

# SUBPART 16.5 - INDEFINITE DELIVERY CONTRACTS

*(Revised August 3, 2017 through PROCLTR 2017-17)*

**Parent topic:** PART 16 - TYPES OF CONTRACTS

## **16.501-2 General.**

(c) Indefinite-delivery contracts providing for issuance of undefinitized delivery orders (UDOs) shall meet the requirements of DFARS Subpart 217.74 and DLAD SUBPART 17.74 - UNDEFINITIZED CONTRACT ACTIONS .

## **16.503 Requirements contracts.**

(a)(S-90) Guaranteed minimum (GM) purchase requirements and obligations. Contracting officers are not required to establish a GM for requirements contracts; however, if the contracting officer elects to include a GM in the solicitation and the award, the policies at 16.504(a)(1)(S-90 and 17.207(S-90) apply.

## **16.504 Indefinite-quantity contracts.**

(a)(1)(S-90) Guaranteed minimum (GM) purchase requirements and obligations.

(A) Contracting officers shall establish a GM quantity or GM dollar value of supplies or services for the base period of performance of indefinite-quantity contracts (IQCs) and record an obligation in the amount of the GM at time of award. Recording the obligation is an internal financial action and is separate from issuing a task or delivery order against an IQC. Contracting officers shall follow the Guaranteed Minimum (GM) Job Aids (<https://dlamil.dps.mil/sites/InfoOps/Shared%20Documents/Forms/AllItems.aspx?FolderCTID=0x012000D3D259D71343A94E992AA17310CB0231&viewid=bb1b25a6%2D56d8%2D4398%2Dac48%2D5f987c946cca&id=%2Fsites%2FinfoOps%2Fshared%20Documents%2FEBS%20ONLINE%20HELP%2FePROCUREMENT%2Fguaranteed%20Minimum%20%28GM%29>). (From the EBS Home Page, see the EBS Online Help link, navigate to the eProcurement section, and select the Guaranteed Minimum (GM) folder.)

(1) For actions executed in ECC, see the job aid entitled "Creating and Maintaining a Guaranteed Minimum Purchase Order".

(2) For actions executed in SRM, see the job aid entitled "Creating and Updating a Guaranteed Minimum (GM) on a Long Term Contract (LTC)".

(B) Failures to establish a GM quantity or GM dollar value and/or record an obligation in the amount of the GM purchase requirement when awarding an IQC are reflected in warrant proficiency scores

and require creation of a contracting officer corrective action plan in accordance with DLAM 5025.04, Contracting Officer (KO) Warrant Program ([https://issue-p.dla.mil/Published\\_Issuances/Contracting%20Officer%20\(KO\)%20Warrant%20Program%20with%20CAP%20changes.pdf](https://issue-p.dla.mil/Published_Issuances/Contracting%20Officer%20(KO)%20Warrant%20Program%20with%20CAP%20changes.pdf)). See Monthly Review and Reporting Requirements at mandatory PGI 16.504(a)(1)(S-90)(B).

(C) If during contract performance, the contracting officer does not expect demand during the remaining performance period to fulfill the GM, the contracting officer should consider whether a termination for convenience to reduce the GM is appropriate. Before executing any modification to effect a reduction in the GM, the contracting officer should consult with Office of Counsel to consider any legal impacts to the Agency stemming from the modification.

(a)(4)(viii) Use procurement note L26 in solicitations which will result in IDCs when it is anticipated that the contractor will offer a price break for high quantity delivery orders. Coordinate with the demand planner manager for establishment of the quantity most likely to be procured for each delivery order. The highest weight should then be assigned to this quantity. State the range of order quantities and the evaluation weight which will be placed on each quantity range in the buying section of Optional Form 336, Continuation Sheet. The contracting officer shall also provide the contractor with an estimate of the annual requirements.

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#### L26 Evaluation of Quantity Sensitive and Indefinite Delivery Contracts (AUG 2017)

(1) To be eligible for award for an item, the contractor shall offer prices for each quantity increment stated in the solicitation.

(2) The Government will—

(i) Evaluate prices on a weighted basis, as identified in the solicitation.

(ii) Assign the highest weights to incremental quantities, as identified in the solicitation, within which it anticipates orders are most likely to be issued.

(iii) Evaluate offers by multiplying the designated weight by the unit price for each order increment and adding the results.

(iv) Make only one award for each line item.

(v) Issue each delivery order at the price offered for that increment.

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(c) Multiple award preference. The contracting officer shall include the determination not to make multiple awards in the acquisition plan or otherwise document the determination in writing in the contract file.

(1)(ii)(D)(1)(S-90) "Awarded to a single source" means the task or delivery orders will not be competed between contract holders. "Task or delivery order contract" does not include orders against task or delivery order contracts.

(S-91) The HCA (or CCO if the HCA delegates approval authority to the CCO) shall approve award of task or delivery order contracts between \$10 million and not exceeding the threshold at FAR

16.504(c)(1)(ii)(D)(1) to a single source. This requirement does not apply to DLA Energy's energy program contracts, AbilityOne, and FPI contracts when they are a mandatory source in accordance with FAR 8.602(a)(3). This requirement does apply to DLA Energy non-energy task and delivery order contracts.

(S-92) Single awards over the threshold at FAR 16.504(c)(1)(ii)(D)(1) ); excluding those subject to the exception in paragraph (c)(1)(ii)(D)(3)(i) at [DFARS 16.504](https://www.acq.osd.mil/dpap/dars/dfars/html/current/216_5.htm#216.504) ([https://www.acq.osd.mil/dpap/dars/dfars/html/current/216\\_5.htm#216.504](https://www.acq.osd.mil/dpap/dars/dfars/html/current/216_5.htm#216.504)).

(A) Preferably within the early stages of the acquisition process, but no less than 21 days before contract award, the procuring organization shall submit a D&F to the DLA Acquisition Operations Division. If the D&F specifies the solicitation number, any resulting single award contract over the threshold at FAR 16.504(c)(1)(ii)(D)(1) will be covered. The D&F shall include sufficient detail to fully support the application of one or more of the exceptions at FAR 16.504(c)(1)(ii)(D)(1) to the procurement.

(B) Fixed-price contracts utilizing an economic price adjustment or price redetermination clause qualify for the FAR 16.504(c)(1)(ii)(D)(1)(ii) exception for contracts providing only firm-fixed price task or delivery orders if the individual delivery or task orders under the contracts are firm-fixed priced using prices established in the contracts.

## **16.505 Ordering.**

(a)(S-90) The contracting officer shall issue a delivery order for any quantity ordered, including a quantity ordered concurrently with award of a basic contract.

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

(8) *Task-order and delivery-order ombudsman.* The competition advocate at each procuring organization shall act as the task and delivery order contract ombudsman. The ombudsman shall attempt to resolve contractor complaints relative to placement of individual task and delivery orders. When the ombudsman cannot resolve complaints at the procuring organization level, the ombudsman shall forward the complaint to the Program Manager for Competition, DLA Acquisition Operations Division. The DLA competition advocate shall resolve the complaint. Each procuring organization shall develop procedures for execution of ombudsman duties and responsibilities.

(c) Contracting officers may use procurement note C10 to indicate delivery order procedures in multiple award indefinite delivery contracts pursuant to FAR 16.504. Indicate in the procurement note whether price evaluation for the task or delivery order is significantly more, less, or approximately equal in importance to all other evaluation factors combined.

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C10 Placement of Task or Delivery Orders Against Multiple Indefinite Delivery Contracts (AUG 2017)

(1) In accordance with FAR 52.216-27, Single or Multiple Awards, the Government may elect to award multiple contracts under this solicitation. The Government will evaluate proposals in accordance with evaluation provisions in Section M of this solicitation. In the event of multiple awards, the Government will use the same evaluation criteria to determine which proposals

represent the best value to the Government. The contracting officer has the discretion to determine the exact number of awards, considering the cost to the Government to administer multiple awards, the recurring nature of the requirement, the need to increase the active production base, and the benefits that may be achieved through continued competition.

(2) Task or delivery order placement procedure.

(a) In the event of multiple awards, the contracting officer will consider each awardee for placement of individual task or delivery orders unless an exception at FAR 16.505(b)(2) applies. However, awardees subject to testing and approval requirements (e.g., first article testing) are not eligible to receive orders until testing requirements are satisfactorily completed. Failure to successfully complete required testing will constitute grounds for contract termination for default by the Government.

(b) Unless stated otherwise in the contract or in the request for quotes for task or delivery orders under this contract, the following evaluation process will be used in awarding task or delivery orders. The criteria used for evaluating offers for task or delivery orders under this contract are price, past performance, and delivery. Price is of \_\_\_\_\_ importance than or to the other factors combined. Past performance will include performance on orders previously placed under the contract and may include performance under other contracts. In evaluating performance under previous orders, the contracting officer will consider delivery, quality of supplies or services furnished, and success in implementing any socioeconomic support programs that may be applicable to the contract.

(3) Task and delivery order ombudsman. In accordance with [FAR 16.505\(b\)\(8\)](#), the competition advocate will address complaints or questions regarding the placement of individual task or delivery orders. Address correspondence to the appropriate supply chain listed below:

For DLA Aviation:

DLA Aviation

Competition Advocate, BPP

8000 Jefferson Davis Highway

Richmond, Virginia 23297-5124

For DLA Troop Support's construction and equipment, clothing and textile, subsistence, and medical supply chains:

DLA Troop Support

Competition Advocate, BPA

700 Robbins Avenue

Philadelphia, Pennsylvania 19111-5096

For DLA Land and Maritime:

DLA Land and Maritime

Competition Advocate

Post Office (P.O.) Box 3990

Columbus, Ohio 43218-3990

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## **16.590 Procurement notes.**

(a) Contracting officers may use procurement note L27 in solicitations when a method is needed for making additions or deletions to items covered by the contract (e.g., corporate contracts, LTCs incorporating a manufacturer's price list, comprehensive weapon system spare parts support, a specific range of items).

(1) The contracting officer shall address competition requirements before new items may be added to a contract.

(2) The contracting officer shall prepare a scope of contract statement in the solicitation and resulting contract to clearly establish the Government's intentions and rights under the contract. The scope of contract statement should communicate a comprehensive objective for the acquisition (i.e., whether it is based on a specific stock class, weapon system, product line, manufacturer, or distributor). The contracting officer shall not include information in the scope of contract statement that conflicts with Section B or other terms of the solicitation. Contracting officers have flexibility in defining contract scope but must be careful to avoid ambiguities.

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### L27 Addition and Deletion of Items (AUG 2017)

(1) The Government reserves the right to unilaterally delete items that were available from only one manufacturer at the time of award if an alternate source of supply becomes available or the Government's requirements are modified to provide for full and open competition. The Government will provide a 30-day advance notice to the contractor prior to deleting any item from the contract.

(2) The Government may add new items to the contract through bilateral modification with negotiated prices. All new requirements are subject to synopsis prior to addition to the contract.

(3) Discontinued items:

(a) The contractor agrees to provide the Government with immediate, written notification when the manufacturer will discontinue an item, including a recommendation for any potential substitute or replacement items. If the Government elects to include a substitute or replacement item in the contract, the contracting officer will modify the contract accordingly.

(b) If the manufacturer discontinues an item without replacement, the contractor shall include in the notice a recommendation concerning the availability of items that are comparable in form, fit, and function. The contractor shall not incur any costs related to alternate sources of supply without the express written approval of the contracting officer. The Government has the option to make a last time order, or series of orders, within 30 days after receiving written notification of the discontinued item, after which the item will be deleted from the contract. The contractor shall honor any last time order, unless it is returned to the ordering office within 10 days after issuance with written notice stating the full quantity is not available for shipment. The parties will negotiate the terms of such

orders, including changes to the delivery schedule and maximum quantity available for shipment.

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(b) Contracting officers shall use procurement note C12 in solicitations and contract awards for LTCs that provide for shipment to more than one location and include quantity range pricing; when transportation costs will be relatively small compared to the cost of the item; and when the contract price will be f.o.b. origin.

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#### C12 Pricing of Delivery Orders with Quantity Increments (AUG 2017)

(a) In pricing delivery orders requiring delivery of one national stock number (NSN) to multiple destinations, the Government will determine the price for each destination as follows, depending on the box checked:

(1) The quantity range price based on the total quantity of the NSN being procured under each delivery order regardless of destination; or

(2) The total quantity being shipped to all destinations within each zone as defined elsewhere in this contract.

(b) If this solicitation or contract contains a provision for placement of orders through an electronic ordering system, the Government will determine unit prices for those orders as follows, depending on the box checked:

(1) The total quantity of all requirements for each NSN issued via the electronic ordering system in a single day, regardless of the number of individual orders; or

(2) The quantity of each individual order.

(c) The minimum quantity to be ordered, per destination, will be the minimum ordering range quantity if specified in section B of the solicitation or contract for each item.

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