

## 16.203-4 Contract clauses.

(a) Adjustment based on established prices-standard *supplies*.

(1) The *contracting officer shall*, when *contracting* by negotiation, insert the clause at [52.216-2](#), Economic Price Adjustment-Standard *Supplies*, or an agency-prescribed clause as authorized in paragraph (a)(2) of this subsection, in *solicitations* and contracts when all of the following conditions apply:

(i) A fixed-price contract is contemplated.

(ii) The requirement is for standard *supplies* that have an established catalog or market price.

(iii) The *contracting officer* has made the determination specified in [16.203-3](#).

(2) If all the conditions in paragraph (a)(1) of this subsection apply and the *contracting officer* determines that the use of the clause at [52.216-2](#) is inappropriate, the *contracting officer may* use an agency-prescribed clause instead of the clause at [52.216-2](#).

(3) If the negotiated unit price reflects a net price after applying a trade discount from a catalog or list price, the *contracting officer shall* document in the contract file both the catalog or list price and the discount. (This does not apply to prompt payment or cash discounts.)

(4) The *contracting officer may* modify the clause by increasing the 10 percent limit on aggregate increases specified in [52.216-2\(c\)\(1\)](#), upon approval by the chief of the *contracting office*.

(b) Adjustment based on established prices-semistandard *supplies*.

(1) The *contracting officer shall*, when *contracting* by negotiation, insert the clause at [52.216-3](#), Economic Price Adjustment-Semistandard *Supplies*, or an agency-prescribed clause as authorized in paragraph (b)(2) of this section, in *solicitations* and contracts when all of the following conditions apply:

(i) A fixed-price contract is contemplated.

(ii) The requirement is for semistandard *supplies* for which the prices can be reasonably related to the prices of nearly equivalent standard *supplies* that have an established catalog or market price.

(iii) The *contracting officer* has made the determination specified in [16.203-3](#).

(2) If all conditions in paragraph (b)(1) of this subsection apply and the *contracting officer* determines that the use of the clause at [52.216-3](#) is inappropriate, the *contracting officer may* use an agency-prescribed clause instead of the clause at [52.216-3](#).

(3) If the negotiated unit price reflects a net price after applying a trade discount from a catalog or list price, the *contracting officer shall* document in the contract file both the catalog or list price and the discount. (This does not apply to prompt payment or cash discounts.)

(4) Before entering into the contract, the *contracting officer* and contractor *must* agree *in writing* on the identity of the standard *supplies* and the corresponding *line items* to which the clause applies.

(5) If the *supplies* are standard, except for preservation, packaging, and packing requirements, the clause prescribed in 16.203-4(a) shall be used rather than this clause.

(6) The *contracting officer* may modify the clause by increasing the 10 percent limit on aggregate increases specified in 52.216-3(c)(1), upon approval by the chief of the *contracting office*.

(c) Adjustments based on actual cost of labor or material.

(1) The *contracting officer* shall, when *contracting* by negotiation, insert a clause that is substantially the same as the clause at 52.216-4, Economic Price Adjustment -Labor and Material, or an agency-prescribed clause as authorized in subparagraph (c)(2) of this section, in *solicitations* and contracts when all of the following conditions apply:

(i) A fixed-price contract is contemplated.

(ii) There is no major element of design engineering or development work involved.

(iii) One or more identifiable labor or material cost factors are subject to change.

(iv) The *contracting officer* has made the determination specified in 16.203-3.

(2) If all conditions in paragraph (c)(1) of this section apply and the *contracting officer* determines that the use of the clause at 52.216-4 is inappropriate, the *contracting officer* may use an agency-prescribed clause instead of the clause at 52.216-4.

(3) The *contracting officer* shall describe in detail in the contract Schedule-

(i) The types of labor and materials subject to adjustment under the clause;

(ii) The labor rates, including fringe benefits (if any) and unit prices of materials that *may* be increased or decreased; and

(iii) The quantities of the specified labor and materials allocable to each unit to be delivered under the contract.

(4) In negotiating adjustments under the clause, the *contracting officer* shall-

(i) Consider work in process and materials on hand at the time of changes in labor rates, including fringe benefits (if any) or material prices;

(ii) Not include in adjustments any *indirect cost* (except fringe benefits as defined in 31.205-6(m)) or profit; and

(iii) Consider only those fringe benefits specified in the contract Schedule.

(5) The *contracting officer* may modify the clause by increasing the 10 percent limit on aggregate increases specified in 52.216-4(c)(4), upon approval by the chief of the *contracting office*.

(d) *Adjustments based on cost indexes of labor or material*. The *contracting officer* should consider using an economic price adjustment clause based on cost indexes of labor or material under the circumstances and subject to approval as described in paragraphs (d)(1) and (d)(2) of this section.

(1) A clause providing adjustment based on cost indexes of labor or materials *may* be appropriate

when-

(i) The contract involves an extended period of performance with significant costs to be incurred beyond 1 year after performance begins;

(ii) The contract amount subject to adjustment is substantial; and

(iii) The economic variables for labor and materials are too unstable to permit a reasonable division of risk between the Government and the contractor, without this type of clause.

(2) Any clause using this method *shall* be prepared and approved under agency procedures. Because of the variations in circumstances and clause wording that *may* arise, no standard clause is prescribed.

**Parent topic:** 16.203 Fixed-price contracts with economic price adjustment.