

Subchapter 3016.4 Incentive Contracts

3016.401 General.

(a) *Prohibition.* No incentive fees shall be paid for contractor performance that has been judged to be below satisfactory performance or performance that does not meet the basic requirements of a contract.

(d) *Limitations on award-fee contracts.* An award-fee contract may be awarded only if:

(1) The award-fee plan includes award-fee criteria related at a minimum to cost, schedule and performance; and

(2) Award fee is earned for successful outcomes;

(i) No award fee may be earned against cost, schedule or performance criteria that are ranked below “*successful*” or “*satisfactory*” during an award-fee evaluation of contractor performance.

(ii) A base-fee amount fixed at contract inception is not considered part of an award fee.

(3) *Award Fee determination and findings.* No award fee contract or order may be awarded until the determination and findings (D&F) required by FAR 16.401(d) is approved by the HCA. This approval may not be delegated. The D&F must address all of the elements required by FAR 16.401(e)(1) and (5), as described in the D&F outline provided in HSAM Appendix Y.

(4) *Incentive contract determination and findings.* FAR 16.401(d) requires that no incentive contract or order may be awarded until the D&F required by FAR 16.401(d) is approved by the HCA. The chief of the contracting office is delegated the authority to make this approval for incentive contracts and orders that do not contain an award fee.

(e) If the potential for an award fee is provided for in combination with a fixed fee, incentive fee or profit, the contract shall not include a base fee.

(f) *Incentive- and Award-Fee Data Collection and Analysis -*

(1) *Reporting of Award Fee and Incentive Fee information to OCPO.* Components shall use the Award Fee / Performance Incentive Reporting System (AFPIRS) to report information to OCPO on the award of each contract or order that provides for either an award fee or a performance incentive (FAR 16.402-2) or a delivery incentive (FAR 16.402-3). Instructions, reporting requirements, and timelines for AFPIRS are located in the OCPO Enterprise Reporting Application (ERA) and are accessible at: <http://ocpo-sp.dhs.gov/sites/era/pages/afpirs.aspx>.

(2) *Component single point of contact.* Each component shall designate a single point of contact (POC) responsible for the timeliness and accuracy of award fee and incentive

information reported to OCPO. Unless advised otherwise by the component, the POC is the chief of the procurement policy function within the component. |