

#### 48.103

effort is applied to specified areas of the contract that offer opportunities for significant savings to the Government. There shall be no sharing of value engineering savings in contracts for architect-engineer services.

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#### 48.103 Processing value engineering change proposals.

(a) Instructions to the contractor for preparing a VECP and submitting it to the Government are included in paragraphs (c) and (d) of the value engineering clauses prescribed in subpart 48.2. Upon receiving a VECP, the contracting officer or other designated official shall promptly process and objectively evaluate the VECP in accordance with agency procedures and shall document the contract file with the rationale for accepting or rejecting the VECP.

(b) The contracting officer is responsible for accepting or rejecting the VECP within 45 days from its receipt by the Government. If the Government will need more time to evaluate the VECP, the contracting officer shall notify the contractor promptly in writing giving the reasons and the anticipated decision date. The contractor may withdraw, in whole or in part, any VECP not accepted by the Government within the period specified in the VECP. Any VECP may be approved, in whole or in part, by a contract modification incorporating the VECP. Until the effective date of the contract modification, the contractor shall perform in accordance with the existing contract. If the Government accepts the VECP, but properly rejects units subsequently delivered or does not receive units on which a savings share was paid, the contractor shall reimburse the Government for the proportionate share of these payments. If the VECP is not accepted, the contracting officer shall provide the contractor with prompt written notification, explaining the reasons for rejection.

(c) The following Government decisions are not subject to the Disputes clause or otherwise subject to litigation under the Contract Disputes Act of 1978 (41 U.S.C. 601-613):

(1) The decision to accept or reject a VECP.

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(2) The determination of collateral costs or collateral savings.

(3) The decision as to which of the sharing rates applies when Alternate II of the clause at 52.248-1, Value Engineering, is used.

[48 FR 42443, Sept. 19, 1983, as amended at 54 FR 5057, Jan. 31, 1989]

#### 48.104 Sharing arrangements.

##### 48.104-1 Determining sharing period.

(a) Contracting officers must determine discrete sharing periods for each VECP. If more than one VECP is incorporated into a contract, the sharing period for each VECP need not be identical.

(b) The sharing period begins with acceptance of the first unit incorporating the VECP. Except as provided in paragraph (c) of this section, the end of the sharing period is a specific calendar date that is the later of—

(1) 36 to 60 consecutive months (set at the discretion of the contracting officer for each VECP) after the first unit affected by the VECP is accepted; or

(2) The last scheduled delivery date of an item affected by the VECP under the instant contract delivery schedule in effect at the time the VECP is accepted.

(c) For engineering-development contracts and contracts containing low-rate-initial-production or early production units, the end of the sharing period is based not on a calendar date, but on acceptance of a specified quantity of future contract units. This quantity is the number of units affected by the VECP that are scheduled to be delivered over a period of between 36 and 60 consecutive months (set at the discretion of the contracting officer for each VECP) that spans the highest planned production, based on planning and programming or production documentation at the time the VECP is accepted. The specified quantity begins with the first future contract unit affected by the VECP and continues over consecutive deliveries until the sharing period ends at acceptance of the last of the specified quantity of units.

(d) For contracts (other than those in paragraph (c) of this subsection) for items requiring a prolonged production

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schedule (e.g., ship construction, major system acquisition), the end of the sharing period is determined according to paragraph (b) of this subsection. Agencies may prescribe sharing of future contract savings on all future contract units to be delivered under contracts awarded within the sharing period for essentially the same item, even if the scheduled delivery date is outside the sharing period.

[64 FR 51847, Sept. 24, 1999]

EFFECTIVE DATE NOTE: At 64 FR 51847, Sept. 24, 1999, section 48.104-1 was redesignated as 48.104-2 and new section 48.104-1 was added, effective Nov. 23, 1999.

**48.104-2 Sharing acquisition savings.**

(a) *Supply or service contracts.* (1) The sharing base for acquisition savings is the number of affected end items on contracts of the contracting office accepting the VECP. The sharing rates (Government/contractor) for net acquisition savings for supplies and services are based on the type of contract, the value engineering clause or alternate used, and the type of savings, as follows:

GOVERNMENT/CONTRACTOR SHARES OF NET ACQUISITION SAVINGS

[Figures in percent]

Contract type	Sharing arrangement			
	Incentive (voluntary)		Program requirement (mandatory)	
	Instant contract rate	Concurrent and future contract rate	Instant contract rate	Concurrent and future contract rate
Fixed-price (includes fixed-price-award-fee; excludes other fixed-price incentive contracts)	150/50	150/50	75/25	75/25
Incentive (fixed-price or cost) (other than award fee)	(2)	150/50	(2)	75/25
Cost-reimbursement (includes cost-plus-award-fee; excludes other cost-type incentive contracts)	375/25	375/25	85/15	85/15

<sup>1</sup> The contracting officer may increase the contractor's sharing rate to as high as 75 percent for each VECP. (See 48.102(g) (1) through (7).)

<sup>2</sup> Same sharing arrangement as the contract's profit or fee adjustment formula.

<sup>3</sup> The contracting officer may increase the contractor's sharing rate to as high as 50 percent for each VECP. (See 48.102(g) (1) through (7).)

(2) Acquisition savings may be realized on the instant contract, concurrent contracts, and future contracts. The contractor is entitled to a percentage share (see paragraph (a)(1) of this section) of any net acquisition savings. Net acquisition savings result when the total of acquisition savings becomes greater than the total of Government costs and any negative instant contract savings. This may occur on the instant contract or it may not occur until reductions have been negotiated on concurrent contracts or until future contract savings are calculated, either through lump-sum payment or as each future contract is awarded.

(i) When the instant contract is not an incentive contract, the contractor's share of net acquisition savings is calculated and paid each time such savings are realized. This may occur once, several times, or, in rare cases, not at all.

(ii) When the instant contract is an incentive contract, the contractor shares in instant contract savings through the contract's incentive structure. In calculating acquisition savings under incentive contracts, the contracting officer shall add any negative instant contract savings to the target cost or to the target price and ceiling price and then offset these negative instant contract savings and any Government costs against concurrent and future contract savings.

(3) The contractor shares in the savings on all affected units scheduled for delivery during the sharing period. The contractor is responsible for maintaining, for 3 years after final payment on the contract under which the VECP was accepted, records adequate to identify the first delivered unit incorporating the applicable VECP.

(4) Contractor shares of savings are paid through the contract under which the VECP was accepted. On incentive contracts, the contractor's share of concurrent and future contract savings and of collateral savings shall be paid as a separate firm-fixed-price contract line item on the instant contract.

(5) Within 3 months after concurrent contracts have been modified to reflect price reductions attributable to use of