

Federal Acquisition Regulation

16.405-2

paid total allowable costs, plus the minimum or maximum fee.

(b) *Application.* (1) A cost-plus-incentive-fee contract is appropriate for services or development and test programs when—

(i) A cost-reimbursement contract is necessary (see 16.301-2) and

(ii) A target cost and a fee adjustment formula can be negotiated that are likely to motivate the contractor to manage effectively.

(2) The contract may include technical performance incentives when it is highly probable that the required development of a major system is feasible and the Government has established its performance objectives, at least in general terms. This approach may also apply to other acquisitions, if the use of both cost and technical performance incentives is desirable and administratively practical.

(3) The fee adjustment formula should provide an incentive that will be effective over the full range of reasonably foreseeable variations from target cost. If a high maximum fee is negotiated, the contract shall also provide for a low minimum fee that may be a zero fee or, in rare cases, a negative fee.

(c) *Limitations.* No cost-plus-incentive-fee contract shall be awarded unless all limitations in 16.301-3 are complied with.

[48 FR 42219, Sept. 19, 1983. Redesignated at 62 FR 12696, Mar. 17, 1997, as amended at 62 FR 44815, Aug. 22, 1997]

16.405-2 Cost-plus-award-fee contracts.

(a) *Description.* A cost-plus-award-fee contract is a cost-reimbursement contract that provides for a fee consisting of (1) a base amount fixed at inception of the contract and (2) an award amount that the contractor may earn in whole or in part during performance and that is sufficient to provide motivation for excellence in such areas as quality, timeliness, technical ingenuity, and cost-effective management. The amount of the award fee to be paid is determined by the Government's judgmental evaluation of the contractor's performance in terms of the criteria stated in the contract. This determination and the methodology for de-

termining the award fee are unilateral decisions made solely at the discretion of the Government.

(b) *Application.* (1) The cost-plus-award-fee contract is suitable for use when—

(i) The work to be performed is such that it is neither feasible nor effective to devise predetermined objective incentive targets applicable to cost, technical performance, or schedule;

(ii) The likelihood of meeting acquisition objectives will be enhanced by using a contract that effectively motivates the contractor toward exceptional performance and provides the Government with the flexibility to evaluate both actual performance and the conditions under which it was achieved; and

(iii) Any additional administrative effort and cost required to monitor and evaluate performance are justified by the expected benefits.

(2) The number of evaluation criteria and the requirements they represent will differ widely among contracts. The criteria and rating plan should motivate the contractor to improve performance in the areas rated, but not at the expense of at least minimum acceptable performance in all other areas.

(3) Cost-plus-award-fee contracts shall provide for evaluation at stated intervals during performance, so that the contractor will periodically be informed of the quality of its performance and the areas in which improvement is expected. Partial payment of fee shall generally correspond to the evaluation periods. This makes effective the incentive which the award fee can create by inducing the contractor to improve poor performance or to continue good performance.

(c) *Limitations.* No cost-plus-award-fee contract shall be awarded unless—

(1) All of the limitations in 16.301-3 are complied with; and

(2) The contract amount, performance period, and expected benefits are sufficient to warrant the additional administrative effort and cost involved.

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