

Federal Acquisition Regulation

44.101

(iii) Any other unilateral contract modification issued under a contract clause authorizing such modification without the consent of the contractor;

(iv) Administrative changes such as the correction of typographical mistakes, changes in the paying office, and changes in accounting and appropriation data;

(v) Supplemental agreements (see 43.103); and

(vi) Removal, reinstatement, or addition of funds to a contract.

(2) The SF 30 may be used for (i) modifications that change the price of contracts for the acquisition of petroleum as a result of economic price adjustment, (ii) termination notices, and (iii) purchase order modifications as specified in 13.302-3.

(3) If it is anticipated that a change will result in a price change, the estimated amount of the price change shall not be shown on copies of SF 30 furnished to the contractor.

(b) The Optional Form 336 (OF 336), Continuation Sheet, or a blank sheet of paper, may be used as a continuation sheet for a contract modification.

[48 FR 42386, Sept. 19, 1983, as amended at 50 FR 26903, June 28, 1985; 51 FR 27120, July 29, 1986; 62 FR 51259, Sept. 30, 1997; 62 FR 64926, Dec. 9, 1997]

PART 44—SUBCONTRACTING POLICIES AND PROCEDURES

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AUTHORITY: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2473(c).

SOURCE: 48 FR 42388, Sept. 19, 1983, unless otherwise noted.

44.000 Scope of part.

(a) This part prescribes policies and procedures for consent to subcontracts or advance notification of subcontracts, and for review, evaluation, and approval of contractors' purchasing systems.

(b) The consent and advance notification requirements of subpart 44.2 are not applicable to prime contracts for commercial items acquired pursuant to part 12.

[63 FR 34060, June 22, 1998]

Subpart 44.1—General

44.101 Definitions.

As used in this part—

Approved purchasing system means a contractor's purchasing system that has been reviewed and approved in accordance with this part.

Contractor means the total contractor organization or a separate entity of it, such as an affiliate, division, or plant, that performs its own purchasing.

Contractor purchasing system review (CPSR) means the complete evaluation of a contractor's purchasing of material and services, subcontracting, and subcontract management from development of the requirement through completion of subcontract performance.

Facilities (see 45.301).

Subcontract means any contract as defined in subpart 2.1 entered into by a subcontractor to furnish supplies or

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services for performance of a prime contract or a subcontract. It includes but is not limited to purchase orders, and changes and modifications to purchase orders.

Subcontractor means any supplier, distributor, vendor, or firm that furnishes supplies or services to or for a prime contractor or another subcontractor.

[48 FR 42388, Sept. 19, 1983, as amended at 50 FR 26903, June 28, 1985; 66 FR 2133, Jan. 10, 2001]

Subpart 44.2—Consent to Subcontracts

44.201 Consent and advance notification requirements.

44.201-1 Consent requirements.

(a) If the contractor has an approved purchasing system, consent is required for subcontracts specifically identified by the contracting officer in the subcontracts clause of the contract. The contracting officer may require consent to subcontract if the contracting officer has determined that an individual consent action is required to protect the Government adequately because of the subcontract type, complexity, or value, or because the subcontract needs special surveillance. These can be subcontracts for critical systems, subsystems, components, or services. Subcontracts may be identified by subcontract number or by class of items (e.g., subcontracts for engines on a prime contract for airframes).

(b) If the contractor does not have an approved purchasing system, consent to subcontract is required for cost-reimbursement, time-and-materials, labor-hour, or letter contracts, and also for unpriced actions (including unpriced modifications and unpriced delivery orders) under fixed-price contracts that exceed the simplified acquisition threshold, for—

(1) Cost-reimbursement, time-and-materials, or labor-hour subcontracts; and

(2) Fixed-price subcontracts that exceed—

(i) For the Department of Defense, the Coast Guard, and the National Aeronautics and Space Administration, the greater of the simplified acquisition

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threshold or 5 percent of the total estimated cost of the contract; or

(ii) For civilian agencies other than the Coast Guard and the National Aeronautics and Space Administration, either the simplified acquisition threshold or 5 percent of the total estimated cost of the contract.

(c) Consent may be required for subcontracts under prime contracts for architect-engineer services.

(d) The contracting officer's written authorization for the contractor to purchase from Government sources (see part 51) constitutes consent.

[63 FR 34060, June 22, 1998]

44.201-2 Advance notification requirements.

Under cost-reimbursement contracts, even if the contractor has an approved purchasing system and consent to subcontract is not required under 44.201-1, the contractor is required by statute (10 U.S.C. 2306(e) or 41 U.S.C. 254(b)) to notify the agency before the award of—

(a) Any cost-plus-fixed-fee subcontract; or

(b) Any fixed-price subcontract that exceeds—

(1) For the Department of Defense, the Coast Guard, and the National Aeronautics and Space Administration, the greater of the simplified acquisition threshold or 5 percent of the total estimated cost of the contract; or

(2) For civilian agencies other than the Coast Guard and the National Aeronautics and Space Administration, either the simplified acquisition threshold or 5 percent of the total estimated cost of the contract.

[63 FR 34060, June 22, 1998]

44.202 Contracting officer's evaluation.

44.202-1 Responsibilities.

(a) The cognizant administrative contracting officer (ACO) is responsible for consent to subcontracts, except when the contracting officer retains the contract for administration or withholds the consent responsibility from delegation to the ACO. In such cases, the contract administration office should assist the contracting office in its evaluation as requested.