

PART 2917 - SPECIAL CONTRACTING METHODS

Authority: 5 U.S.C. 301; 31 U.S.C. 1535; 40 U.S.C. 486(c).

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Parent topic: SUBCHAPTER C - CONTRACTING METHODS AND CONTRACT TYPES

2917.000 Scope of part.

This part implements policies and procedures stated in FAR part 17.

Subpart 2917.2 - Options

2917.202 Use of options.

The HCA may, in unusual circumstances, approve option quantities in excess of the 50 percent limit prescribed in FAR 17.203(g)(2). The documentation required by FAR 17.205(a) must include a written justification to fully support the need for such action.

2917.207 Exercising options.

The contracting officer must use a standardized determination and finding before exercising an option in accordance with FAR 17.207(f).

Subpart 2917.5 - Interagency Acquisitions Under The Economy Act

2917.500 Scope of subpart.

This subpart establishes DOL policy and procedures to assure the appropriate and consistent use of interagency acquisitions under the Economy Act (31 U.S.C. 1535) as prescribed by FAR 17.5.

2917.501 Definitions.

Interagency Acquisition means a procedure by which a DOL agency obtains needed supplies or services from, or through, another DOL agency or Federal agency, and appropriated funds are obligated.

Interagency Agreement means the legal instrument used for an interagency acquisition to exchange funds or property between two DOL organizations or between a DOL agency and another Federal agency. This instrument is used when the DOL organization meets the definition of either the Requesting Agency or the Servicing Agency. "Interagency Agreement" and "Interagency Acquisition" does not include:

- (1) Agreements involving supplies and services acquired from or through mandatory sources, as described in FAR part 8;
- (2) Contracts with the Small Business Administration based upon Section 8(a) of the Small Business Act or a HUBZone small business under the Historically Underutilized Business Zone (HUBZone) Act of 1997;
- (3) Cooperative agreements and grants; or
- (4) Any agreement or acquisition where a statute authorizes exception.

Military Interdepartmental Procurement Request (MIPR) means a type of interagency agreement used to place orders for supplies and non-personal services with a military department.

Requesting Agency means the Federal agency that needs the supplies or services, and is obligating the funds to provide for the costs of performance.

Servicing Agency means the Federal agency which is providing the supplies or performing the services, directly or indirectly, and will be receiving the funds to provide for the costs of performance.

2917.502 General.

(a) *Policy.* It is the policy of DOL to require that interagency agreements are written to assure that the obligation of fiscal year funds is valid, that statutory authority exists to obtain or perform the stated requirements, that the stated requirements are consistent with DOL's mission responsibilities, and that each agreement complies with applicable laws and regulations.

(b) *Applicability.* The provisions of this subpart apply to interagency acquisitions and agreements under the Economy Act.

(c) *Appropriations principles.* The appropriate use of interagency acquisitions embodies several principles of Federal appropriations law.

(1) In order to record a valid obligation of appropriations, 31 U.S.C. 1501 imposes the requirements that interagency agreements be:

(i) A binding written agreement for specific goods or services to meet an existing *bona fide* need;

(ii) For a purpose authorized by law; and

(iii) Executed and obligated by the receiving agency before the expiration of available funds.

(2) The Economy Act authorizes interagency acquisitions and provides for payment in advance, as well as reimbursement to the appropriation account to which the performance costs have been charged. The Economy Act further authorizes the servicing agency, as an alternative to fulfilling the requirement through internal resources, to obtain the needed supplies or services by contract.

(3) An agreement entered into under the Economy Act is recorded as an obligation by the requesting agency the same as a contract. However, under the Economy Act, the obligated appropriations must be deobligated upon the date of "expiration" of the appropriation account to the extent that the servicing agency has not incurred obligations through charged costs or under a contract.

(4) Within DOL, the DOL agencies have a number of statutory authorities available for entering into interagency agreements. Each DOL agency, in consultation with the Office of the Solicitor, must be responsible for determining those authorities, as well as constraints applicable to the use of advance payments and contractors, and set-up procedures.

2917.503 Determinations and findings requirements.

Applicability. Before the execution of an interagency agreement under the Economy Act, the contracting officer, or other authorized official, must sign the determination required in FAR 17.503 and 31 U.S.C. 1535.

2917.504 Ordering procedures.

(a) Requests for the processing of interagency agreements must be submitted to the procurement office serving the requisitioning office.

(b) The procurement request must state whether the work is to be performed by a DOL organization,

a Federal agency other than DOL, or through one of these entities by a contractor.

(c) Where the Economy Act is to be used as the authority for an interagency acquisition, the requisitioning office must include the facts which support the conclusion that it is more economical to obtain the required supplies or services through the proposed interagency agreement, rather than by direct contract with a commercial concern. Current market prices or recent procurement prices may be used in this process.

(d) Orders placed under interagency agreements may take any form that is legally sufficient and reflects the agreement of the parties.

(e) The contracting officer, or authorized official, must assure compliance with the ordering procedures and payment provisions prescribed in FAR 17.504 and FAR 17.505, and require inclusion of the following provisions in all interagency agreements and/or orders placed against them:

(1) Legislative authority;

(2) Period of performance;

(3) Dollar amount of agreement;

(4) Billing provisions, including the name and address of the following offices:

(i) Designated office to receive the required deliverables; and

(ii) Designated office to receive billings and process payments;

(5) Modification and termination provisions; and

(6) Other provisions, as appropriate.

(f) The contracting officer must assure that each interagency agreement or order placed against it includes a reference number assigned by each of the parties. Such numbers must be assigned in accordance with the existing procedures established by the respective organizations.

(g) Modifications to existing interagency agreements may be accomplished through the use of an SF 30, Amendment of Solicitation/Modification of Contract, or through any other format acceptable to the parties.

2917.504-70 Signature authority and internal procedures.

(a) A DOL contracting officer, HCA, Agency Head, or another official designated by the Assistant Secretary for Administration and Management in accordance with FAR 17.503(c), must sign interagency agreements and/or orders placed against them which will result in a procurement action by the requesting or servicing agency.

(b) Internal procedures (DLMS 3-1700) require DOL Agency Heads to provide notice to the Director, Executive Secretariat of the signing of all new Federal Interagency Agreements and deleting expired agreements.

(c) Agencies should be aware that, in addition to the requirements of this subpart, there are various other internal Departmental procedures that apply to various types of agreements. Agencies should

consult with the Office of the Solicitor and the Office of the Assistant Secretary for Administration and Management, as appropriate.