



VA ACQUISITION MANUAL UPDATE

January 17, 2019

Number VAAM 2019-01

1. **Material Transmitted:** The attached pages revise the Department of Veterans Affairs Acquisition Manual (VAAM) part M816 to add: 1) VAAM section M816.504-70, Indefinite-delivery contracts; 2) VAAM section M816.505(b), Orders under multiple-award contracts; and, 3) the VA Indefinite-Delivery Indefinite Quantity (IDIQ) Guide to the VAAM as part M816 Appendix A. The IDIQ Guide contains general VA IDIQ contract-type information for supplies and services, as well as specific guidance for special categories such as construction, architect-engineer, and facilities maintenance, repair, and construction services. Any unique application of other categories of IDIQ contract vehicles (i.e., Federal Supply Schedules, information technology, etc.) will be added to the guide as each VAAR or VAAM part/s covering the specialty categories are updated.

2. **Summary of Changes:** This update to the VAAM provides changes to VAAM part M816 as follows:

VAAM Part	Title	Change Summary
M816	Table of Contents	Revised to add M816.504-70 and Appendix A – VA Indefinite-Delivery Indefinite-Quantity (IDIQ) Guide.
M816.504-70	Indefinite-delivery contracts.	Revised to add the VA IDIQ Guide as M816 Appendix A.
M816.505(b)	Orders under multiple-award contracts.	Revised to add approval levels on justifications for orders in exception to the fair opportunity process.

VAAM Part	Title	Change Summary
M816.505-70	Maximum order amounts.	Revised to add maximum order amounts for certain types of IDIQ contracts.

3. Filing Instructions:

Remove pages:	Insert Pages:
M816-1 thru M816-2	M816-1 thru M816-2
M816-7 thru M816-12	M816-7 thru M816-12
	Appendix A – IDIQ Guide

Effective date: January 17, 2019.

**SUBCHAPTER C—CONTRACTING METHODS AND CONTRACT TYPES
PART M816—TYPES OF CONTRACTS**

Subpart M816.1—Selecting Contract Types

Sec.

M816.102 Policies.

Subpart M816.2—Fixed-Price Contracts

M816.203 Fixed-price contracts with economic price adjustment.
M816-203-2 Application.
M816-203-3 Limitations.
M816.203-70 Adjustments based on price indexes of labor or material.

Subpart M816.4—Incentive Contracts

M816.401 General.

Subpart M816.5—Indefinite-Delivery Contracts

M816.504-70 Indefinite-quantity contracts.
M816.505 Ordering.
M816.505-70 Maximum order amounts.

Subpart M816.7—Agreements

M816.703 Basic ordering agreements.
M816.770 Consignment agreements.

ATTACHMENTS:

M816 Attachment A, Sample Evaluation Checklist
M816 Attachment B, Examples of Non-Biological Implantable Devices

APPENDIX:

[M816A Appendix A, VA Indefinite-Delivery Indefinite-Quantity \(IDIQ\) Guide](#)

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(5) The contractor shall provide self-evaluations at the end of each evaluation period, and other pertinent information as requested by the contracting officer in accordance with the evaluation plan.

(o) At the end of each performance evaluation period, the contracting officer's representative or the performance monitor shall prepare a written assessment of the contractor's performance (see Sample Evaluation Checklist: Attachment #A).

(1) The IRB shall review the assessments and submit a written evaluation and recommendation to the FDO. The FDO shall make the final decision on whether an incentive is to be authorized and, if so, the amount.

(2) The contracting office shall ensure the decision is documented in the contract file.

(3) VA's written assessment shall support the evaluation of the contractor's performance.

Subpart M816.5—Indefinite-Delivery Contracts

M816.504-70 Indefinite-quantity contracts.

The VA Indefinite-Delivery Indefinite-Quantity (IDIQ) Guide is provided as [Appendix M816A](#) for use by the acquisition workforce.

M816.505 Ordering.

(b) *Orders under multiple-award contracts.*

(2) *Exceptions to the fair opportunity process.*

(ii)(B)-70 *Orders exceeding the simplified acquisition threshold.* In accordance with FAR 16.505(b)(2)(ii), a written justification shall be required to waive or limit competition for task orders under MATOCs. Approval of the justification shall be obtained prior to release of a request for proposal. The written justification must address the content requirements at FAR 16.505(b)(2)(ii)(B). Approval thresholds for the required written justification are as follows:

(a) For a proposed task orders exceeding the simplified acquisition threshold, but not exceeding \$700,000, the justification shall be approved by a contracting officer one level above the contracting officer. The contracting officer shall ensure that the justification is accurate and complete to the best of their knowledge and belief.

(b) For a proposed task order over \$700,000 but not exceeding \$13,500,000, the justification shall be approved by the advocate for competition of the activity placing the order.

(c) For a proposed task order over \$13,500,000 but not exceeding \$68,000,000, the DSPE shall approve the justification.

(d) For a proposed task order over \$68,000,000, the justification shall be approved by the SPE.

(b)(8) *Task-order and delivery-order ombudsman.* The task-order contract and delivery-order ombudsman for VA is the Associate Deputy Assistant Secretary (ADAS) for Procurement Policy, Systems and Oversight. The VA Ombudsman shall review and resolve complaints from contractors concerning all task and delivery order actions. If any corrective action is needed after reviewing complaints from contractors, the VA Ombudsman shall provide a written determination of such action to the contracting officer. Contracting officers shall be notified of any complaints submitted to the VA Ombudsman.

M816.505-70 Maximum order amounts.

(a) For IDIQ construction contracts, the maximum order amount is \$50,000,000.

(b) For IDIQ facilities maintenance, repair, and construction contracts, the maximum order amount is \$500,000.

Subpart M816.7—Agreements

M816.703 Basic ordering agreements.

(a) Individual orders issued under a basic ordering agreement (BOA) are closed out individually, following the completion of the contractor's performance (see [FAR 4.804-1](#)).

(b) The office issuing the agreement shall furnish all authorized ordering offices sufficient information for the ordering office to complete its contract reporting responsibilities in the Federal Procurement Data System. The ordering activity shall receive this data in sufficient time to prepare its report for the action. The report shall be prepared within three (3) working days from the issuance of the order.

M816.770 Consignment agreements.

(a) Consignment agreements shall only be established under a contract and by a contracting officer. A consignment agreement is a delivery method for a specified period of time in which the contractor provides items for Government use and the contractor receives reimbursement only if and when the item is used by the Government. Unused items are returned to the contractor at the end of the effective period of the agreement without reimbursement or other expenses to the Government.

DEPARTMENT OF VETERAN AFFAIRS ACQUISITION MANUAL

(b) Delivery of items by consignment may be considered in those instances where the requirement for an item will be immediate and it is not possible to predetermine which of several types or models are required. Having each type or model on hand (through a consignment) will assure instant availability to the user. See Attachment B for examples of non-biological implantable devices appropriate for usage of consignment agreements.

(c) A consignment agreement will only be used when it is determined to be in the best interest of the Government by the HCA and the determination shall be made a part of the official contract file.

(d) The contracting officer shall obtain technical and legal review on items with an anticipated expenditure of \$250,000 or more per year (except for a consignment agreement established under, and provided for in, a Federal Supply Schedule contract).

(e) The contracting officer or the contracting officer's representative shall establish and maintain an accountability file showing all transactions and the total value of property on consignment at all times. As a minimum, the accountability file must reflect the following:

- (1) Date of receipt of property.
- (2) Ownership of property.
- (3) Description of property.
- (4) Quantity.
- (5) Value of property.
- (6) Agreement number.
- (7) Record of orders placed for property used during agreement period and receiving official.
- (8) Acknowledgment of receipt of unused property returned to owner.

(f) Contracting officers should consider the following when soliciting offers:

(1) Specifying the effective period of time for the consignment and that the Government reserves the right to cancel the consignment at any time.

(2) Requiring offerors to provide pricing on items that will be sold to the Government.

(3) Specifying that the Government assumes no liability for assigned

DEPARTMENT OF VETERAN AFFAIRS ACQUISITION MANUAL

consignment items, but that the Government will be obligated only to the extent of authorized orders against the agreement.

(4) Food and Drug Administration (FDA) and other Regulatory Agencies Recall. At the time of the award of the agreement, the contractor(s) will not have any outstanding actions from the FDA or other regulatory agencies or unresolved FDA warning letters on the manufacturing processes or quality control issues involving the products covered by this solicitation. The Government will require proof from the contractor that any FDA issues have been resolved. A letter to the contractor from the regulatory agency will meet this requirement.

(5) Technology refresh:

(A) All implants, instruments, and accessories offered shall be state-of-the-art technology. "State-of-the-art" is defined as the most recently designed components which are announced for marketing purposes, available, maintained and supported in accordance with requirements specified in the solicitation. Components and products with a manufacturer's planned obsolescence within the first year of the agreement are not acceptable.

(B) If upgrades of instruments, implants, or supplies become available after establishment of an agreement, the contractor will offer them as substitutes to the initial items.

(C) The contractor will provide to the contracting officer the following information:

(i) List of specific initial items which shall be updated.

(ii) Product literature for the new items and a detailed description of the differences between the initial items and the new items, and a specific analysis of the comparative advantages/disadvantages of the items involved.

(D) Agreement will be modified to acknowledge any updated items and pricing.

(g) *Inventory*. Contractor agrees to furnish and maintain an inventory of the consignment items in accordance with the terms and conditions of the agreement. Items, as well as all required instruments and all related supplies, will be placed at the Government's location at no expense to the Government. Minimum inventory levels proposed by the contractor will be reviewed and accepted by the Government prior to placement. The Government will make the final determination on inventory levels. A complete listing of models and/or part numbers will be provided to the Government with a copy to the contracting officer, or designee upon delivery of the initial inventory.

(h) *Initial inventory.* Initial consignment inventory shall be placed in the medical center within (insert number) calendar days after award of the agreement. Consignment inventory will be placed in a location designated by the Government. The Government will provide adequate space/shelving for implants, instruments, and supplies.

(i) Instrumentation Sets:

(1) To accommodate surgery scheduling, additional sets (loaner sets) may be needed and will be made available upon mutual agreement between the Government and contractor. Contractors shall be contacted at a minimum (insert number of days) prior to the anticipated date of surgery for elective cases and (insert number of hours) for urgent cases. Contractors are responsible for retrieving the loaner sets after surgery where they will be cleaned but not sterilized. Instrumentation includes any accessories necessary to accomplish the implant (does not include non-implantable consumable items which are available from multiple suppliers).

(2) If an instrument from the set becomes lost or damaged due to Government negligence, the Government will then be responsible for the damaged or lost instrument.

(j) *Liability.* The Government assumes no liability for any items assigned to the Government on a consignment basis until such time as a requirement for the item exists and an order is placed against the contract/consignment agreement. An exception to contractor liability is loss or damage of any consignment item due to Government negligence.

(k) *Replacement items.* After each procedure, the Government will provide a list of items used and the contractor will provide replacements within (insert number of hours). Replacements will be shipped FOB Destination within consignee's premises. Contractor shall ship products directly to (insert appropriate address) at no additional charge. Contractor shall provide maintenance (examine sets to see if they need to be refurbish and/or sharpened) and redundancy so that there is a fail safe mechanism (back-up set) if primary set is faulty. The contractor shall re-sterilize and/or replace, at no charge, any items that are handled but not implanted.

(l) *Inventory Maintenance.* Contractor's personnel will periodically (no less than once per quarter) conduct a physical inventory of the consignment inventory with a copy of the inventory furnished to the contracting officer. Contractor will maintain, remove, or replace inventory as necessary.

(m) *Expiring Inventory.* Inventory having less than 90 days sterility/expiration date shall be removed and replaced by the contractor in coordination with the Government. A list of all products will be provided to the contracting officer. These services will be completed at no cost to the Government.

DEPARTMENT OF VETERAN AFFAIRS ACQUISITION MANUAL

(n) *Defective Items.* Defective and worn out instruments will be replaced by the contractor at no charge to the Government, unless the Government has misused or lost the implant or instrument.