

## Department of Energy

916.307

processed as a deviation to the prohibition in this paragraph.

### **915.605 Content of unsolicited proposals. (DOE coverage—paragraph (b)).**

(b)(5) Unsolicited proposals for non-nuclear energy demonstration activities not covered by existing formal competitive solicitations or program opportunity notices may include a request for federal assistance or participation, and shall be subject to the cost sharing provisions of 48 CFR 917.70.

### **915.606 Agency procedures. (DOE coverage—paragraph (b)).**

(b) Unless otherwise specified in a notice of program interest, all unsolicited proposals should be submitted to the Unsolicited Proposal Coordinator, U.S. Department of Energy, National Energy Technology Laboratory (PGH), Pittsburgh, PA 15236-0940. If the proposer has ascertained the cognizant program office through preliminary contacts with program staff, the proposal may be submitted directly to that office. In such instances, the proposer should separately send a copy of the proposal cover letter to the unsolicited proposal coordinator to assure that the proposal is logged in the Department's automated tracking system for unsolicited proposals.

[63 FR 56851, Oct. 23, 1998, as amended at 67 FR 14871, Mar. 28, 2002]

### **915.607 Criteria for acceptance of an unsolicited proposal. (DOE coverage—paragraph (c)).**

(c) DOE's cost participation policy, at 48 CFR 917.70, shall be followed in determining the extent to which the DOE will participate in the cost for the proposed effort.

## **PART 916—TYPES OF CONTRACTS**

### **Subpart 916.2—Fixed-Price Contracts**

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### **Subpart 916.5—Indefinite-Delivery Contracts**

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### **Subpart 916.6—Time and Materials, Labor Hour, and Letter Contracts**

916.601 Time and Materials (DOE coverage (c)).

AUTHORITY: 42 U.S.C. 7101 *et seq.*; 41 U.S.C. 418(b); and 50 U.S.C. 2401 *et seq.*

SOURCE: 49 FR 11972, Mar. 28, 1984, unless otherwise noted.

### **Subpart 916.2—Fixed-Price Contracts**

#### **916.203 Fixed-price contracts with economic price adjustments.**

##### **916.203-4 Contract clauses.**

(d)(2) The Head of the Contracting Activity, or designee, for contracts estimated to be within the limits of their delegated authority, may approve the use of an economic price adjustment clause when appropriate in accordance with (FAR) 48 CFR 16.203-4.

[49 FR 11955, Mar. 28, 1984, as amended at 59 FR 9105, Feb. 25, 1994]

### **Subpart 916.3—Cost-Reimbursement Contracts**

#### **916.306 Cost-plus-fixed-fee contracts.**

(c)(2) The Head of the Contracting Activity, or designee, for contracts estimated to be within their delegated authority, may approve (sign) the determination and findings establishing the basis for application of the statutory price or fee limitations.

[49 FR 11955, Mar. 28, 1984, as amended at 59 FR 9105, Feb. 25, 1994]

#### **916.307 Contract clauses.**

(j) The contracting officer shall insert the clause at FAR 52.216-15, Predetermined Indirect Cost Rates, modified as specified in 952.216-15 in solicitations and contracts when a cost-reimbursement research and development

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contract with a State or local government is contemplated and predetermined indirect cost rates are to be used.

**Subpart 916.4—Incentive Contracts**

**916.404-2 Cost-plus-award-fee contracts.**

(d) *Fee Determination Plans.* Award fee arrangements limited to technical performance considerations are prohibited because they may increase cost disproportionately to any benefits gained. Instead, the award fee arrangement shall include both technical performance (including scheduling as appropriate) and business management considerations tailored to the needs of the particular situation. In addition, in a situation where cost estimating reliability and other factors are such that the negotiation of a separate predetermined incentive sharing arrangement applicable to cost performance is determined both feasible and advantageous, cost incentives may be added. The resulting contract would then be identified as a cost-plus-incentive-fee/award-fee combination type. The goals and evaluation criteria should be results-oriented. The award fee should be concentrated on the end product of the contract, that is, output, be it hardware, research and development, demonstration or services, together with business management considerations. However, input criteria such as equal employment opportunity, small business programs, functional management areas, such as safety, security, etc., should not be disregarded and may be appropriate criteria upon which to base some part of the award fee. Specific goals or objectives shall be established in relation to each performance evaluation criterion against which contractor performance is measured.

[49 FR 11955, Mar. 28, 1984, as amended at 59 FR 9105, Feb. 25, 1994]

**48 CFR Ch. 9 (10-1-06 Edition)**

**Subpart 916.5—Indefinite-Delivery Contracts**

**916.504 Indefinite-quantity contracts. (DOE coverage—paragraph (c))**

(c) The contracting officer shall establish minimum ordering guarantees with each awardee for all indefinite-quantity, multiple award contracts to ensure that adequate consideration exists to contractually bind each awardee to participate in the ordering process throughout the term of the multiple award contract. Minimum ordering guarantees should be equal among all awardees, and shall be determined on a case-by-case basis for each acquisition commensurate with the size, scope and complexity of the contract requirements.

[62 FR 53757, Oct. 16, 1997]

**916.505 Ordering. (DOE coverage—paragraph (b))**

(b) (4) The Director, Office of Management Systems, Office of Procurement and Assistance Management, is designated as the DOE Ombudsman for task and delivery order contracts in accordance with 48 CFR 16.505(b)(4).

(5) The Heads of Contracting Activities shall designate a senior manager to serve as the Contracting Activity Ombudsman for task and delivery order contracts. If, for any reason, the Contracting Activity Ombudsman is unable to execute the duties of the position, the Head of the Contracting Activity shall designate an Acting Contracting Activity Ombudsman.

(6) The Contracting Activity Ombudsman shall:

(i) Be independent of the contracting officer who awarded and/or is administering the contract under which a complaint is submitted;

(ii) Not assume any duties and responsibilities pertaining to the evaluation or selection of an awardee for the issuance of an order under a multiple award, task or delivery order contract;

(iii) Review complaints from contractors awarded a task or delivery order contract;

(iv) Collect all facts from the cognizant organizations or individuals that are relevant to a complaint submitted to ensure that the complainant