

Subpart 1516.5—Indefinite-Delivery Contracts

1516.505 Contract clauses.

(a) The Contracting Officer shall insert the clause in 1552.216-72, Ordering—By Designated Ordering Officers, in indefinite delivery/indefinite quantity type solicitations and contracts.

(b) The Contracting Officer shall insert the clause in 1552.216-73, Fixed Rates for Services—Indefinite Delivery/Indefinite Quantity Contract, in solicitations and contracts to specify fixed rates for services.

Subpart 1516.6—Time-and-Materials, Labor-Hour, and Letter Contracts

1516.603 Letter Contracts.

1516.603-1 What is a Notice to Proceed?

(a) A Notice to Proceed (NTP) is a type of letter contract issued pursuant to FAR 16.603 under which an EPA Federal Classification Series 1102 (FCS) contracting officer or a duly authorized EPA on-scene coordinator with delegated procurement authority may initiate, in certain defined situations and subject to certain limitations and conditions, contracting actions to respond to certain situations as described in CERCLA section 104(a)(1) (42 U.S.C. 9604(a)(1)) and the Clean Water Act sections 311(c)(2) and (e)(1)(B) (33 U.S.C. 1321(c)(2) and (e)(1)(B)). An NTP may be utilized as a contractual instrument for certain—

(1) Actions that EPA is authorized to undertake under CERCLA section 104(a)(1), 42 U.S.C. 9604(a)(1), and the National Oil and Hazardous Substances Pollution Contingency Plan (40 CFR part 300), to respond to situations where any hazardous substance has been released or there is a substantial threat of such a release into the environment, or there is a release or substantial threat of release into the environment of any pollutant or contaminant which may present an imminent and substantial danger to the public health or welfare, and

(2) Actions that EPA is authorized to undertake under sections 311(c)(2) and (e)(1)(B) of the Clean Water Act, 33

U.S.C. 1321(c)(2) and (e)(1)(B), and the National Oil and Hazardous Substances Pollution Contingency Plan (40 CFR part 300), to respond when there is a discharge, or a substantial threat of a discharge (to or upon navigable waters, adjoining shorelines, the contiguous zone, or natural resources belonging to, appertaining to, or under the exclusive management of the United States), of oil or a hazardous substance from a vessel, onshore facility, or offshore facility that is a substantial threat to the public health or welfare. Pursuant to a class Justification For Other Than Full and Open Competition executed under the authority of FAR 6.302-2 and 6.303-1(c), an NTP may be issued on a non-competitive basis.

(b) What do subsections 1516.603-1 and 1516.603-2 cover? EPAAR 1516.603-1 and 1516.603-2 contain information and procedures relating to issuance and definitization of an NTP. An NTP is subject to, and must comply with, the applicable requirements for letter contracts in FAR 16.603 and the requirements in this section, and be definitized by an EPA FCS 1102 contracting officer.

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1516.603-2 What are the requirements for use of an NTP?

(a) An EPA FCS 1102 contracting officer or a duly authorized EPA on-scene coordinator with a delegation of procurement authority may issue an NTP so long as it does not exceed the limits of his or her procurement authority and only when all of the following conditions have been met:

(1) A written determination has been made by the Federal on-scene coordinator that—

(i) As authorized by and consistent with CERCLA section 104(a)(1), 42 U.S.C. 9604(a)(1), and the National Oil and Hazardous Substances Pollution Contingency Plan (40 CFR part 300), the EPA must take action to respond to a hazardous substance release or substantial threat of such a release into the environment, or a release or substantial threat of a release into the environment of any pollutant or contaminant which may present an imminent and substantial danger to the public health or welfare, or