

# Subpart 1516.4—Incentive Contracts

Parent topic: [PART 1516—TYPES OF CONTRACTS](#)

## 1516.401-1 General.

### 1516.401-70 Award term incentives.

- (a) Award term incentives enable a contractor to become eligible for additional periods of performance under a current contract by achieving prescribed performance measures under that contract.
- (b) Award term incentives are designed to motivate contractors to provide superior performance. Superior performance must be defined in the Award Term Incentive Plan. Accordingly, the prescribed performance measures, *i.e.*, acceptable quality levels (AQL), which must be achieved by a contractor to become eligible for an award term will be in excess of the AQLs necessary for Government acceptance of contract deliverables, unless rationale is documented that such service is beyond the contractor's capability or control.
- (c) The Award Term Incentive Plan sets forth the evaluation process, including the evaluation criteria and performance measures, and serves as the basis for award term decisions. The Award Term Incentive Plan may be unilaterally revised by the Government.
- (d) Award term incentives may be used in conjunction with options. The Federal Acquisition Regulation does not prescribe a level of performance for the exercise of options, as contrasted with award term incentives, which should require superior performance as discussed in paragraph (b) of this subsection. Award term incentive periods will follow any option periods.
- (e)
  - (1) The Government has the unilateral right not to grant or to cancel award term incentive periods and the associated award term incentive plans if—
    - (i) The Contracting Officer has failed to initiate an award term incentive period, regardless of whether the contractor's performance permitted the Contracting Officer to consider initiating the award term incentive period; or
    - (ii) The contractor has failed to achieve the performance measures for the corresponding evaluation period; or
    - (iii) The Government notifies the contractor in writing it does not have funds available for the award term; or
    - (iv) The Government no longer has a need for the award term incentive period at or before the time an award term incentive period is to commence.
  - (2) When an award term incentive period is not granted or cancelled, any—
    - (i) Prior award term incentive periods for which the contractor remains otherwise eligible are

unaffected.

- (ii) Subsequent award term incentive periods are thereby also cancelled.
- (f) Award term incentives may be appropriate for any type of service contract.

## **1516.401-270 Definition.**

*Acceptable quality level* (AQL) as used in this subpart means the minimum percent of deliverables which are compliant with a given performance standard that would permit a contractor to become eligible for an award term incentive. The performance necessary for eligibility for the award term incentive must be in excess of that necessary for the Government acceptance of contract deliverables. The AQLs associated with the award term incentive shall exceed the AQLs associated with the acceptance of contract deliverables. For example, under contract X, acceptable performance is 75 percent of reports submitted to the Government within five days. However, to be eligible for an award term incentive, 85 percent of reports must be submitted to the Government within five days.

## **1516.405-2 Cost-plus-award-fee contracts.**

### **1516.405-270 Definitions.**

- (a) *Performance Evaluation Board (PEB)*. Group of Government officials responsible for assessing the quality of contract performance and recommending the appropriate fee.
- (b) *Fee Determination Official*. Individual responsible for reviewing the recommendations of the PEB and making the final determination of the amount of award fee to be awarded to the contractor.

### **1516.405-271 Limitations.**

- (a) No award fee may be earned if the Fee Determination Official determines that contractor performance has been satisfactory or less than satisfactory. A contractor may earn award fee only for performance rated above satisfactory or excellent. All award fee plans shall disclose to offerors the numerical rating necessary to be deemed "above satisfactory" or "excellent" for award fee purposes.
- (b) The base fee shall not exceed three percent of the estimated cost of the contract, exclusive of the fee.
- (c) Unearned award fee may not be carried forward from one performance period into a subsequent performance period unless approved by the FDO.
- (d) The payment of award fee on a provisional basis is not authorized.

## **1516.405-272 Waiver.**

The Chief of the Contracting Office may waive the limitations in paragraphs (a), (b), and (d) of 1516.404-273 on a case-by-case basis when unusual or compelling circumstances exist. The waiver shall be supported by a justification and coordinated with the Acquisition Policy and Training Service Center in the Office of Acquisition Management.

## **1516.406 Contract clauses.**

- (a) The Contracting Officer shall insert the clause at 1552.216-70, Award fee (MAY 2000), in solicitations and contracts where a cost-plus-award-fee contract is contemplated.
- (b) The Contracting Officer shall insert the provision at 48 CFR 1552.216-75, Base Fee and Award Fee Proposal, in all solicitations which contemplate the award of cost-plus-award-fee contracts. The Contracting Officer shall insert the appropriate percentages.
- (c) The Contracting Officer shall insert the clauses at 1552.216-77, Award Term Incentive, 1552.216-78, Award Term Incentive Plan, and 1552.216-79, Award Term Availability of Funds, in solicitations and contracts when award term incentives are contemplated. The clauses at 1552.216-77 and 1552.216-78 may be used on substantially the same-as basis.
- (d) If the Contracting Officer wishes to use the ratings set forth in the Department of Defense Contractor Performance Assessment Reporting System on the contract at hand as the basis for contractor eligibility for an award term incentive, the Contracting Officer shall insert the clause at 1552.216-78.