

216.405-2

(A) In an initial product development contract, it may be appropriate to provide for relatively small adjustments in fee tied to the cost incentive feature, but provide for significant adjustments if the contractor meets or surpasses performance targets.

(B) In subsequent development and test contracts, it may be appropriate to negotiate an incentive formula tied primarily to the contractor's success in controlling costs.

[56 FR 36340, July 31, 1991. Redesignated at 63 FR 11529, Mar. 9, 1998]

216.405-2 Cost-plus-award-fee contracts.

(a) *Description.* (i) Normally, award fee is not earned when the fee-determining official has determined that contractor performance has been submarginal or unsatisfactory.

(ii) The basis for all award fee determinations shall be documented in the contract file.

(b) *Application.* (1) The cost-plus-award-fee (CPAF) contract is also suitable for level of effort contracts where mission feasibility is established but measurement of achievement must be by subjective evaluation rather than objective measurement. See Table 16-1, Performance Evaluation Criteria, for sample performance evaluation criteria and Table 16-2, Contractor Performance Evaluation Report, for a sample evaluation report.

(2) The contracting activity may—

(A) Establish a board to—

(1) Evaluate the contractor's performance; and

(2) Determine the amount of the award or recommend an amount to the contracting officer.

(B) Afford the contractor an opportunity to present information on its own behalf.

(c) *Limitations.* The CPAF contract shall not be used—

(i) To avoid—

(A) Establishing CPFF contracts when the criteria for CPFF contracts apply, or

(B) Developing objective targets so a CPIF contract can be used.

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(ii) For either engineering development or operational system development acquisitions which have specifications suitable for simultaneous research and development and production, except a CPAF contract may be used for individual engineering development or operational system development acquisitions ancillary to the development of a major weapon system or equipment, where—

(A) It is more advantageous; and

(B) The purpose of the acquisition is clearly to determine or solve specific problems associated with the major weapon system or equipment.

(2)(A) Do not apply the weighted guidelines method to CPAF contracts for either the base (fixed) fee or the award fee.

(B) The base fee shall not exceed three percent of the estimated cost of the contract exclusive of the fee.

[56 FR 36340, July 31, 1991. Redesignated at 63 FR 11529, Mar. 9, 1998]

216.470 Other applications of award fees.

The "award amount" portion of the fee may be used in other types of contracts under the following conditions—

(1) The Government wishes to motivate and reward a contractor for management performance in areas which cannot be measured objectively and where normal incentive provisions cannot be used. For example, logistics support, quality, timeliness, ingenuity, and cost effectiveness are areas under the control of management which may be susceptible only to subjective measurement and evaluation.

(2) The "base fee" (fixed amount portion) is not used.

(3) The chief of the contracting office approves the use of the "award amount."

(4) An award review board and procedures are established for conduct of the evaluation.

(5) The administrative costs of evaluation do not exceed the expected benefits.