

SUBPART 216.4--INCENTIVE CONTRACTS

(Revised January 13, 2004)

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 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.

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.

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 and Table 16-2, Contractor Performance Evaluation Report, for a sample evaluation report.

(2) The contracting activity may—

(A) Establish a board to—

(1) Evaluate the contractor's performance; and

(2) Determine the amount of the award or recommend an amount to the contracting officer.

(B) Afford the contractor an opportunity to present information on its own behalf.

(3) The CPAF contract may include provisional award fee payments. A provisional award fee payment is a payment made within an evaluation period prior to a final evaluation for that period. The contracting officer may include provisional award fee payments in a CPAF contract on a case-by-case basis, provided those payments—

(A) Are made no more frequently than monthly;

(B) Are limited to no more than—

(1) For the initial award fee evaluation period, 50 percent of the award fee available for that period; and

(2) For subsequent award fee evaluation periods, 80 percent of the evaluation score for the prior evaluation period times the award fee available for the current period, e.g., if the contractor received 90 percent of the award fee available for the prior evaluation period, provisional payments for the current period shall not exceed 72 percent (90 percent x 80 percent) of the award fee available for the current period;

(C) Are superceded by an interim or final award fee evaluation for the applicable evaluation period. If provisional payments have exceeded the payment

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determined by the evaluation score for the applicable period, the contracting officer shall collect the debt in accordance with FAR 32.606; and

(D) May be discontinued, or reduced in such amounts deemed appropriate by the contracting officer, when the contracting officer determines that the contractor will not achieve a level of performance commensurate with the provisional payment. The contracting officer shall notify the contractor in writing of any discontinuance or reduction in provisional award fee payments.

(c) *Limitations.* The CPAF contract shall not be used—

(i) To avoid—

(A) Establishing CPFF contracts when the criteria for CPFF contracts apply, or

(B) Developing objective targets so a CPIF contract can be used.

(ii) For either engineering development or operational system development acquisitions which have specifications suitable for simultaneous research and development and production, except a CPAF contract may be used for individual engineering development or operational system development acquisitions ancillary to the development of a major weapon system or equipment, where—

(A) It is more advantageous; and

(B) The purpose of the acquisition is clearly to determine or solve specific problems associated with the major weapon system or equipment.

(2)(A) Do not apply the weighted guidelines method to CPAF contracts for either the base (fixed) fee or the award fee.

(B) The base fee shall not exceed three percent of the estimated cost of the contract exclusive of the fee.

216.470 Other applications of award fees.

The “award amount” portion of the fee may be used in other types of contracts under the following conditions—

(1) The Government wishes to motivate and reward a contractor for management performance in areas which cannot be measured objectively and where normal incentive provisions cannot be used. For example, logistics support, quality, timeliness, ingenuity, and cost effectiveness are areas under the control of management which may be susceptible only to subjective measurement and evaluation.

(2) The “base fee” (fixed amount portion) is not used.

(3) The chief of the contracting office approves the use of the “award amount.”

(4) An award review board and procedures are established for conduct of the evaluation.

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- (5) The administrative costs of evaluation do not exceed the expected benefits.

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TABLE 16-1, PERFORMANCE EVALUATION CRITERIA

| | | Submarginal | Marginal | Good | Very Good | Excellent |
|---------------------------|--|---|--|--|--|--|
| A Time of Delivery. | (A-1) Adherence to plan schedule. | Consistently late on 20% plans | Late on 10% plans w/o prior agreement | Occasional plan late w/o justification. | Meets plan schedule. | Delivers all plans on schedule & meets prod. Change requirements on schedule |
| | (A-2) Action on Anticipated delays. | Does not expose changes or resolve them as soon as recognized. | Exposes changes but is dilatory in resolution on plans. | Anticipates changes, advise Shipyards but misses completion of design plans 10%. | Keeps Yard posted on delays, resolves independently on plans. | Anticipates in good time, advise Ship- yard, resolves independently and meets production requirements. |
| | (A-3) Plan Main- tenance. | Does not com- plete interre- lated systems studies concurrently. | System studies completed but constr. Plan changes delayed. | Major work plans coordinated in time to meet production schedules. | Design changes from studies and interrelated plant issued in time to meet product schedules. | Design changes, studies resolved and test data issued ahead of production requirements. |
| B Quality of Work. | (B-1) Work Appearance. | 25% dwgs. Not compatible with Shipyards repro. processes and use. | 20% not compatible with Shipyards repro. processes and use. | 10% not compatible with Shipyards repro. processes and use. | 0% dwgs prepared by Des. Agent not compatible with Shipyards repro. processes and use. | 0% dwgs. Presented incl. Des. Agent, vendors, subcontr. Not compatible with Shipyards repro processes and use. |
| | (B-2) Thoroughness and Accuracy of Work. | Is brief on plans tending to leave questionable situations for Shipyards to resolve. | Has followed guidance, type and standard dwgs. | Has followed guidance, type and standard dwgs. Questioning and resolving doubtful areas. | Work complete with notes and thorough explanations for anticipated questionable areas. | Work of highest caliber incorporating all pertinent data required including related activities. |
| | (B-3) Engineering Competence. | Tendency to follow past practice with no variation to meet reqmts. job in hand. | Adequate engng. To use & adapt existing designs to suit job on hand for routine work. | Engineered to satisfy specs., guidance plans and material provided. | Displays excellent knowledge of constr. Reqmts. considering systems aspect, cost, shop capabilities and procurement problems. | Exceptional knowledge of Naval shipwork & adaptability to work process incorporating knowledge of future planning in Design. |

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| B Quality of Work (Cont'd) | (B-4) Liaison Effectiveness | Indifferent to requirements of associated activities, related systems, and Shipyard advice. | Satisfactory but dependent on Shipyard of force resolution of problems without constructive recommendations to subcontractors or vendors. | Maintains normal contract with associated activities depending on Shipyard for problems requiring military resolution. | Maintains independent contact with all associated activities, keeping them informed to produce compatible design with little assistance for Yard. | Maintains expert contact, keeping Yard informed, obtaining info from equipment, supplies without prompting of Shipyard. |
| | (B-5) | Constant surveillance required to keep job from slipping—assign to low priority to satisfy needs. | Requires occasional prodding to stay on schedule & expects Shipyard resolution of most problems. | Normal interest and desire to provide workable plans with average assistance & direction by Shipyard. | Complete & accurate job. Free of incompatibilities with little or no direction by Shipyard. | Develops complete and accurate plans, seeks out problem areas and resolves with associated act. ahead of schedule. |
| C Effectiveness in Controlling and/or Reducing Costs | (C-1) Utilization of Personnel | Planning of work left to designers on drafting boards. | Supervision sets & reviews goals for designers. | System planning by supervisory, personnel, studies checked by engineers. | Design parameters established by system engineers & held in design plans. | Mods. to design plans limited to less than 5% as result lack of eng. System correlation. |
| | (C-2) Control Direct Charges (Except Labor) | Expenditures not controlled for services. | Expenditures reviewed occasionally by supervision. | Direct charges set & accounted for on each work package. | Provides services as part of normal design function without extra charges. | No cost overruns on original estimates absorbs service demands by Shipyard. |
| | (C-3) Performance to Cost Estimate | Does not meet cost estimate for original work or changes 30% time. | Does not meet cost estimate for original work or changes 20% time. | Exceeds original estimate on change orders 10% time and meets original design costs. | Exceeds original estimate on changing orders 5% time. | Never exceeds estimates of original package or change orders. |

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| TABLE 16-2, CONTRACTOR PERFORMANCE EVALAUTION REPORT | | | | | | | | |
|--|---------------------------------------|--------|---|-------------|---|-----------------|-------------------|---------|
| Ratings Excellent Very Good Marginal Submarginal | | | | | Period of _____ 19__ Contract Number _____ Contractor _____ Date of Report _____ PNS Technical Monitor/s _____ _____ | | | |
| CATEGORY | CRITERIA | RATING | | ITEM FACTOR | EVALUATION RATING | CATEGORY FACTOR | EFFICIENCY RATING | |
| A | TIME OF DELIVERY | | | | | | | |
| | A-1 Adherence to Plan Schedule | _____ | x | .40 | = | _____ | | |
| | A-2 Action on Anticipated Delays | _____ | x | .30 | = | _____ | | |
| | A-3 Plan Maintenance | _____ | x | .30 | = | _____ | | |
| | Total Item Weighed Rating | | | | _____ | x | .30 | = _____ |
| B | QUALITY OF WORK | | | | | | | |
| | B-1 Work Appearance | _____ | x | .15 | = | _____ | | |
| | B-2 Thoroughness and Accuracy of Work | _____ | x | .30 | = | _____ | | |
| | B-3 Engineering Competence | _____ | x | .20 | = | _____ | | |
| | B-4 Liaison Effectiveness | _____ | x | .15 | = | _____ | | |
| | B-5 Independence and Initiative | _____ | x | .15 | = | _____ | | |
| | Total Item Weighed Rating | | | | _____ | x | .40 | = _____ |

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| C | EFFECTIVE- NESS IN CONTROL- LING AND/OR REDUCING COSTS C-1 Utilization of Personnel | _____ | x | .30 | = | _____ |
| | C-2 Control of all Direct Charges Other than Labor | _____ | x | .30 | = | _____ |
| | C-3 Performance to Cost Estimate | _____ | x | .40 | = | _____ |
| | Total Item Weighed Rating | _____ | x | .30 | = | _____ |
| TOTAL WEIGHT RATING _____ | | | | | | |
| Rated by: _____ | | | | | | |
| Signature(s) _____ | | | | | | |
| NOTE: Provide supporting data and/or justification for below average or outstanding item ratings. | | | | | | |