§ 3.9  Follow-on production contracts.

(a) Authority. A competitively awarded OT agreement for a prototype project that satisfies the condition set forth in law that requires non-Federal parties to the OT agreement to provide at least one-third of the costs of the prototype project may provide for the award of a follow-on production contract to the awardee of the OT prototype agreement for a specific number of units at specific target prices, without further competition.

(b) Conditions. The Agreements Officer must do the following in the award of the prototype project:

(1) Ensure non-Federal parties to the OT prototype agreement offer at least one-third of the costs of the prototype project pursuant to subsection (d)(1)(B)(i), 10 U.S.C. 2371 note.

(2) Use competition to select parties for participation in the OT prototype agreement and evaluate the proposed quantity and target prices for the follow-on production units as part of that competition.

(3) Determine the production quantity that may be procured without further competition, by balancing of the level of the investment made in the project by the non-Federal parties with the interest of the Federal Government in having competition among sources in the acquisition of the product or products prototyped under the project.

(4) Specify the production quantity and target prices in the OT prototype agreement and stipulate in the agreement that the Contracting Officer for the follow-on contract may award a production contract without further competition if the awardee successfully completes the prototype project and agrees to production quantities and prices that do not exceed those specified in the OT prototype agreement (see part 206.001 of the Defense Federal Acquisition Regulation Supplement).

(c) Limitation. As a matter of policy, establishing target prices for production units should only be considered when the risk of the prototype project permits realistic production pricing.
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without placing undue risks on the awardee.

(d) **Documentation.** (1) The Agreements Officer will need to provide information to the Contracting Officer from the agreement and award file that the conditions set forth in paragraph (b) of this section have been satisfied.

(2) The information shall contain, at a minimum:

(i) The competitive procedures used;

(ii) How the production quantities and target prices were evaluated in the competition;

(iii) The percentage of cost-share; and

(iv) The production quantities and target prices set forth in the OT agreement.

(3) The Project Manager will provide evidence of successful completion of the prototype project to the Contracting Officer.

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PARTS 4–8 [RESERVED]