

(d) The Contractor shall maintain records of all contract costs claimed by the Contractor as constituting part of its share. Those records shall be subject to audit by the Government. Costs contributed by the Contractor shall not be charged to the Government under any other grant, contract, or agreement (including allocation to other grants, contracts, or agreements as part of an independent research and development program).

(End of clause)

[62 FR 3484, Jan. 23, 1997]

1852.216-74 Estimated cost and fixed fee.

As prescribed in 1816.307-70(b), insert the following clause:

ESTIMATED COST AND FIXED FEE (DEC 1991)

The estimated cost of this contract is _____ exclusive of the fixed fee of _____. The total estimated cost and fixed fee is _____.

(End of clause)

[62 FR 3484, Jan. 23, 1997]

1852.216-75 Payment of fixed fee.

As prescribed in 1816.307-70(c), insert the following clause:

PAYMENT OF FIXED FEE (DEC 1988)

The fixed fee shall be paid in monthly installments based upon the percentage of completion of work as determined by the Contracting Officer.

(End of clause)

[62 FR 3484, Jan. 23, 1997]

1852.216-76 Award Fee for service contracts.

As prescribed in 1816.406-70(a), insert the following clause:

AWARD FEE FOR SERVICE CONTRACTS (JUN 2000)

(a) The contractor can earn award fee from a minimum of zero dollars to the maximum stated in NASA FAR Supplement clause 1852.216-85, "Estimated Cost and Award Fee" in this contract.

(b) Beginning 6* months after the effective date of this contract, the Government shall evaluate the Contractor's performance every 6* months to determine the amount of award fee earned by the contractor during the period. The Contractor may submit a self-eval-

uation of performance for each evaluation period under consideration. These self-evaluations will be considered by the Government in its evaluation. The Government's Fee Determination Official (FDO) will determine the award fee amounts based on the Contractor's performance in accordance with *[identify performance evaluation plan]*. The plan may be revised unilaterally by the Government prior to the beginning of any rating period to redirect emphasis.

(c) The Government will advise the Contractor in writing of the evaluation results. The *[insert payment office]* will make payment based on *[Insert method of authorizing award fee payment, e.g., issuance of unilateral modification by contracting officer]*.

(d) After 85 percent of the potential award fee has been paid, the Contracting Officer may direct the withholding of further payment of award fee until a reserve is set aside in an amount that the Contracting Office considers necessary to protect the Government's interest. This reserve shall not exceed 15 percent of the total potential award fee.

(e) The amount of award fee which can be awarded in each evaluation period is limited to the amounts set forth at *[identify location of award fee amounts]*. Award fee which is not earned in an evaluation period cannot be re-allocated to future evaluation periods.

(f)(1) Provisional award fee payments *[insert "will" or "will not", as applicable]* be made under this contract pending the determination of the amount of fee earned for an evaluation period. If applicable, provisional award fee payments will be made to the Contractor on a *[insert the frequency of provisional payments (not more often than monthly)]* basis. The total amount of award fee available in an evaluation period that will be provisionally paid is the lesser of *[Insert a percent not to exceed 80 percent]* or the prior period's evaluation score.

(2) Provisional award fee payments will be superseded by the final award fee evaluation for that period. If provisional payments exceed the final evaluation score, the Contractor will either credit the next payment voucher for the amount of such overpayment or refund the difference to the Government, as directed by the Contracting Officer.

(3) If the Contracting Officer determines that the Contractor will not achieve a level of performance commensurate with the provisional rate, payment of provisional award fee will be discontinued or reduced in such amounts as the Contracting Officer deems appropriate. The Contracting Officer will notify the Contractor in writing if it is determined that such discontinuance or reduction is appropriate.

(4) Provisional award fee payments *[insert "will" or "will not", as appropriate]* be made prior to the first award fee determination by the Government.

(g) Award fee determinations are unilateral decisions made solely at the discretion of the Government.

*[A period of time greater or lesser than 6 months may be substituted in accordance with 1816.405-272(a).]

(End of clause)

[62 FR 3484, Jan. 23, 1997, as amended at 62 FR 36733, July 9, 1997; 63 FR 13134, Mar. 18, 1998; 65 FR 38777, June 22, 2000]

1852.216-77 Award fee for end item contracts.

As prescribed in 1816.406-70(b), insert the following clause:

AWARD FEE FOR END ITEM CONTRACTS (JUN 2000)

(a) The contractor can earn award fee, or base fee, if any, from a minimum of zero dollars to the maximum stated in NASA FAR Supplement clause 1852.216-85, "Estimated Cost and Award Fee" in this contract. All award fee evaluations, with the exception of the last evaluation, will be interim evaluations. At the last evaluation, which is final, the Contractor's performance for the entire contract will be evaluated to determine total earned award fee. No award fee or base fee will be paid to the Contractor if the final award fee evaluation is "poor/unsatisfactory."

(b) Beginning 6* months after the effective date of this contract, the Government will evaluate the Contractor's interim performance every 6* months to monitor Contractor performance prior to contract completion and to provide feedback to the Contractor. The evaluation will be performed in accordance with [identify performance evaluation plan] to this contract. The Contractor may submit a self-evaluation of performance for each period under consideration. These self-evaluations will be considered by the Government in its evaluation. The Government will advise the Contractor in writing of the evaluation results. The plan may be revised unilaterally by the Government prior to the beginning of any rating period to redirect emphasis.

(c)(1) Base fee, if applicable, will be paid in [Insert "monthly", or less frequent period] installments based on the percent of completion of the work as determined by the Contracting Officer.

(2) Interim award fee payments will be made to the Contractor based on each interim evaluation. The amount of the interim award fee payment is limited to the lesser of the interim evaluation score or 80 percent of the fee allocation to that period less any provisional payments made during the period. All interim award fee payments will be su-

perseded by the final award fee determination.

(3) Provisional award fee payments will [insert "not" if applicable] be made under this contract pending each interim evaluation. If applicable, provisional award fee payments will be made to the Contractor on a [insert the frequency of provisional payments (not more often than monthly)] basis. The amount of award fee which will be provisionally paid in each evaluation period is limited to [Insert a percent not to exceed 80 percent] of the prior interim evaluation score (see [insert applicable cite]). Provisional award fee payments made each evaluation period will be superseded by the interim award fee evaluation for that period. If provisional payments made exceed the interim evaluation score, the Contractor will either credit the next payment voucher for the amount of such overpayment or refund the difference to the Government, as directed by the Contracting Officer. If the Government determines that (i) the total amount of provisional fee payments will apparently *substantially* exceed the anticipated final evaluation score, or (ii) the prior interim evaluation is "poor/unsatisfactory," the Contracting Officer will direct the suspension or reduction of the future payments and/or request a prompt refund of excess payments as appropriate. Written notification of the determination will be provided to the Contractor with a copy to the Deputy Chief Financial Officer (Finance).

(4) All interim (and provisional, if applicable) fee payments will be superseded by the fee determination made in the final award fee evaluation. The Government will then pay the Contractor, or the Contractor will refund to the Government the difference between the final award fee determination and the cumulative interim (and provisional, if applicable) fee payments. If the final award fee evaluation is "poor/unsatisfactory", any base fee paid will be refunded to the Government.

(5) Payment of base fee, if applicable, will be made based on submission of an invoice by the Contractor. Payment of award fee will be made by the [insert payment office] based on [insert method of making award fee payment, e.g., issuance of a unilateral modification by the Contracting Officer].

(d) Award fee determinations are unilateral decisions made solely at the discretion of the Government.

*[A period of time greater or lesser than 6 months may be substituted in accordance with 1816.405-272(a).]

(End of clause)

[62 FR 3485, Jan. 23, 1997, as amended at 62 FR 36733, July 9, 1997; 65 FR 38778, June 22, 2000]