

## Environmental Protection Agency

1516.303-74

70, "Level of Effort—Cost Reimbursement Term Contract." Provisional payment of fee will remain subject to withholding provisions, such as 48 CFR 52.216-8, Fixed Fee.

[56 FR 43711, Sept. 4, 1991]

### 1516.303 Cost-sharing contracts.

#### 1516.303-71 Definition.

Cost-sharing is a generic term denoting any situation where the Government does not fully reimburse a contractor for all allowable costs necessary to accomplish the project under the contract. This term encompasses cost-matching and cost-limitations, in addition to cost-sharing. Cost-sharing does not include usual contractual limitations such as indirect cost ceilings in accordance with FAR 42.707, or ceilings on travel or other direct costs. Cost-sharing contracts may be required as a result of Congressional mandate.

[61 FR 14504, Apr. 2, 1996]

#### 1516.303-72 Policy.

(a) The Agency shall use cost-sharing contracts where the principal purpose is ultimate commercialization and utilization of technologies by the private sector. There should also be a reasonable expectation of future economic benefits for the contractor and the Government beyond the Government's contract.

(b) Cost-sharing may be accomplished by a contribution to either direct or indirect costs, provided such costs are reasonable, allocable and allowable in accordance with the cost principles of the contract. Allowable costs which are absorbed by the contractor as its share of contract costs may not be charged directly or indirectly to the Agency or the Federal Government.

(c) Unsolicited proposals will be considered on a case-by-case basis by the Contracting Officer as to the appropriateness of cost-sharing.

[61 FR 14504, Apr. 2, 1996]

#### 1516.303-73 Types of cost-sharing.

(a) Cost-sharing may be accomplished in various forms or combinations. These include, but are not limited to: cash outlays, real property or

interest therein, personal property or services, cost matching, or other in-kind contributions.

(b) In-kind contributions represent non-cash contributions provided by the performing contractor which would normally be a charge against the contract. While in-kind contributions are an acceptable method of cost-sharing, should the booked costs of property appear unrealistic, the fair market value of the property shall be determined pursuant to 1516.303-74 of this chapter.

(c) In-kind contributions may be in the form of personal property (equipment or supplies) or services which are directly beneficial, specifically identifiable and necessary for the performance of the contract. In-kind contributions must meet all of the following criteria before acceptance.

(1) Be verifiable from the contractor's books and records;

(2) Not be included as contributions under any other Federal contract;

(3) Be necessary to accomplish project objectives;

(4) Provide for types of charges that would otherwise be allowable under applicable Federal cost principles appropriate to the contractor's organization; and

(5) Not be paid for by the Federal Government under any contract, agreement or grant.

[61 FR 14504, Apr. 2, 1996]

#### 1516.303-74 Determining the value of in-kind contributions.

In-kind contributions accepted from a contractor will be addressed on a case-by-case basis provided the established values do not exceed fair market values.

(a) Where the Agency receives title to donated land, building, equipment or supplies and the property is not fully consumed during performance of the contract, the Contracting Officer should establish the property's value based on the contractor's booked costs (i.e., acquisition cost less depreciation, if any) at the time of donation. If the booked costs reflect unrealistic values when compared to current market conditions, the Contracting Officer may establish another appropriate value if supported by an independent appraisal of the fair market value of the donated