Defense Acquisition Regulations System, DOD 216.203–4–70

Subpart 216.6—Time-and-Materials, Labor-Hour, and Letter Contracts

216.601 Time-and-materials contracts.
216.603 Letter contracts.
216.603–2 Application.
216.603–3 Limitations.
216.603–4 Contract clauses.

Subpart 216.7—Agreements

216.703 Basic ordering agreements.


SOURCE: 56 FR 36340, July 31, 1991, unless otherwise noted.

Subpart 216.1—Selecting Contract Types

§ 216.104–70 Research and development.

Follow the procedures at PGI 216.104–70 for selecting the appropriate research and development contract type.

[71 FR 39007, July 11, 2006]

Subpart 216.2—Fixed-Price Contracts

216.203 Fixed-price contracts with economic price adjustment.

§ 216.203–4 Contract clauses.

(1) Generally, use the clauses at FAR 52.216–2, Economic Price Adjustment—Standard Supplies, FAR 52.216–3, Economic Price Adjustment—Semistandard Supplies, and FAR 52.216–4, Economic Price Adjustment—Labor and Material, only when—

(i) The total contract price exceeds the simplified acquisition threshold; and

(ii) Delivery or performance will not be completed within 6 months after contract award.

(2) Follow the procedures at PGI 216.203–4 when using an economic price adjustment clause based on cost indexes of labor or material.

[71 FR 39007, July 11, 2006]

Subpart 216.2—Fixed-Price Contracts

216.203 Fixed-price contracts with economic price adjustment.

§ 216.203–4 Contract clauses.

(a) Price adjustment for basic steel, aluminum, brass, bronze, or copper mill products. (1) The price adjustment clause at 252.216–7000, Economic Price Adjustment—Basic Steel, Aluminum, Brass,
Bronze, or Copper Mill Products, may be used in fixed-price supply contracts for basic steel, aluminum, brass, bronze, or copper mill products, such as sheets, plates, and bars, when an established catalog or market price exists for the particular product being acquired.

The 10 percent figure in paragraph (d)(1) of the clause shall not be exceeded unless approval is obtained at a level above the contracting officer.

(i) The contractor is a steel producer and actually manufacture the standard steel mill item referred to in the “base steel index” definition of the clause; and

(ii) The items being acquired are nonstandard steel items made wholly or in part of standard steel mill items.

When this clause is included in invitations for bids, omit Note 6 of the clause and all references to Note 6.

Solicitations shall instruct offerors to complete all blanks in accordance with the applicable notes.

(i) The contract is to be performed on a basis other than “established price” (see Note 6 of the clause), that price must be verified.

The ten percent figure in paragraph (e)(4) of the clause shall not be exceeded unless approval is obtained at a level above the contracting officer.

Price adjustment for wage rates or material prices controlled by a foreign government. (1) The price adjustment clause at 252.216–7003, Economic Price Adjustment—Wage Rates or Material Prices Controlled by a Foreign Government, may be used in fixed-price supply and service contracts when—

(i) The contract is to be performed wholly or in part in a foreign country; and

(ii) A foreign government controls wage rates or material prices and may, during contract performance, impose a mandatory change in wages or prices of material.

Verify the base wage rates and material prices prior to contract award and prior to making any adjustment in the contract price.

Subpart 216.3—Cost-Reimbursement Contracts

Cost-plus-fixed-fee contracts. (c) Limitations. (i) Except as provided in paragraph (c)(ii) of this section, annual military construction appropriations acts prohibit the use of cost-plus-fixed-fee contracts that—

(A) Are funded by a military construction appropriations act;

(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.

Subpart 216.4—Incentive Contracts

(c) See PGI 216.401(c) for information on the Defense Acquisition University Award and Incentive Fees Community of Practice.

(e) Award-fee plans required in FAR 16.401(e) shall be incorporated into all award-fee type contracts. Follow the procedures at PGI 216.401(e) when planning to award an award-fee contract.