

of correspondence involving controversial or sensitive contractual matters of a significant nature.

(g) All protests against award will be reviewed by General Counsel in accordance with the provisions specified in 48 CFR 833.103.

(h) Excluded from these legal review requirements are:

(1) Agreements, licenses, easements, or deeds dealing with management, sale, or lease of properties acquired by VA as a result of liquidation of guaranteed, direct, acquired or vendee loans.

(2) Orders or contracts for procurement of leased telecommunications systems, installation of and changes to telephone PBX systems at individual Department of Veterans Affairs locations or orders issued under GSA area-wide contracts with the American Telephone and Telegraph Company and local telephone companies.

(i) If a change order (unilateral agreement) is essential for the logical process of the contract, the Office of Acquisition and Materiel Management, Acquisition Review Division shall be called prior to issuing the document. (This requirement does not apply to change orders issued by the Office of Facilities Management.)

(j) The following apparent low responsive and responsible bids/offers with the respective solicitations will be submitted for the review of the Deputy Assistant Secretary for Acquisition and Materiel Management, Acquisition Review Division, prior to award:

(1) Negotiated contract actions in the Office of Facilities Management which exceed \$2 million.

(2) Bids/offers for construction contracts to be awarded by VHA facilities which exceed \$5 million.

(3) Bids/offers for service contracts, including A/E, which exceed \$2 million, and

(4) Bids/offers for supply contracts which exceed \$5 million in total evaluated cost (excluding FSS contracts awarded by VA National Acquisition Center).

[49 FR 12583, Mar. 29, 1984, as amended at 50 FR 791, Jan. 7, 1985; 51 FR 23066, June 25, 1986; 52 FR 28559, July 31, 1987; 52 FR 49016, Dec. 29, 1987; 54 FR 31963, Aug. 3, 1989; 55 FR 31391, Aug. 2, 1990; 58 FR 31914, June 7, 1993; 61 FR 11585, Mar. 21, 1996; 68 FR 3468, Jan. 24, 2003]

#### **801.602-71 Processing contracts for legal/technical review.**

(a) All competitively awarded solicitations requiring legal and/or technical review will have such reviews completed prior to opening of bids or proposals. The contracting officer will fully evaluate technical and legal review comments prior to opening bids or proposals. Potential bidders/offerors will be advised of changes to the solicitation by amendment and afforded sufficient time for evaluation prior to opening of bids or offers.

(b) *Veterans Health Administration (VHA) Field Facilities, VA National Acquisition Center.* (1) Proposed contracts or agreements specified in 801.602-70(a) (1), (2), (3), (4) (iii) through (v), (5), (6) and (7) will be forwarded by the contracting officer directly to the Deputy Assistant Secretary for Acquisition and Materiel Management, Acquisition Review Division. The Deputy Assistant Secretary for Acquisition and Materiel Management will review the submissions and when applicable, forward them directly to the General Counsel (025).

(2) Proposed contracts and agreements for scarce medical specialist services or for the mutual use or exchange of use of health-care resources, as specified in 801.602-70(a)(4)(vi) and (a)(4)(vii), will be forwarded to Central Office in accordance with Veterans Health Administration directives and VA Manual M-1, Part 1, Chapter 34, for review and submission to the Office of the General Counsel (025).

(3) Proposed interagency agreements specified in 801.602-70(a)(4)(viii) will be forwarded by the approving official to the Deputy Assistant Secretary for Acquisition and Materiel Management, Program Development and Evaluation Division. The Deputy Assistant Secretary for Acquisition and Materiel Management will review the submissions and forward them directly to the General Counsel (025).

(4) Proposed facility-level modification specified in 801.607-70(b) will be forwarded by the contracting officer to General Counsel (025), through the Deputy Assistant Secretary for Acquisition and Materiel Management, Acquisition Review Division.

(5) Proposed final decisions or settlement agreements specified in 801.602-70(b) will be forwarded by the contracting officer directly to the Deputy Assistant Secretary for Acquisition and Materiel Management. The Deputy Assistant Secretary for Acquisition and Materiel Management will review the submissions and forward them to the General Counsel (025).

(6) Proposed revisions to contract clauses specified in 801.602-70(c) will be forwarded by the contracting officer directly to the Deputy Assistant Secretary for Acquisition and Materiel Management. If concurred in, the Deputy Assistant Secretary for Acquisition and Materiel Management will forward them directly to the General Counsel.

(c) *Veterans Benefits Administration field facilities.* (1) All proposed State reimbursement contracts and Guidance Center and Vocational Rehabilitation contracts which are anticipated to ultimately involve the expenditure of \$100,000 or more, will be forwarded by the contracting officer directly to the Director, Vocational Rehabilitation and Education Service, for review and approval. The Director, Vocational Rehabilitation and Education Service will review the submissions and forward them to the General Counsel.

(2) Any other proposed agreement or contract specified in 801.602-70(a) will be forwarded by the facility Director to the Chief Benefits Director for Field Operations (201) for coordination with Director(s) of the concerned service(s) and submission to the General Counsel.

(3) Any other element of contracting falling within 801.602-70 (b) and (c) will be processed in accordance with paragraph (b)(2) of this section.

(d) *Central office.* Any element of contracting prescribed for legal review in 801.602-70 originating in central office, will be submitted for legal review by the contracting officer, or approving official in the case of agreements with other Government agencies through the Deputy Assistant Secretary for Acquisition and Materiel Management, Acquisition Review Division. (Except that in the case of Office of Facilities Management contracts, a selected sample of contracts will be processed through the Office of Acquisition and

Materiel Management, Acquisition Review Division. All other Office of Facilities Management contract actions identified in 801.602-70 will be submitted for legal review in accordance with Office of Facilities Management procedures).

(e) All bids/offers required to be reviewed prior to award in accordance with 801.602-70(j), will be forwarded to the Deputy Assistant Secretary for Acquisition and Materiel Management, Acquisition Review Division, with a cover letter identifying:

(1) The date in which the award is anticipated;

(2) Responsibility determination results or efforts ongoing;

(3) Determinations of price reasonableness;

(4) Explanation of proposed award to other than low responsible bidder/offeror.

[49 FR 12583, Mar. 29, 1984, as amended at 52 FR 28559, July 31, 1987; 52 FR 49017, Dec. 29, 1987; 54 FR 31963, Aug. 3, 1989; 54 FR 40062, Sept. 29, 1989; 61 FR 11585, Mar. 21, 1996; 68 FR 3468, Jan. 24, 2003]

#### **801.602-72 Documents to be submitted for legal review.**

The following documents are to be submitted for legal review:

(a) For proposed construction contracts, one copy of all solicitation documents, excluding drawings. These documents will be submitted no later than at the time they are furnished to prospective bidders. Where feasible, these documents should be submitted for review prior to the time they are furnished to prospective bidders.

(b) For proposed contracts and agreements for scarce medical specialist services or for the mutual use or exchange of use of health-care resources, as specified in 801.602-70(a)(4)(vi) and (a)(4)(vii), the documents referred to in VA Manual M-1, Part 1, Chapter 34.

(c) For all other proposed contracts and agreements, a copy of the documents to be used in the solicitation and/or award of contract, including any other documents which support the proposed procurement action, e.g., justification and approval in the case of noncompetitive procurement. Solicitation documents will be submitted no later than at the time they are mailed