

Date: September 13, 2004

To: Acquisition Management Committee
GS-1102-ListServe

From: Head of the Contracting Activity and
Director, Office of Acquisition Management and Policy, OA

Subject: Letter Contracts

OAMP Policy Letter 2004-01

With the issuance of this OAMP Policy Letter, OAMP is establishing the use of policy letters to the contracting community and other interested parties regarding topics of importance that have an immediate impact on NIH staff in their acquisition activities. These Letters will cover both policy and procedure on circumscribed topics and are intended to provide the community with an easy-to-identify file of important changes in acquisition. As you are aware, acquisition rules and regulations are changing rapidly, and it is necessary to keep NIH contracting staff aware of these changes in the most efficient and immediate manner. These Letters will accomplish this purpose. If necessary, some of the Letters may later become NIH Policy Manual Chapters. The Letters are meant to be filed in a single location, thus making it easy to locate all Letters in a single place. All Letters will be sequentially numbered, by Fiscal Year, beginning with this Letter 2004-01. The following information pertains to the instant Policy Letter.

Background: FAR 16.603-3 provides that: "a letter contract may be used only after the head of the contracting activity or a designee determines in writing that no other contract is suitable." The previous HHSAR 316.603-3 identified the "principal official responsible for acquisition" (redefined as the Head of the Contracting Activity (HCA)) as the designee who could execute the statement prescribed by FAR 16.303-3. The current HHSAR 316.603-3, effective January 17, 2001, revised that citation to permit a lower level of authority to execute this written statement. Specifically, HHSAR 316.603-3 now permits an official at one level above the contracting officer to execute the prescribed written statement.

On November 14, 2001, an email was sent to the Acquisition Management Committee (AMC) that cited the new HHSAR lower level of authority, along with a requirement to report certain information on all executed letter contracts to the HCA (through the Division of Acquisition Policy and Evaluation, OAMP) on a quarterly basis. Negative reports were also required, if applicable.

Policy: The HCA has determined that it is important that the approval to use the letter contract mechanism be retained at a higher level than the individual IC Contracting Office. Therefore, effective with the issuance of this Policy Letter, HHSAR 316.603-3 may be satisfied only upon approval by the HCA of a determination, signed by the IC Contracting Officer to execute a letter

contract because no other contract mechanism is suitable. Such determination must be accompanied by a statement of the facts and circumstances surrounding the request for approval (see HHSAR 316.603-70).

Effective Date: Immediately.

/s/

Diane J. Frasier