

(B) Are estimated to exceed \$25,000; and

(C) Will be performed within the United States, except Alaska.

(ii) The prohibition in paragraph (c)(i) of this section does not apply to contracts specifically approved in writing, setting forth the reasons therefor, in accordance with the following:

(A) The Secretaries of the military departments are authorized to approve such contracts that are for environmental work only, provided the environmental work is not classified as construction, as defined by 10 U.S.C. 2801.

(B) The Secretary of Defense or designee must approve such contracts that are not for environmental work only or are for environmental work classified as construction.

[62 FR 1058, Jan. 8, 1997; 62 FR 1817, Jan. 13, 1997; 62 FR 49305, Sept. 19, 1997; 71 FR 39007, July 11, 2006]

**Subpart 216.4—Incentive Contracts**

**216.402 Application of predetermined, formula-type incentives.**

**216.402-2 Technical performance incentives.**

See PGI 216.402-2 for guidance on establishing performance incentives.

[71 FR 39007, July 11, 2006]

**216.403 Fixed-price incentive contracts.**

**216.403-2 Fixed-price incentive (successive targets) contracts.**

See PGI 216.403-2 for guidance on the use of fixed-price incentive (successive targets) contracts.

[71 FR 39007, July 11, 2006]

**216.405 Cost-reimbursement incentive contracts.**

**216.405-1 Cost-plus-incentive-fee contracts.**

See PGI 216.405-1 for guidance on the use of cost-plus-incentive-fee contracts.

[71 FR 39007, July 11, 2006]

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

(b) *Application.* The cost-plus-award-fee (CPAF) contract may include provisional award fee payments. A provisional award fee payment is a payment made within an evaluation period prior to a final evaluation for that period. The contracting officer may include provisional award fee payments in a CPAF contract on a case-by-case basis, provided those payments—

(i) Are made no more frequently than monthly;

(ii) Are limited to no more than—

(A) For the initial award fee evaluation period, 50 percent of the award fee available for that period; and

(B) For subsequent award fee evaluation periods, 80 percent of the evaluation score for the prior evaluation period times the award fee available for the current period, e.g., if the contractor received 90 percent of the award fee available for the prior evaluation period, provisional payments for the current period shall not exceed 72 percent (90 percent x 80 percent) of the award fee available for the current period;

(iii) Are superseded by an interim or final award fee evaluation for the applicable evaluation period. If provisional payments have exceeded the payment determined by the evaluation score for the applicable period, the contracting officer shall collect the debt in accordance with FAR 32.606; and

(iv) May be discontinued, or reduced in such amounts deemed appropriate by the contracting officer, when the contracting officer determines that the contractor will not achieve a level of performance commensurate with the provisional payment. The contracting officer shall notify the contractor in writing of any discontinuance or reduction in provisional award fee payments.

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

(A) To avoid—

(1) Establishing cost-plus-fixed-fee contracts when the criteria for cost-plus-fixed-fee contracts apply; or

(2) Developing objective targets so a cost-plus-incentive-fee contract can be used; or