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(B) In making a contract cost risk evaluation in an acquisition that involves definitization of a letter contract, consideration should be given to the effect on total contract cost risk as a result of partial performance under a letter contract. Under some circumstances, the total amount of cost risk may have been effectively reduced by the existence of a letter contract. Under other circumstances, it may be apparent that the contractor's cost risk remained substantially as great as though a letter contract had not been used. Where a contractor has begun work under an anticipatory cost letter, the risk assumed is greater than normal. To be equitable, the determination of a profit weight for application to the total of all recognized costs, both those incurred and those yet to be expended, must be made with consideration to all relevant circumstances, not just to the portion of costs incurred or percentage of work completed prior to definitization.

1515.404–472 Other methods.

(a) Contracting officers may use methods other than those prescribed in 1515.404–470 for establishing profit or fee objectives under the following types of contracts and circumstances:

(1) Architect-engineering contracts;

(2) Personal service contracts;

(3) Management contracts, e.g., for maintenance or operation of Government facilities;

(4) Termination settlements;

(5) Services under labor-hour and time and material contracts which provide for payment on an hourly, daily, or monthly basis, and where the contractor's contribution constitutes the furnishing of personnel.

(6) Construction contracts; and

(7) Cost-plus-award-fee contracts.

(b) Generally, it is expected that such methods will:

(1) Provide the contracting officer with a technique that will ensure consideration of the relative value of the appropriate profit factors described under ''Profit Factors,'' in FAR 15.404–4(d) and

(2) Serve as a basis for documentation of the profit or fee objective.

1515.404–473 Limitations.

(a) In addition to the limitations established by statute (see FAR 15.404–4(b)(4)(i)), no administrative ceilings on profits or fees shall be established, except those identified in EPAAR (48 CFR) 1516.404–273(b).

(b) The contracting officer shall not consider any known subcontractor profit/fee as part of the basis for determining the contractor profit/fee.

1515.404–474 Waivers.

Under unusual circumstances, the SCM may specifically waive the requirement for the use of the guidelines. Such exceptions shall be justified in writing, and authorized only in situations where the guidelines method is unsuitable.

[64 FR 47410, Aug. 31, 1999, as amended at 67 FR 5072, Feb. 4, 2002]

1515.404–475 Cost realism.

The EPA structured approach is not required when the contracting officer is evaluating cost realism in a competitive acquisition.

1515.408 Solicitation provisions and contract clauses.

(a) In addition to those provisions and clauses prescribed in FAR 15.408, when an exception to FAR 15.403–1 does not apply and no other means available can be used to ascertain whether a fair and reasonable price can be determined, the contracting officer may insert in negotiated solicitations the provisions at—

(1) 1552.215–72 when requesting information other than cost or pricing data, for cost-reimbursable, level-of-effort-contracts. Use Alternate I for cost-reimbursable, level-of-effort contracts when the Government's requirement is for fully dedicated staff for a twelve month period(s) of performance and performance is on a Government facility; Alternate II for acquisitions for cost-reimbursable, level-of-effort contracts when the Government's requirement is for fully dedicated staff for a twelve month period(s) of performance and performance is not on a Government facility; and Alternate III if the Government's requirement is for the acquisition of supplies or equipment.

The contracting officer may make revisions, deletions, or additions to 1552.215–72 and its Alternates I-III as needed to fit an individual acquisition, and

(2) 1552.215–73, General Financial and Organizational Information.

(b) If uncompensated overtime is proposed, the resultant contract shall include the provisions at FAR 52.237–10 and include the provision at 1552.215–74. The contracting officer may use provisions substantially the same as 1552.215–74 without requesting a deviation to the EPAAR.

Subpart 1515.6—Unsolicited Proposals

1515.604 Agency points of contact.

The Director, Grants Administration Division (3903R), EPA, 1200 Pennsylvania Ave., NW., Washington, DC 20460, is the Agency contact point established to coordinate the receipt and handling of unsolicited proposals.

[64 FR 47410, Aug. 31, 1999, 65 FR 47325, Aug. 2, 2000]

1515.606–70 Contracting methods.

The Department of Housing and Urban Development-Independent Agencies Appropriation Act contains a requirement that none of the funds provided in the Act may be used for payment through grants or contracts to recipients that do not share in the cost of conducting research resulting from proposals that are not specifically solicited by the Government. Accordingly, contracts for research which result from unsolicited proposals shall provide for the contractor to bear a portion of the cost of performance for work subject to the Act. The extent of the cost sharing shall reflect the mutuality of interest of the contractor and the Government. Therefore, where there is no measurable gain to the performing organization, cost sharing is not required.

PART 1516—TYPES OF CONTRACTS

Subpart 1516.3—Cost-Reimbursement Contracts

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1516.303 Cost-sharing contracts.
1516.303–71 Definition.
1516.303–72 Policy.
1516.303–73 Types of cost-sharing.
1516.303–74 Determining the value of in-kind contributions.
1516.303–75 Amount of cost-sharing.
1516.303–76 Fee on cost-sharing contracts by subcontractors.
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Subpart 1516.4—Incentive Contracts

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Subpart 1516.5—Indefinite-Delivery Contracts

1516.505 Contract clauses.

Subpart 1516.6—Time-and-Materials, Labor-Hour, and Letter Contracts

1516.603 Letter Contracts.
1516.603–1 What is a Notice to Proceed?
1516.603–2 What are the requirements for use of an NTP?
1516.603–3 Limitations.

AUTHORITY: The provisions of this regulation are issued under 5 U.S.C. 301; Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c); and 41 U.S.C. 418b.

SOURCE: 49 FR 8852, Mar. 8, 1984, unless otherwise noted.

Subpart 1516.3—Cost-Reimbursement Contracts

1516.301–70 Payment of fee.

The policy of EPA for cost-reimbursement, term form contracts is to make provisional payment of fee (i.e. the fixed fee on cost-plus-fixed-fee type contracts or the base fee on cost-plus-award-fee type contracts) on a percentage of work completed basis, when such a method will not prove detrimental to proper contract performance. Percentage of work completed is the ratio of the direct labor hours performed in relation to the direct labor hours set forth in the contract in clause 1552.212–