

Subpart 216.1—Selecting Contract Types

216.102 Policies.

(1) In accordance with section 829 of the National Defense Authorization Act for Fiscal Year 2017 (Pub. L. 114–328), the contracting officer shall first consider the use of fixed-price contracts, including fixed-price incentive contracts, in the determination of contract type. See 216.301–3(2) for approval requirements for certain cost-reimbursement contracts.

(2) In accordance with section 811 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112–239), use of any cost-reimbursement line item for the acquisition of production of major defense acquisition programs is prohibited unless the exception at 234.004(2)(ii) applies.

(3) See 225.7301–1 for the requirement to use fixed-price contracts for acquisitions for foreign military sales.

[79 FR 4632, Jan. 29, 2014, as amended at 84 FR 65307, Nov. 27, 2019]

216.104 Factors in selecting contract type.

Contracting officers shall follow the principles and procedures in Director, Defense Procurement and Acquisition Policy memorandum dated April 1, 2016, entitled “Guidance on Using Incentive and Other Contract Types,” when selecting and negotiating the most appropriate contract type for a given procurement. See PGI 216.104.

[81 FR 28730, May 10, 2016]

216.104–70 Research and development.

Follow the procedures at PGI 216.104–70 for selecting the appropriate research and development contract type, and see 235.006(b) for additional approval requirements.

[71 FR 39007, July 11, 2006, as amended at 84 FR 65307, Nov. 27, 2019]

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]

216.203–4–70 Additional provisions and clauses.

(a) *Price adjustment for basic steel, aluminum, brass, bronze, or copper mill products.* (1)(i) 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 solicitations and 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.

(ii) 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.

(2) Use the price adjustment provision at 252.216–7007, Economic Price Adjustment—Basic Steel, Aluminum, Brass, Bronze, or Copper Mill Products—Representation, in solicitations that include the clause at 252.216–7000, Economic Price Adjustment—Basic Steel, Aluminum, Brass, Bronze, or Copper Mill Products.

(b) *Price adjustment for nonstandard steel items.* (1) The price adjustment clause at 252.216–7001, Economic Price Adjustment—Nonstandard Steel Items,