

Date: December 2, 2015

From: Associate Deputy Assistant Secretary for Procurement Policy, Systems and Oversight (003A2) and Deputy Senior Procurement Executive

Subj: Class Deviation from VA Acquisition Regulation (VAAR) 817.204, Contracts regarding Option Year Contracts and Terms Exceeding 5 Years (VAIQ 7640793)

To: VA Heads of Contracting Activities

1. Purpose: To issue a Class Deviation in accordance with Federal Acquisition Regulation (FAR) 1.404, Class Deviations, and Department of Veterans Affairs Acquisition Regulation (VAAR) 801.404, Class Deviations, to deviate from VAAR 817.204(a), Contracts.

2. VAAR Sections Impacted: VAAR 817.204.

3. Effective Date: December 15, 2015.

4. Expiration Date: This class deviation will remain in effect until incorporated into the VAAR or the VA Acquisition Manual or otherwise rescinded.

5. Applicability: This deviation applies to all procurements subject to FAR 17.204, Contracts and changes the approval authority a contracting officer must obtain before award of contracts with options exceeding the 5-year limitation specified in FAR 17.204(e). This deviation rescinds Information Letter (IL) 049-05-8, dated March 22, 2005, Option Year Contracts and Terms Exceeding 5 Years.

6. Background: The Acting Chief Acquisition Officer (CAO) of the Department of Veterans Affairs (VA) has instituted the Employee Empowerment Initiative (EEI) and one of the outcomes of this initiative is the goal to improve OALC operating efficiency by streamlining decision making and acquisition-related approval processes to the lowest practicable subordinate acquisition activity level. The revised oversight process establishes a more decentralized, less labor-intensive oversight process that efficiently allocates time and resources. This package sets forth the required information in accordance with FAR 1.404 and VAAR 801.404 to support a class deviation to achieve some of the EEI's objectives.

a. Current VAAR 817.204 Policy:

VAAR 817.204 Contracts.

(a) The contracting officer must obtain the approval of the DSPE before awarding a contract that includes options exceeding the 5-year limitation specified in FAR 17.204(e). This requirement does not apply to contracts to be awarded by or on behalf of the VA Office of the Inspector General. The request for approval must include the following:

(1) Supporting documentation, rationale, and justifications for the use of options (see FAR 17.205) and for exceeding the 5-year limitation.

(2) Documentation that the contracting officer has considered and addressed the limitations specified in FAR 17.202(b) and (c).

(b) Solicitations that require technical review in accordance with 801.602-71 through 801.602-73 shall be submitted for review concurrently as provided therein.

b. Need for Deviation from 817.204: VAAR 817.204 implements FAR 17.204(e) which specifically limits the period of performance for the total of the basic and option periods for services to 5 years, and the total of the basic and option quantities shall not exceed the requirement for 5 years in the case of supply contracts. FAR 17.204(e) provides permissive authority to exceed the 5-year limitation if approved in accordance with agency procedures. The current VAAR requires a contracting officer to obtain approval of the Deputy Senior Procurement Executive (DSPE) before awarding a contract that includes options exceeding the 5-year limitation specified in FAR 17.204(e). The Acting Chief Acquisition Officer (CAO) directed certain discrete Procurement Decision Making and Review/Approval Authorities will be delegated where practicable to lower subordinate acquisition activity levels in order to foster a more streamlined review and approval process in support of the Employee Empowerment Initiative.

In order to delegate the approval authority below the DSPE to the HCAs or designee, as applicable, a deviation to the current codified VAAR is required. A change to the existing VAAR requires publication in the Federal Register and receipt of public comments. Going forward, most delegations will be contained within the VA Acquisition Manual (VAAM), along with further procedures, guidance and instruction which will permit revising approval levels or office titles and positions in a more expedited fashion without accomplishing a deviation to the codified VAAR. Until the publication of the affected revised VAAR part and the publication of VA's internal procedural guidance via the VAAM, a deviation from the existing VAAR is required to

implement EEI recommendations. This package sets forth the required information IAW FAR 1.404 and VAAR 801.404 to support this class deviation.

c. VAAR 817.204-70 New Policy: VAAR 817.204-70 implements and supplements FAR 17.204(e) which provides permissive authority to exceed the 5-year limitation for options if approved in accordance with agency procedures. This deviation revises the VA's approval authority stated in VAAR 817.204(a) from the DSPE to the HCA or designee. It also adds a -70 to the number to reflect the new VAAR language as also supplementing the FAR and better comports to FAR drafting conventions.

The section will now read as follows:

817.204-70 Contracts.

(a) The contracting officer must obtain the approval of the HCA or designee before awarding a contract that includes options exceeding the 5-year limitation specified in FAR 17.204(e). This requirement does not apply to contracts to be awarded by or on behalf of the VA Office of the Inspector General. The request for approval must include the following:

(1) Supporting documentation, rationale, and justifications for the use of options (see FAR 17.205) and for exceeding the 5-year limitation.

(2) Documentation that the contracting officer has considered and addressed the limitations specified in FAR 17.202(b) and (c).

(b) Solicitations that require technical review in accordance with 801.602-71 through 801.602-73 shall be submitted for review concurrently as provided therein.

(c) HCAs shall report, no later than December 31st of each calendar year, to the Senior Procurement Executive (SPE) and the DSPE, on the number of contracts containing options exceeding 5 years. The report shall include—

(1) contract number;

(2) contractor name;

(3) contracting activity;

(4) total amount of contract;

(5) total number of years of contract or period of performance;

(6) total number of options;

(7) value (amount) of base year of contract;

- (8) value (amount) of option year exercised and number of option;
- (9) remaining value (amount) and number of options remaining;
- (10) identification of the type of procurement (supplies, services, construction);
and
- (11) identify the item(s) or service(s) procured.

7. Attachment: VA Class Deviation from VA Acquisition Regulation 817.204, Contracts.

8. Additional Information: Questions and concerns should be addressed to the Office of Acquisition and Logistics (003A), Procurement, Policy and Warrant Management Service (003A2A) at (202) 632-5288 or email: va.procurement.policy@va.gov.

/s/

C. Ford Heard III

Attachment

Distribution:

Under Secretaries for Health, Benefits, and Memorial Affairs
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Class Deviation

Department of Veterans Affairs Acquisition Regulation (VAAR) 817.204, Contracts

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(7) value (amount) of base year of contract;

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(9) remaining value (amount) and number of options remaining;

(10) identification of the type of procurement (supplies, services, construction);

and

(11) identify the item(s) or service(s) procured.