

235.006 Contracting methods and contract type.

(b)(i) Consistent with section 829 of the National Defense Authorization Act for Fiscal Year 2017 (Pub. L. 114-328), the Under Secretary of Defense for Acquisition and Sustainment (USD(A&S)) has determined that the use of cost-reimbursement contracts for research and development in excess of \$25 million is approved, if the contracting officer executes a written determination and findings that—

(A) The level of program risk does not permit realistic pricing; and

(B) It is not possible to provide an equitable and sensible allocation of program risk between the Government and the contractor.

(ii) For major defense acquisition programs as defined in 10 U.S.C. 2430—

(A) Follow the procedures at [234.004](#) ; and

(B) Notify the milestone decision authority of an intent not to exercise a fixed-price production option on a development contract for a major weapon system reasonably in advance of the expiration of the option exercise period.

(iii) For other than major defense acquisition programs—

(A) Do not award a fixed-price type contract for a development program effort unless—

(1) The level of program risk permits realistic pricing;

(2) The use of a fixed-price type contract permits an equitable and sensible allocation of program risk between the Government and the contractor; and

(3) A written determination that the criteria of paragraphs (b)(iii)(A)(1) and (2) of this section have been met is executed—

(i) By the USD(A&S) if the contract is over \$25 million and is for: research and development for a non-major system; the development of a major system (as defined in FAR 2.101); or the development of a subsystem of a major system; or

(ii) By the contracting officer for any development not covered by paragraph (b)(iii)(A)(3)(i) of this section.

(B) Obtain USD(A&S) approval of the Government's prenegotiation position before negotiations begin, and obtain USD(A&S) approval of the negotiated agreement with the contractor before the agreement is executed, for any action that is—

(1) An increase of more than \$250 million in the price or ceiling price of a fixed-price type development contract, or a fixed-price type contract for the lead ship of a class;

(2) A reduction in the amount of work under a fixed-price type development contract or a fixed-price type contract for the lead ship of a class, when the value of the work deleted is \$100 million or more; or

(3) A repricing of fixed-price type production options to a development contract, or a contract for the lead ship of a class, that increases the price or ceiling price by more than \$250 million for equivalent

quantities.

235.006-70 Manufacturing Technology Program.

235.006-71 Competition.

Parent topic: PART 235 - RESEARCH AND DEVELOPMENT CONTRACTING