in paragraph (c)(2)(ii) of this section, if an indefinite-quantity contract for advisory and assistance services exceeds 3 years and \$20 million, including all options, the contracting officer must make multiple awards unless-
- (A) The *contracting officer* or other official designated by the *head of the agency* determines *in writing*, as part of *acquisition planning*, that multiple awards are not practicable. The *contracting officer* or other official *must* determine that only one contractor can reasonably perform the work because either the scope of work is unique or highly specialized or the tasks so integrally related;
- (B) The contracting officer or other official designated by the head of the agency determines in writing, after the evaluation of offers, that only one offeror is capable of providing the services required at the level of quality required; or
- (C) Only one *offer* is received.
- (ii) The requirements of paragraph (c)(2)(i) of this section do not apply if the *contracting officer* or other official designated by the *head of the agency* determines that the *advisory and assistance* services are incidental and not a significant *component* of the contract.

Parent topic: Subpart 16.5 - Indefinite-Delivery Contracts