

#### 48.104-3

agrees. The contracting officer ordinarily shall make calculations as future contracts are awarded and, within 3 months after their award, modify the instant contract to provide the contractor's share of savings. For future contract savings calculated under the optional lump-sum method, the sharing base is an estimate of the number of items that the contracting office will purchase for delivery during the sharing period. In deciding whether or not to use the more convenient lump-sum method for an individual VECP, the contracting officer shall consider—

(i) The accuracy with which the number of items to be delivered during the sharing period can be estimated and the probability of actual production of the projected quantity;

(ii) The availability of funds for a lump-sum payment; and

(iii) The administrative expense of amending the instant contract as future contracts are awarded.

(b) *Construction contracts.* Sharing on construction contracts applies only to savings on the instant contract and to collateral savings. The Government's share of savings is determined by subtracting Government costs from instant contract savings and multiplying the result by (1) 45 percent for fixed-price contracts; or (2) 75 percent for cost-reimbursement contracts. Value engineering sharing does not apply to incentive construction contracts.

[48 FR 42443, Sept. 19, 1983, as amended at 54 FR 5057, Jan. 31, 1989; 55 FR 3887, Feb. 5, 1990; 59 FR 11387, Mar. 10, 1994. Redesignated and amended at 64 FR 51847, 51848, Sept. 24, 1999]

#### 48.104-3 Sharing collateral savings.

(a) The Government shares collateral savings with the contractor, unless the head of the contracting activity has determined that the cost of calculating and tracking collateral savings will exceed the benefits to be derived (see 48.201(e)).

(b) The contractor's share of collateral savings may range from 20 to 100 percent of the estimated savings to be realized during a typical year of use but must not exceed the greater of—

(1) The contract's firm-fixed-price, target price, target cost, or estimated cost, at the time the VECP is accepted; or

#### 48 CFR Ch. 1 (10-1-02 Edition)

(2) \$100,000.

(c) The contracting officer must determine the sharing rate for each VECP.

(d) In determining collateral savings, the contracting officer must consider any degradation of performance, service life, or capability.

[64 FR 51848, Sept. 24, 1999]

#### 48.104-4 Sharing alternative—no-cost settlement method.

In selecting an appropriate mechanism for incorporating a VECP into a contract, the contracting officer shall analyze the different approaches available to determine which one would be in the Government's best interest. Contracting officers should balance the administrative costs of negotiating a settlement against the anticipated savings. A no-cost settlement may be used if, in the contracting officer's judgment, reliance on other VECP approaches likely would not be more cost-effective, and the no-cost settlement would provide adequate consideration to the Government. Under this method of settlement, the contractor would keep all of the savings on the instant contract, and all savings on its concurrent contracts only. The Government would keep all savings resulting from concurrent contracts placed with other sources, savings from all future contracts, and all collateral savings. Use of this method must be by mutual agreement of both parties for individual VECPs.

[63 FR 34079, June 22, 1998. Redesignated at 64 FR 51847, Sept. 24, 1999]

#### 48.105 Relationship to other incentives.

Contractors should be offered the fullest possible range of motivation, yet the benefits of an accepted VECP should not be rewarded both as value engineering shares and under performance, design-to-cost, or similar incentives of the contract. To that end, when performance, design-to-cost, or similar targets are set and incentivized, the targets of such incentives affected by the VECP are not to be adjusted because of the acceptance of the VECP. Only those benefits of an accepted VECP not rewardable under