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letter must contain all pertinent facts and background information considered by the Contracting Officer and chief of the contracting office that led to the decision that fraudulent or criminal matters may be present. A copy of the signed letter shall be sent to the Director, Office of Acquisition Management and Policy.

[71 FR 76492, Dec. 20, 2006]

Subpart 303.6—Contracts With Government Employees or Organizations Owned or Controlled by Them

303.602 Exceptions.

Approval of an exception to the policy stated in FAR 3.601 shall be made by the HCA (not delegable).

Subpart 303.7—Voiding and Rescinding Contracts

303.704 Policy.

(a) For purposes of implementing FAR subpart 3.7, the authorities granted to the “agency head or designee” shall be exercised by the HCA (not delegable).

[71 FR 76492, Dec. 20, 2006]

PART 304—ADMINISTRATIVE MATTERS

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304.7101 Procedures.

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

SOURCE: 66 FR 4224, Jan. 17, 2001, unless otherwise noted.

48 CFR Ch. 3 (10-1-09 Edition)

Subpart 304.6—Contracting Reporting

304.602 Federal Procurement Data System—Next Generation (FPDS-NG).

The Departmental Contracts Information System (DCIS) represents the Department's implementation of the FPDS-NG. All departmental contracting activities are required to use the DCIS and follow the procedures stated in the Enhanced Departmental Contracts Information System Manual, available at <http://dcis.hhs.gov>, and amendments to the manual. The HCA (not delegable) shall ensure that all required contract information is collected, submitted, and received into the DCIS on or before the 15th of each month for all contracts and contract modifications awarded in the previous month.

[71 FR 76492, Dec. 20, 2006]

Subpart 304.8—Government Contract Files

304.804-70 Contract closeout audits.

(a) Contracting Officers shall rely, to the maximum extent possible, on single audits to close physically completed cost-reimbursement contracts with colleges and universities, hospitals, non-profit firms, and State and local governments. In addition, where appropriate, a sample of these contractors may be selected for audit, in accordance with paragraph (b) of this section.

(b) Contracting officers shall request contract closeout audits on physically completed, cost-reimbursement, for-profit contracts in accordance with the following:

(1) The Office of the Inspector General (OIG) and ASAM's Deputy Assistant Secretary for Acquisition Management and Policy in conjunction with the OPDIV's cost advisory/audit focal point, determine which contracts or contractors will be audited, which audit agency will perform the audit, and the type and scope of closeout audit to be performed. These decisions shall be based upon the needs of the customer, risk analysis, return on investment, and the availability of audit

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resources. When an audit is warranted prior to closing a contract, the Contracting Officer shall submit the audit request to the OIG's Office of Audit, via the OPDIV's cost advisory/audit focal point.

(2) Except where a contracting officer suspects misrepresentation or fraud, contract closeout field audits shall not be requested if the cost of performance is likely to exceed the potential cost recovery. Contracts that are not selected for a field audit may be closed on the basis of a desk review, subject to any later on-site audit findings. The release executed by the contractor shall contain the following statement:

The Contractor agrees, pursuant to the clause in this contract entitled "Allowable Cost" or "Allowable Cost and Fixed Fee" (as appropriate), that the amount of any sustained audit exceptions resulting from any audit made after final payment shall be refunded to the Government."

[66 FR 4224, Jan. 17, 2001, as amended at 71 FR 76493, Dec. 20, 2006]

Subpart 304.70—Acquisition Instrument Identification Numbering System

304.7000 Scope of subpart.

This subpart prescribes policy and procedures for assigning identifying numbers to contracts and related instruments, including solicitation documents, purchase orders, and delivery orders. The HCA (not delegable) is responsible for establishing the numbering system within the OPDIV.

304.7001 Numbering acquisitions.

(a) *Acquisitions which require numbering.* The following acquisitions shall be numbered in accordance with the system prescribed in paragraphs (b), (c), and (d) of this section:

(1) Contracts, including letter contracts and task orders under basic ordering agreements, which involve the payment of \$2,500 or more for the acquisition of personal property or non-personal services. (The number assigned to a letter contract shall be assigned to the superseding definitized contract).

(2) Contracts which involve the payment of \$2,000 or more for construction (including renovation or alteration).

(3) Contracts which involve more than one payment regardless of amount.

(4) Requests for proposals and invitations for bids.

(5) Requests for quotations.

(6) Basic ordering agreements.

(b) *Numbering system for contracts.* All contracts which require numbering (paragraphs (a)(1) through (3) of this section) shall be assigned a number consisting of the following:

(1) The three digit identification code of the Department (HHS);

(2) A one digit alphabetic identification code of the servicing agency:

O Office of the Secretary
P Program Support Center
M Centers for Medicare & Medicaid Services
F Food and Drug Administration
D Centers for Disease Control and Prevention
I Indian Health Service
S Substance Abuse and Mental Health Administration
N National Institutes of Health
H Health Resources and Services Administration
A Agency for Health Care Research & Quality

(3) The three digit numeric identification code assigned by the Deputy Assistant Secretary for Acquisition Management and Policy (DASAMP) to the contracting office within the servicing agency;

(4) A four digit fiscal year designation (e.g., 2005, 2006);

(5) A five digit alphanumeric tracking number the content of which is determined by the contracting office within the servicing agency; and

(6) A one digit code describing the type of contract action:

A Commercial Item Acquisition
C New Definitive Contract
P Purchase Using Simplified Acquisition
I Indefinite Delivery Contract (IDIQ)
O Basic Ordering Agreement (BOA)
B Blanket Purchase Agreement (BPA)
F Facilities Contract
U Contracts placed with or through other Government departments, GSA contracts, or against mandatory source contracts such as the National Industries for the Blind (NIB), the National Industries for the Severely Handicapped (NISH), and the Federal Prison Industries (UNICOR)
L Lease Agreement
W Government-wide Acquisition Contract (GWAC)

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E Letter Contract
G Federal Supply Schedule
M Micropurchase

For example, the first contract for NIH, National Cancer Institute, for fiscal year 2005 may be numbered HHSN261200500001C.

(c) *Numbering system for orders.* Order numbers will be assigned to contracts with orders. The order number shall be up to a seventeen digit number consisting of the following:

(1) The three digit identification code of the Department (HHS);

(2) A one digit numeric identification code of the servicing agency:

O Office of the Secretary
P Program Support Center
M Centers for Medicare & Medicaid Services
F Food and Drug Administration
D Centers for Disease Control and Prevention
I Indian Health Service
S Substance Abuse and Mental Health Administration
N National Institutes of Health
H Health Resources and Services Administration
A Agency for Health Care Research and Quality;

(3) The three digit numeric identification code assigned by the Office of Acquisition Management and Policy (OAMP) to the contracting office within the servicing agency;

(4) An alphanumeric tracking number, up to ten characters, the content of which is determined by the contracting office within the servicing agency.

(d) *Numbering system for other acquisitions.* The HCA is responsible for developing a numbering system for the acquisitions other than contracts listed in paragraphs, (a)(4) through (a)(6) of this section, and any other types of acquisitions that may be used.

(e) *Assignment of identification codes.* Each contracting office of the Department shall be assigned a three digit identification code by the ASAM/OAMP. Requests for the assignment of codes for newly established contracting offices shall be submitted by a headquarters official from the new contracting office to the OAMP. A listing of the contracting office identification codes currently in use is contained in the Enhanced Departmental Contracts

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Information System Manual, available at <http://dcis.hhs.gov>.

[66 FR 4224, Jan. 17, 2001, as amended at 70 FR 39, Jan. 3, 2005; 70 FR 11583, Mar. 9, 2005; 71 FR 76493, Dec. 20, 2006]

Subpart 304.71—Review and Approval of Proposed Contract Awards

304.7100 Policy.

This subpart requires each HCA (not delegable) to establish review and approval procedures for proposed contracts actions to ensure that:

(a) Contract awards are in conformance with law, established policies and procedures, and sound business practices;

(b) Contractual documents properly reflect the mutual understanding of the parties; and

(c) The contracting officer is informed of deficiencies and items of questionable acceptability, and corrective action is taken.

304.7101 Procedures.

(a) All contractual documents, regardless of dollar value, are to be reviewed by the contracting officer prior to award.

(b) The HCA is responsible for establishing review and approval procedures and designating acquisition officials to serve as reviewers. Each HCA is responsible for determining the criterion (criteria) to be used in determining which contracts are to be reviewed, and that a sampling of proposed contracts not included in the “to be reviewed” group are reviewed and approved.

(c) Officials assigned responsibility for review and approval of contract actions must possess qualifications in the field of acquisition commensurate with the level of review performed, and, at a minimum, possess those acquisition skills expected of a contracting officer. However, if any official is to serve as the contracting officer and sign the contractual document, the review and approval function shall be performed by an appropriate official at least one level above.