

## 17.106-1 General.

(a) *Method of contracting.* The nature of the requirement *should* govern the selection of the method of *contracting*, since the multi-year procedure is compatible with sealed bidding, including two-step sealed bidding, and negotiation.

(b) *Type of contract.* Given the longer performance period associated with multi-year *acquisition*, consideration in *pricing* fixed-priced contracts *should* be given to the use of economic price adjustment terms and profit objectives commensurate with contractor risk and financing arrangements.

(c) Cancellation procedures.

(1) All program years except the first are subject to cancellation. For each program year subject to cancellation, the *contracting officer shall* establish a cancellation ceiling. Ceilings *must* exclude amounts for requirements included in prior program years. The *contracting officer shall* reduce the cancellation ceiling for each program year in direct proportion to the remaining requirements subject to cancellation. For example, consider that the total nonrecurring costs (see [15.408, Table 15-1](#), III. Formats for Submission of *Line Item* Summaries C(8)) are estimated at 10 percent of the total multi-year price, and the percentages for each of the program year requirements for 5 years are (i)30 in the first year, (ii)30 in the second, (iii)20 in the third, (iv)10 in the fourth, and (v)10 in the fifth. The cancellation percentages, after deducting 3 percent for the first program year, would be 7, 4, 2, and 1 percent of the total price applicable to the second, third, fourth, and fifth program years, respectively.

(2) In determining cancellation ceilings, the *contracting officer must* estimate reasonable preproduction or startup, labor learning, and other nonrecurring costs to be incurred by an "average" prime contractor or subcontractor, which would be applicable to, and which normally would be amortized over, the items or services to be furnished under the multi-year requirements. Nonrecurring costs include such costs, where applicable, as plant or equipment relocation or rearrangement, *special tooling* and *special test equipment*, preproduction engineering, initial rework, initial spoilage, pilot runs, allocable portions of the costs of facilities to be acquired or established for the conduct of the work, costs incurred for the assembly, training, and transportation to and from the job site of a specialized work force, and unrealized labor learning. They *shall* not include any costs of labor or materials, or other expenses (except as indicated above), which might be incurred for performance of subsequent program year requirements. The total estimate of the above costs *must* then be compared with the best estimate of the contract cost to arrive at a reasonable percentage or dollar figure. To perform this calculation, the *contracting officer should* obtain in-house engineering cost estimates identifying the detailed recurring and nonrecurring costs, and the effect of labor learning.

(3) The *contracting officer shall* establish cancellation dates for each program year's requirements regarding production lead time and the date by which funding for these requirements can reasonably be established. The *contracting officer shall* include these dates in the schedule, as appropriate.

(d) *Cancellation ceilings.* Cancellation ceilings and dates *may* be revised after issuing the *solicitation* if necessary. In sealed bidding, the *contracting officer shall* change the ceiling by amending the *solicitation* before bid opening. In two-step sealed bidding, discussions conducted during the first

step *may* indicate the need for revised ceilings and dates which *may* be incorporated in step two. In a negotiated *acquisition*, negotiations with *offerors may* provide information requiring a change in cancellation ceilings and dates before final negotiation and contract award.

(e) *Payment of cancellation charges.* If cancellation occurs, the Government's liability will be determined by the terms of the applicable contract.

(f) *Presolicitation or pre-bid conferences.* To ensure that all interested sources of supply are thoroughly aware of how multi-year *contracting* is accomplished, use of presolicitation or pre-bid conferences *may* be advisable.

(g) *Payment limit.* The *contracting officer shall* limit the Government's payment obligation to an amount available for contract performance. The *contracting officer shall* insert the amount for the first program year in the contract upon award and modify it for successive program years upon availability of funds.

(h) *Termination payment.* If the contract is terminated for the convenience of the Government in whole, including requirements subject to cancellation, the Government's obligation *shall* not exceed the amount specified in the Schedule as available for contract performance, plus the cancellation ceiling.

**Parent topic:** [17.106 Procedures.](#)