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Subpart 16.6—Time-and-Materials, Labor-Hour, and Letter Contracts

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AUTHORITY: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

SOURCE: 48 FR 42219, Sept. 19, 1983, unless otherwise noted.

16.000 Scope of part.

This part describes types of contracts that may be used in acquisitions. It prescribes policies and procedures and provides guidance for selecting a contract type appropriate to the circumstances of the acquisition.

[48 FR 42219, Sept. 19, 1983, as amended at 60 FR 34756, July 3, 1995; 61 FR 39197, July 26, 1996]

Subpart 16.1—Selecting Contract Types

16.101 General.

(a) A wide selection of contract types is available to the Government and contractors in order to provide needed flexibility in acquiring the large variety and volume of supplies and services required by agencies. Contract types vary according to (1) the degree and timing of the responsibility assumed by the contractor for the costs of performance and (2) the amount and nature of the profit incentive offered to the contractor for achieving or exceeding specified standards or goals.

(b) The contract types are grouped into two broad categories: fixed-price contracts (see subpart 16.2) and cost-reimbursement contracts (see subpart 16.3). The specific contract types range from firm-fixed-price, in which the contractor has full responsibility for the performance costs and resulting profit (or loss), to cost-plus-fixed-fee, in which the contractor has minimal responsibility for the performance costs

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and the negotiated fee (profit) is fixed. In between are the various incentive contracts (see subpart 16.4), in which the contractor's responsibility for the performance costs and the profit or fee incentives offered are tailored to the uncertainties involved in contract performance.

16.102 Policies.

(a) Contracts resulting from sealed bidding shall be firm-fixed-price contracts or fixed-price contracts with economic price adjustment.

(b) Contracts negotiated under part 15 may be of any type or combination of types that will promote the Government's interest, except as restricted in this part (see 10 U.S.C. 2306(a) and 41 U.S.C. 254(a)). Contract types not described in this regulation shall not be used, except as a deviation under subpart 1.4.

(c) The cost-plus-a-percentage-of-cost system of contracting shall not be used (see 10 U.S.C. 2306(a) and 41 U.S.C. 254(b)). Prime contracts (including letter contracts) other than firm-fixed-price contracts shall, by an appropriate clause, prohibit cost-plus-a-percentage-of-cost subcontracts (see clauses prescribed in subpart 44.2 for cost-reimbursement contracts and subparts 16.2 and 16.4 for fixed-price contracts).

(d) No contract may be awarded before the execution of any determination and findings (D&F's) required by this part. Minimum requirements for the content of D&F's required by this part are specified in 1.704.

[48 FR 42219, Sept. 19, 1983, as amended at 50 FR 1741, Jan. 11, 1985; 50 FR 52429, Dec. 23, 1985]

16.103 Negotiating contract type.

(a) Selecting the contract type is generally a matter for negotiation and requires the exercise of sound judgment. Negotiating the contract type and negotiating prices are closely related and should be considered together. The objective is to negotiate a contract type and price (or estimated cost and fee) that will result in reasonable contractor risk and provide the contractor with the greatest incentive for efficient and economical performance.