

OFFICE OF THE UNDER SECRETARY OF DEFENSE

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ACQUISITION AND
TECHNOLOGY
DP (DAR)

April 10, 1997

In reply refer to
DAR Tracking Number 97-00001

MEMORANDUM FOR DIRECTOR OF DEFENSE AGENCIES
DEPUTY FOR ACQUISITION AND BUSINESS MANAGEMENT,
ASN(RDEA)/ABM
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE
(CONTRACTING), SAF/AQC
ASSISTANT DEPUTY ASSISTANT SECRETARY OF THE ARMY
(PROCUREMENT)/DIRECTOR FOR CONTRACTING
DEPUTY DIRECTOR (ACQUISITION), DEFENSE LOGISTICS AGENCY

SUBJECT: Class Deviation—Value Engineering Change Proposals

I authorize all military departments and defense agencies to deviate from the requirements of Federal Acquisition Regulation (FAR) 8.001, 48.102, 48.104, 48.201, and the clause at 52.248-1, Value Engineering, when providing value engineering incentives to contractors.

FAR 48.001, 48.102, 48.104, and the clause at 52.248-1 provide for a fixed sharing period and fixed sharing and collateral savings rates when using value engineering techniques in contracts. FAR 48.201 requires the use of the clause at 52.248-1 when providing a value engineering incentive.

This class deviation authorizes contracting officers to use the attached revised FAR language when administering value engineering techniques. The revised FAR language changes the sharing period from the current 3 years to a range of 3 to 5 years; the incentive sharing arrangement from the current fixed rate for the contractor of 50 percent to a range of 50 to 75 percent; and the current fixed contractor shared collateral savings rate of 20 percent to a range of 20 to 100 percent. Further, the class deviation allows contracting officers to use the attached revised 52.248-1 clause.

This class deviation is approved for a 2-year period ending March 31, 1999, or until the FAR is revised, whichever occurs first.

Eleanor R. Spector

Eleanor R. Spector
Director, Defense Procurement

0-41, Atch 97-12F (FAR 48)

Post to FAR 48.001, 48.102, 48.104, and the clause at 52.248-1 by circling the references and noting in the margin: "70-41, Atch 97-12F. Then file this atch behind the sups to FAR 48.



Value Engineering Change Proposals
Class Deviation

The following changes are made to the Federal Acquisition Regulation:

PART 48--VALUE ENGINEERING

* * * * *
48.001 Definitions

* * * * *
"Sharing period," as used in this part, means the period beginning with acceptance of the first unit incorporating the VECF and ending at the later of (a) ~~3 years~~ [the end of a sharing period of 3-5 years set at the discretion of the contracting officer for each VECF,] after the first unit affected by the VECF is accepted * * *

SUBPART 48.1--POLICIES AND PROCEDURES

* * * * *
48.102 Policies.

* * * * *
(g) * * * * * For engineering-development and low-rate-initial production contracts, the future sharing shall be on scheduled deliveries equal in number to the quantity required over the highest [designated number of] consecutive months of planned production, based on planning or production documentation at the time the VECF is accepted. [The number of months shall be established at the discretion of the contracting officer for each VECF. The range that shall be used is 36-60 months. In determining whether to extend the period beyond 36 months, the contracting officer shall consider the following and insert supporting rationale in the contract file:

- (1) Extent of the change;
- (2) Complexity of the change;
- (3) Development risk (e.g., contractor's financial risk);
- (4) Developmental cost;
- (5) Performance and/or reliability impact;
- (6) Production period remaining at time of VECF acceptance; and
- (7) Number of units affected.]

* * * * *
48.104 Sharing Arrangements

48.104-1 Sharing Acquisition Savings.

(a) Supply or service contracts.

	Instant contract rate	Concurrent and future rate
Fixed-price (other than incentive)	50/50 ***	50/50 ***
Incentive (fixed-price or cost)	+	50/50 ***
Cost-reimbursement (other than incentive)**	75/25 ****	75/25 ***

* Same sharing arrangement as the contractor's profit or fee adjustment formula.

** Includes cost-plus-award-fee contracts.

[*** A rate between 50 and 75 percent set by the contracting officer for each VECP. See 48.102(g)(1)-(5).

**** A rate between 25 and 50 percent set by the contracting officer for each VECP. See 48.102(g)(1)-(5).]

48.104-2 Sharing collateral savings.

(b) The contractor's share of collateral savings is ~~20 percent~~ may range from 30 to 100 percent of the estimated savings to be realized for each VECP during an average year of use but shall not exceed (1) the contract's firm-fixed-price, target price, target cost, or estimated cost, at the time the VECP is accepted, or (2) \$100,000, whichever is greater. [The contractor's share percentage is determined by the contracting officer for each VECP.]

PART 52 SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.248-1 Value Engineering.

For engineering-development and low-rate-initial-production solicitations and contracts, the contracting officer shall modify subdivision (i)(3)(i) and the first sentence under subparagraph (3) of the definition of acquisition savings by substituting for "the number of future contract units scheduled for delivery during the sharing period." "a number equal to the quantity required over the highest 36 [designated number of] consecutive months of planned production, based on planning or production documentation at the time the VECP is accepted. [The number of months shall be established at the discretion of the contracting officer for each VECP. A range of 36-60 months shall be used.]

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VALUE ENGINEERING (MAR 1989) [(DEVIATION)]

* * * * *

(b) Definitions.

* * * * *

"Sharing period," as used in this clause, means the period beginning with the acceptance of the first unit incorporating the VECP and ending at the later of (1) 3 years [the end of a sharing period of 3-5 years, set at the discretion of the Contracting Officer,] after the first unit affected by the VECP is accepted or (2) the last scheduled delivery date of an item affected by the VECP under this contract's delivery schedule in effect at the time the VECP is accepted. [The contracting officer's determination of the sharing period is final and shall not be subject to the Disputes clause or otherwise subject to litigation under 41 U.S.C. 601-613.]

* * * * *

(c) Sharing rates. * * *

	Instant contract rate	Concurrent and future rate
Fixed-price (other than incentive)	50 +++	50 +++
Incentive (fixed price or cost)	-	50 ++
Cost-reimbursement (other than incentive)++	25 ++++	25 +++

+ Same sharing arrangement as the contractor's profit or fee adjustment formula.

++ Includes cost-plus-award-fee contracts.

[+++ A rate between 50 and 75 percent set by the Contracting Officer for each VECP. This decision is final and shall not be subject to the Disputes clause or otherwise subject to litigation under 41 U.S.C. 601-613.]

++++ A rate between 25 and 50 percent set by the Contracting Officer for each VECP. This decision is final and shall not be subject to the Disputes clause or otherwise subject to litigation under 41 U.S.C. 601-613.]

* * * * *

(j) Collateral savings. If a VECP is accepted, the instant contract amount shall be increased, as specified in subparagraph (h) (5) above,

by ~~20 percent~~ (between 20 and 100 percent, as determined by the Contracting Officer,) of any collateral savings determined to be realized in an typical year of use * * *

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