

970.1504-1-8

48 CFR Ch. 9 (10-1-10 Edition)

operating contractor. Architect-engineer and construction services are normally covered by special agreements based on the policies applying to architect-engineer or construction contracts. Fees paid for such services shall be calculated using the provisions of 915.404-4-71-5 relating to architect-engineer or construction fees and shall be in addition to the operating fees calculated for the Production, Research and Development, or Environmental Management work to be performed. Special equipment purchases shall be addressed in accordance with the provisions of 970.1504-1-8 relating to special equipment.

(e) No schedule set forth in 915.404-4-71-5 or 970.1504-1-6 shall be used more than once in the determination of the fee amount for an annual period, unless prior approval of the Senior Procurement Executive, or designee, is obtained.

[65 FR 81009, Dec. 22, 2000, as amended at 74 FR 36371, 36378, July 22, 2009]

970.1504-1-8 Special equipment purchases.

(a) Special equipment is sometimes procured in conjunction with management and operating contracts. When a contractor procures special equipment, the DOE negotiating official shall determine separate fees for the equipment which shall not exceed the maximum fee allowable as established using the schedule in 915.404-4-71-5(h).

(b) In determining appropriate fees, factors such as complexity of equipment, ratio of procurement transactions to volume of equipment to be purchased and completeness of services should be considered. Where possible, the reasonableness of the fees should be checked by their relationship to actual costs of comparable procurement services.

(c) For purposes of this subsection, special equipment is equipment for which the purchase price is of such a magnitude compared to the cost of installation as to distort the amount of technical direction and management effort required of the contractor. Special equipment is of a nature that requires less management attention. When a contractor procures special equipment, the DOE negotiating official

shall determine separate fees for the equipment using the schedule in 915.404-4-71-5(h). The determination of specific items of equipment in this category requires application of judgment and careful study of the circumstances involved in each project. This category of equipment would generally include:

(1) Major items of prefabricated process or research equipment; and

(2) Major items of preassembled equipment such as packaged boilers, generators, machine tools, and large electrical equipment. In some cases, it would also include special apparatus or devices such as reactor vessels and reactor charging machines.

[65 FR 81009, Dec. 22, 2000, as amended at 74 FR 36371, July 22, 2009]

970.1504-1-9 Special considerations: Cost-plus-award-fee.

(a) When a management and operating contract is to be awarded on a cost-plus-award-fee basis, several special considerations are appropriate.

(b) All annual performance incentives identified under these contracts are funded from the annual total available fee, which consists of a base fee amount (which may be zero) and a performance fee amount (which typically will consist of an incentive fee component for objective performance requirements, an award fee component for subjective performance requirements, or both).

(c) The annual total available fee for the contract shall equal the product of the fee(s) that would have been calculated for an annual fixed fee contract and the classification factor(s) most appropriate for the facility/task. If more than one fee schedule is applicable to the contract, the annual total available fee shall be the sum of the available fees derived proportionately from each fee schedule; consideration of significant factors applicable to each fee schedule; and application of a Classification Factor(s) most appropriate for the work.

(d) Classification Factors applied to each Facility/Task Category are:

Facility/task category	Classification factor
A	3.0
B	2.5
C	2.0