

## VALUE ENGINEERING INCENTIVE (FFP)

- (a) Introduction. This clause provides Seller a unique opportunity to identify requirements of this order which may be causing unnecessary costs, (e.g., management systems, data, specifications, standards, functions, components or tasks) which contribute to the cost of acquisition, operation, or logistic support. The purpose of this Value Engineering Incentive Clause is to encourage initiation, development and submission of Value Engineering Change Proposals by providing Seller a substantial share of the savings resulting from such proposals.
- (b) Application. This clause applies to Class I Value Engineering Change Proposals (VECP's) initiated, documented, and developed by Seller solely with its own resources. In the event a bilateral agreement committing Buyer's resources is entered into, solely in support of, and assumption of, such development risks thereof, Seller's savings share in accordance with paragraph (f) shall be subject to negotiations. Type of change proposal is defined as follows:
- (i) a Class I VECP requires a change notice to be issued to implement the VECP on this order and a modification to be issued to the contract or subcontract held by Buyer under which this order is placed; furthermore, reduces the overall cost to Buyer and the Government without impairing essential functions or characteristics, provided that it is not based:
    - (A) solely on a change in deliverable end item quantities; or
    - (B) a change in R&D end item or R&D test quantities due solely to results of previous testing under this order; or
    - (C) solely on a change to the subcontract type.
- (c) Documentation. As a minimum, the following information shall be submitted by Seller with each VECP:
- (i) a description of the difference between the existing requirement of this order and the proposed change, and the comparative advantages and disadvantages of each, justification when a function or characteristic of an item is being altered, and the effect of the change on the performance of the end item;
  - (ii) an analysis and itemization of the requirements of this order which must be changed if the VECP is accepted and a recommendation as to how to make each such change (e.g., a suggested specification revision);
  - (iii) a separate detailed cost estimate for both the existing requirement and the proposed change to provide an estimate of the reduction in costs, if any, that will result from acceptance of the VECP, taking into account the costs of development and implementation by Seller including any amount attributable to lower tier subcontracts in accordance with paragraph (i) below;

- (iv) a prediction of any effects the proposed change would have on collateral and other costs to Buyer and the Government such as Government-furnished property costs, costs of related items, and costs of maintenance and operation;
  - (v) a statement of the time by which a change order accepting the VECP must be issued so as to obtain the maximum cost reduction during the remainder of the order, noting any effect on the completion time or delivery schedule of this order; and
  - (vi) identification of any previous VECP submissions, identification of Buyer's orders and the previous actions by Buyer, if known.
- (d) Submission. VECP's shall be submitted to Buyer. VECP's shall be processed expeditiously; however neither the Government nor Buyer shall be liable for any delay in acting upon any VECP submitted pursuant to this clause. Seller does not have the right to withdraw, in whole or in part, any VECP until the expiration of one hundred eighty (180) days from the date of receipt by Buyer.
- (e) Acceptance. Buyer and/or the Government shall have the right in its sole discretion to accept or reject in whole or in part any VECP submitted pursuant to this clause. In the event a VECP is accepted in whole or in part, Buyer shall issue a change order which will identify the VECP on which it is based. Change orders issued pursuant to this clause will so state. Unless and until a change order applies to a VECP to this order, Seller shall remain obligated to perform under this order in accordance with its existing terms. The decision of Buyer or its customer as to the acceptance of any VECP under this order or as to the amount of concurrent or future contract savings and/or collateral savings shall be final and shall not be subject to review by legal proceedings under the "Disputes" clause of this order or otherwise.
- (f) Sharing. If a VECP submitted by Seller pursuant to this clause is accepted, Seller shall share in savings realized by Seller in accordance with the following provisions:
- (1) Instant Purchase Order.
    - (i) Definitions:
      - (A) Instant purchase order savings to Seller is the unit cost reduction times the number of units affected in this order less any Seller's development and implementation costs. Seller's development and implementation costs include lower tier subcontractor development and implementation costs and implementation costs (see (i) below). For purposes of this clause, Seller development costs are those costs incurred after Seller has identified to Buyer a specific project and prior to acceptance by Buyer.
    - (ii) Calculations and Actions:
      - (A) Calculate % (Buyer's share) of the instant purchase order savings and subtract the result from the price of this order.

(B) If Seller's cost of developing and implementing the VECP would result in an increase in the instant purchase order price, but Buyer accepts the VECP because such action is desirable in view of concurrent or future savings, equitably adjust the instant purchase order price in accordance with the "Changes" clause.

(2) Concurrent Contracts.

(i) If the VECP accepted under this order is also used on concurrent contracts of the Government purchasing office for essentially the same items, Seller shall be paid a share of any savings as calculated in (ii) below.

(ii) Calculations:

Seller's share shall be of the share Buyer actually receives from Seller (after all deductions and offsets have been made) as a result of incorporating the VECP in such concurrent contracts. The total dollar savings realized by Seller, represented by such VECP shall be decremented from Seller's affected concurrent contracts) and an equitable adjustment made to the instant contract price.

(3) Future Contracts.

(i) If the VECP accepted under this order is used on future purchases of essentially the same item by the Government purchasing office, or its successor, Seller shall share in the savings on all affected end items scheduled for delivery not later than calendar years (not to exceed prime contract sharing period) after acceptance of the first item on the prime contract under which this order is placed, incorporating the VECP, or until the originally scheduled delivery date of the last affected end item under such contract, whichever is later.

(ii) Calculations:

At the time each eligible future contract is awarded, Seller's share shall be % of the share Buyer actually receives from Seller (after all deductions and offsets have been made) as a result of using such VECP on such future purchases. Seller's share represented from the implementation of such VECP shall be added to the instant purchase order price.

(4) Collateral Savings.

If an accepted VECP results in a measurable net reduction in the Government's overall documentable projected costs of maintenance, operation, logistic support or Government-furnished property, which exceeds any increase in costs attributable to incorporation of such VECP, including acquisition costs, this order shall be increased

by \_\_\_\_\_ % of the share Buyer actually receives from its customer for the projected net reduction in ascertainable collateral costs (i.e., savings determined to be realized during an average year of use of the item in which the change is incorporated) and, if applicable, of the actual savings accruing from a change or reduction of Government-furnished property under Buyer's instant contract. In all cases, degradation of performance, service life, or capability shall be a consideration in the determination of actual savings to the Government.

- (g) Payments. Payments to Seller for contract savings or collateral savings are subject to the condition that Buyer receives applicable VECP payments from its customer and to the condition that should Buyer for any reason pay back to its customer from Buyer's share or any portion of such share, Seller shall promptly pay back to Buyer a proportionate amount of the payments it has received from Buyer. It is the intent of the parties to condition Buyer's obligations hereunder on the actual receipt and retention by Buyer of the applicable VECP payments from its customer after all deductions and offsets have been made. Buyer shall bear no responsibility to the extent it fails to receive and retain the applicable VECP payments from its customer.
- (h) Operation and Maintenance Contracts. If the prime contract under which this order is placed is for overhaul or maintenance (including repair, alteration, modification or modernization), Buyer will be paid a share of future contract savings realized by the Government only on overhaul and maintenance of the designated items accomplished by purchase, under contract, by the designated purchasing office. Only collateral savings will be paid on application of accepted VECP's to overhaul and maintenance of items within Government resources.
- (i) Lower Tier Subcontracts. Seller shall include appropriate Value Engineering arrangements in any subcontract of \$100,000 or greater, and may include such arrangements in orders of lesser value which, in the judgment of Seller, are of such size and nature as to offer reasonable likelihood of VECP submittals. To compute any adjustment in the price of this order under paragraph (f)(1) above, Seller's cost of development and implementation of a VECP which is accepted under this order shall include development and implementation costs of a lower tier subcontractor which clearly pertain to such VECP.
- (j) Data. Seller may restrict Buyer's and the Government's right to use any sheet of a VECP or of the supporting data, submitted pursuant to this clause, in accordance with the terms of the following legend if it is marked on such sheet:

"This data furnished pursuant to the Value Engineering Incentive Clause of contract \_\_\_\_\_ shall not be disclosed outside the Government or by the Buyer, other than to the Government, or be duplicated, used, or disclosed, in whole or in part, for any purpose other than to evaluate a VECP submitted under said clause. This restriction does not limit the Buyer's or the Government's right to use information contained in this data if it is or has been obtained, or is otherwise available, from the Seller or from another source, without limitations. If such a VECP is accepted by the Buyer by issuance of a change order under the "Changes" clause of said order after the use of this data in such an evaluation, the Buyer, and the Government shall have the right to duplicate, use, and disclose any data reasonably necessary to the full utilization of such VECP as accepted, in any manner and for any purpose whatsoever, and have others so do."

After the issuance of a change order accepting a VECP, but not prior thereto, such VECP and the supporting data shall, for the sole purpose of supplementing the rights granted to the Government and Buyer under this paragraph be considered "Technical Data" within the meaning of the "Rights in Data" clause if any, included in this order and the Government shall have the right to duplicate, use and disclose any data reasonably necessary to the full utilization of such VECP as accepted, in any manner and for any purpose whatsoever, and to have or permit others to do so.

(k) Miscellaneous Provisions.

- (1) For purpose of sharing under paragraph (f)(1) above, the term "instant purchase order" shall not include any modifications of the instant purchase order, executed after acceptance of the particular VECP, by which Buyer increases the quantity of any item or adds any item, nor shall it include any extension of the instant purchase order through exercise of an option provided under this order after acceptance of the VECP.
- (2) If this is an indefinite delivery type order (see FAR 16.501) the term "instant purchase order" for purposes of sharing under paragraph (f)(1) above, shall include only those orders actually placed by Buyer up to the time the particular VECP is accepted.
- (3) If this clause is included in a basic ordering agreement, the term "instant purchase order" for purposes of sharing under paragraph (f 1) above, shall be the order under which the particular VECP is approved.
- (4) If this clause is included in a multi-year contract, the term "instant purchase order" for the purpose of sharing under paragraph (f)(1) above, shall be the funded order at the time the VECP is approved.
- (5) If this clause is included in a fixed price order providing for prospective price redetermination, the term "instant purchase order" for purposes of sharing under paragraph (f)(1) above, shall be that period for which firm prices have been established.
- (6) Those portions of an accepted VECP which are rewardable under other performance incentive provisions of this order shall be rewarded under the provisions of this clause to the extent that they are not rewarded under the other performance incentive provisions.
- (7) Buyer requires Seller to provide written notification prior to risking significant expenditures for VECP effort.