

## 216.402

(C) Will be performed within the United States, except Alaska.

(ii) The prohibition in paragraph (c)(i) of this section does not apply—

(A) To contracts for environmental restoration at an installation that is being closed or realigned where payments are made from a Base Realignment and Closure Account; or

(B) To contracts specifically approved in writing, setting forth the reasons therefor, in accordance with the following:

(1) The Secretaries of the military departments are authorized to approve such contracts that are for environmental work only, provided the environmental work is not classified as construction, as defined by 10 U.S.C. 2801.

(2) The Secretary of Defense or designee must approve such contracts that are not for environmental work only or are for environmental work classified as construction.

[62 FR 1058, Jan. 8, 1997; 62 FR 1817, Jan. 13, 1997; 62 FR 49305, Sept. 19, 1997]

### Subpart 216.4—Incentive Contracts

#### 216.402 Application of predetermined, formula-type incentives.

##### 216.402-2 Technical performance incentives.

Contractor performance incentives should relate to specific performance areas of milestones, such as delivery or test schedules, quality controls, maintenance requirements, and reliability standards.

##### 216.403 Fixed-price incentive contracts.

(b) *Application.*

(3) Individual line items may have separate incentive provisions; e.g., when dissimilar work calls for separate formulas.

##### 216.403-2 Fixed-price incentive (successive targets) contracts.

(a) *Description.* (1)(iii) The formula does not apply for the life of the contract. It is used to fix the firm target profit for the contract. To provide an incentive consistent with the circumstances, the formula should reflect

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the relative risk involved in establishing an incentive arrangement where cost and pricing information were not sufficient to permit the negotiation of firm targets at the outset.

##### 216.404 Fixed-price contracts with award fees.

Award-fee provisions may be used in fixed-price contracts as provided in 216.470

[63 FR 11529, Mar. 9, 1998]

##### 216.405 Cost-reimbursement incentive contracts.

##### 216.405-1 Cost-plus-incentive-fee contracts.

(b) *Application.*

(3) Give appropriate weight to basic acquisition objectives in negotiating the range of fee and the fee adjustment formula. For example—

(A) In an initial product development contract, it may be appropriate to provide for relatively small adjustments in fee tied to the cost incentive feature, but provide for significant adjustments if the contractor meets or surpasses performance targets.

(B) In subsequent development and test contracts, it may be appropriate to negotiate an incentive formula tied primarily to the contractor's success in controlling costs.

[56 FR 36340, July 31, 1991. Redesignated at 63 FR 11529, Mar. 9, 1998]

##### 216.405-2 Cost-plus-award-fee contracts.

(a) *Description.* (i) Normally, award fee is not earned when the fee-determining official has determined that contractor performance has been submarginal or unsatisfactory.

(ii) The basis for all award fee determinations shall be documented in the contract file.

(b) *Application.* (1) The cost-plus-award-fee (CPAF) contract is also suitable for level of effort contracts where mission feasibility is established but measurement of achievement must be by subjective evaluation rather than objective measurement. See Table 16-1, Performance Evaluation Criteria, for sample performance evaluation criteria