

Federal Acquisition Regulation

16.205-2

(iv) The contracting officer has made the determination specified in 16.203-3.

(2) If all conditions in subparagraph (c)(1) above apply and the contracting officer determines that the use of the clause at 52.216-4 is inappropriate, the contracting officer may use an agency-prescribed clause instead of the clause at 52.216-4.

(3) The contracting officer shall describe in detail in the contract Schedule—

(i) The types of labor and materials subject to adjustment under the clause;

(ii) The labor rates, including fringe benefits (if any) and unit prices of materials that may be increased or decreased; and

(iii) The quantities of the specified labor and materials allocable to each unit to be delivered under the contract.

(4) In negotiating adjustments under the clause, the contracting officer shall—

(i) Consider work in process and materials on hand at the time of changes in labor rates, including fringe benefits (if any) or material prices;

(ii) Not include in adjustments any indirect cost (except fringe benefits as defined in 31.205-6(m)) or profit; and

(iii) Consider only those fringe benefits specified in the contract Schedule.

(d) *Adjustments based on cost indexes of labor or material.* The contracting officer should consider using an economic price adjustment clause based on cost indexes of labor or material under the circumstances and subject to approval as described in subparagraphs (1) and (2) below.

(1) A clause providing adjustment based on cost indexes of labor or materials may be appropriate when—

(i) The contract involves an extended period of performance with significant costs to be incurred beyond 1 year after performance begins;

(ii) The contract amount subject to adjustment is substantial; and

(iii) The economic variables for labor and materials are too unstable to permit a reasonable division of risk between the Government and the contractor, without this type of clause.

(2) Any clause using this method shall be prepared and approved under agency procedures. Because of the variations in circumstances and clause

wording that may arise, no standard clause is prescribed.

[48 FR 42219, Sept. 19, 1983, as amended at 52 FR 19803, May 27, 1987; 60 FR 48217, Sept. 18, 1995; 62 FR 259, Jan. 2, 1997]

16.204 Fixed-price incentive contracts.

A fixed-price incentive contract is a fixed-price contract that provides for adjusting profit and establishing the final contract price by a formula based on the relationship of final negotiated total cost to total target cost. Fixed-price incentive contracts are covered in subpart 16.4, Incentive Contracts. See 16.403 for more complete descriptions, application, and limitations for these contracts. Prescribed clauses are found at 16.406.

[48 FR 42219, Sept. 19, 1983, as amended at 59 FR 11387, Mar. 10, 1994; 62 FR 12695, Mar. 17, 1997]

16.205 Fixed-price contracts with prospective price redetermination.

16.205-1 Description.

A fixed-price contract with prospective price redetermination provides for (a) a firm fixed price for an initial period of contract deliveries or performance and (b) prospective redetermination, at a stated time or times during performance, of the price for subsequent periods of performance.

16.205-2 Application.

A fixed-price contract with prospective price redetermination may be used in acquisitions of quantity production or services for which it is possible to negotiate a fair and reasonable firm fixed price for an initial period, but not for subsequent periods of contract performance.

(a) The initial period should be the longest period for which it is possible to negotiate a fair and reasonable firm fixed price. Each subsequent pricing period should be at least 12 months.

(b) The contract may provide for a ceiling price based on evaluation of the uncertainties involved in performance and their possible cost impact. This ceiling price should provide for assumption of a reasonable proportion of the risk by the contractor and, once established, may be adjusted only by operation of contract clauses providing