

# 970.1504-1-5 General considerations and techniques for determining fixed fees.

(a) The Department's fee policy recognizes that fee is remuneration to contractors for the entrepreneurial function of organizing and managing resources, the use of their resources (including capital resources), and, as appropriate, their assumption of the risk that some incurred costs (operating and capital) may not be reimbursed.

(b) Use of a purely cost-based structured approach for determining fee objectives and amounts for DOE management and operating contracts is inappropriate considering the limited level of contractor cost, capital goods, and operating capital outlays for performance of such contracts. Instead of being solely cost-based, the desirable approach calls for a structure that allows evaluation of the following eight significant factors, as outlined in order of importance, and the assignment of appropriate fee values (subject to the limitations on fixed fee in 970.1504-1-6) -

- (1) The presence or absence of financial risk, including the type and terms of the contract;
  - (2) The relative difficulty of work, including specific performance objectives, environment, safety and health concerns, and the technical and administrative knowledge, and skill necessary for work accomplishment and experience;
  - (3) Management risk relating to performance, including -
    - (i) Composite risk and complexity of principal work tasks required to do the job;
    - (ii) Labor intensity of the job;
    - (iii) Special control problems; and
    - (iv) Advance planning, forecasting and other such requirements;
  - (4) Degree and amount of contract work required to be performed by and with the contractor's own resources, as compared to the nature and degree of subcontracting and the relative complexity of subcontracted efforts, subcontractor management and integration;
  - (5) Size and operation (number of locations, plants, differing operations, etc.);
  - (6) Influence of alternative investment opportunities available to the contractor (i.e., the extent to which undertaking a task for the Government displaces a contractor's opportunity to make a profit with the same staff and equipment in some other field of activity);
  - (7) Benefits which may accrue to the contractor from gaining experience and knowledge of how to do something, from establishing or enhancing a reputation, or from having the opportunity to hold or expand a staff whose loyalties are primarily to the contractor; and
  - (8) Other special considerations, including support of Government programs such as those relating to small and minority business subcontracting, energy conservation, etc.
- (c) The total fee objective for a particular annual fixed fee negotiation is established by evaluating the factors in this subsection, assigning fee values to them, and totaling the resulting amounts

(subject to limitations on total fixed fee in 48 CFR 970.1504-1-6).

**Parent topic:** Subpart 970.15 - Contracting by Negotiation