



Contract Types

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FAR Based Contracting Vs. Non FAR Based Contracting



FAR BASED CONTRACTING

PART 16 – Types of Contacts



General

In general, contract types are grouped into two broad categories:

1. Fixed-Price

- Government pays the Contractor the agreed price

2. Cost Reimbursement

- Government pays the Contractor's actual, allowable, and allocable costs



Fixed Price

- Firm Fixed Price
- FP - Economic Price Adjustment
- FP - Incentive
- FP – Prospective Price Redetermination
- FCP – Retrospective Price Redetermination
- FFP – Level of Effort Term

Cost Reimbursement

- Cost Sharing
- Cost Plus Incentive Fee
- Cost Plus Award Fee
- Cost Plus Fixed Fee



Indefinite Delivery, Indefinite Quantity (IDIQ)



- Minimum and maximum quantity limits are specified in the basic contract as either number of units (for supplies) or as dollar values (for services)
- Delivery orders (for supplies) or task orders (for services) awarded against a basic contract for individual requirements.



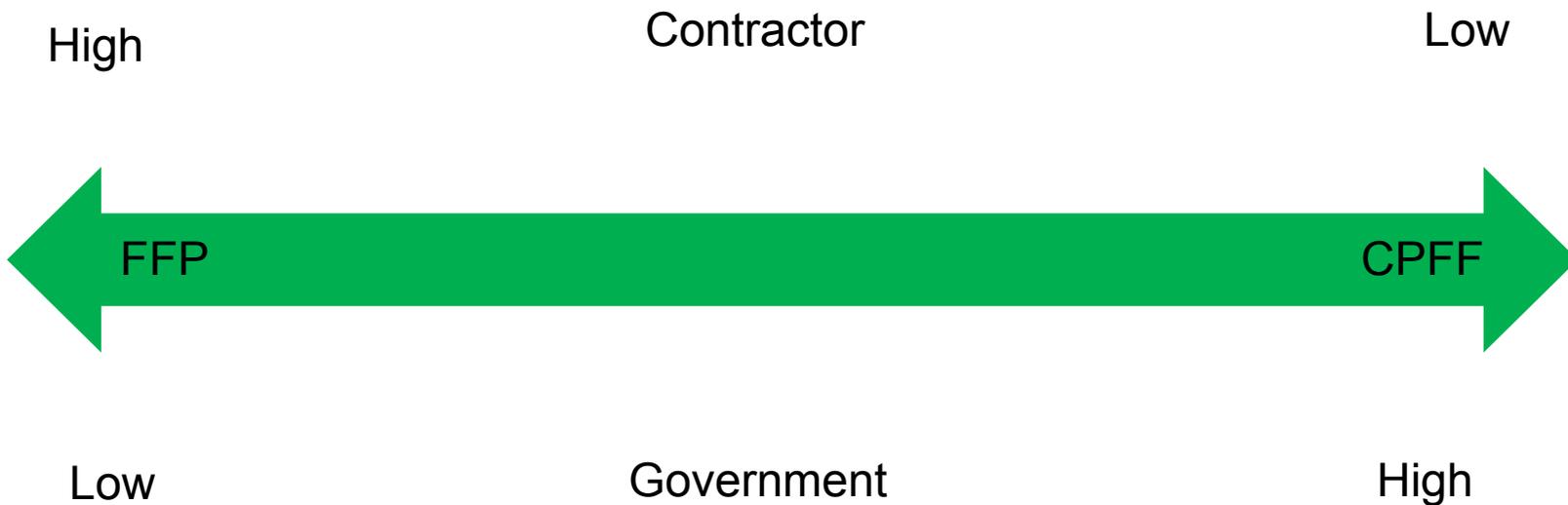
Factors in Selecting Contract Types (FAR 16.104)



- Price Competition
- Price Analysis
- Cost Analysis
- Type and Complexity of Requirement
- Urgency of the Requirement
- Period of Performance
- Contractor's Technical Capability
- Contractor's Accounting System
- Concurrent Contracts
- Extent and Nature of Proposed Subcontracting
- Acquisition History



Contract Type Risk





NON-FAR BASED CONTRACTING

Other Transactions



HHS's Other Transaction Authority



- In PAHPA,* the Secretary of HHS was granted authority called Other Transactions. This authority previously has been granted to DoD, DoE, DHS, and others.
- OT's name comes from the statute definition
 - “Transactions other than procurement contracts, grant and cooperative agreements”

* Pandemic and All Hazards Preparedness Act of 2006



HHS's OTA Continued



- Two types have been generally defined and used
 - Other Transactions for Research (OTAR)
 - Stimulate advancement in bio-medical products and countermeasures
 - Other Transactions for Prototypes
 - Alternative to the FAR acquisition instrument
- At this time, HHS Office of the Assistant Secretary for Preparedness and Response (ASPR) Office of Acquisition Management, Contracts & Grants (AMCG) will be using OTs only for Research



Not for Everyone



- Designed for use with nontraditional government contractors and consortiums
 - Generally Accepted Accounting Practices
 - Intellectual Property Negotiable
- Cost Sharing preference
- Fee may not be allowed

- Traditional FAR based contracting is the norm. Special conditions must exist to make OTARs a viable option



OTs Exempt from Laws/Regulations



- Generally not subject to federal procurement and assistance laws and regulations governing procurement contracts, grants and cooperative agreements
 - OTAR is not subject to Bayh-Dole Act. However, OTA Contracting Officer may still include Limited-Rights Data clause (FAR 52.227-14 Alternate II) if appropriate.
- Other federal laws are applicable:
 - Fiscal laws
 - Laws of general applicability, e.g., Civil Rights Act and Clean Air and Water



QUESTIONS?

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