

VALUE ENGINEERING INCENTIVE (FPI)

- (a) Application. This clause applies to either a Class I or Class II Value Engineering Change Proposal (VECP) developed and documented by the Seller. Types of change proposals contemplated are defined as follows:
- (i) a Class I VECP requires a change notice to be issued to implement the VECP on this contract and a modification to be issued to the contract or subcontract held by the Buyer under which this contract is placed;
 - (ii) a Class II VECP requires a change notice to be issued to implement the VECP on this contract but does not require a modification to be issued to the contract or subcontract under which this contract is placed;
 - (iii) both a Class I and Class II VECP reduce the overall costs to the cognizant Military Department 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 test quantities due solely to results of previous testing under this contract; or
 - (C) solely on a change to the subcontract type.

In the event the VECP is a Class II VECP, then notwithstanding any provision herein to the contrary, the total amount of the adjustment to be made under this contract as a result of accepting such VECP shall be limited to that provided in paragraph (e)(1), below, entitled "Instant Purchase Contract," and no other adjustment will be made on account of such cost reduction proposal.

- (b) Documentation. As a minimum, the following information shall be submitted by the Seller with each VECP:
- (i) a description of the difference between the existing requirement of this contract 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 contract 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 the Seller including any amount attributable to lower tier subcontracts in accordance with paragraph (h) below;

- (iv) a prediction of any effects the proposed change would have on collateral and other costs to the Buyer and Military Department 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 contract, noting any effect on the completion time or delivery schedule of this contract; and
 - (vi) identification of any previous submissions of the VECP, identification of Buyer's contracts or of any Government contracts under which submitted, the agencies involved, and the previous actions by the Government or Buyer, if known.
- (c) Submission. VECP's shall be submitted to the Buyer. VECP's shall be processed expeditiously; however, neither the Government nor the Buyer shall be liable for any delay in acting upon any VECP submitted pursuant to this clause. The Seller has the right to withdraw, in whole or in part, any VECP not accepted by the Buyer within the period specified in the VECP.
- (d) Acceptance. The Buyer, or if required by the provisions of the prime contract or higher tier subcontract under which this contract is placed, the Government shall have the right in its sole discretion to -accept in whole or in part any VECP submitted pursuant to this clause, either before or within a reasonable time after performance has been completed under this contract. 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 contract, the Seller shall remain obligated to perform under this contract in accordance with its existing terms. The decision of the Buyer or its customer as to the acceptance of any VECP under this contract 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 contract or otherwise.
- (e) Sharing. If a VECP submitted by the Seller pursuant to this clause and affecting any of the items described in paragraph (a) of the "Incentive Price Revision (Firm Target)" clause of this contract is accepted, the Seller shall share in savings realized by the Government in accordance with the following provisions:
- (1) Instant Purchase Contract.
 - (i) Definitions:
 - (A) Instant purchase contract savings to the Seller is the unit cost reduction times the number of units affected in this contract. The proposed unit cost reduction includes estimated allowable Seller development and implementation costs. The Seller's development and implementation costs include lower tier subcontractor development and implementation costs and lower tier subcontractor incentive payments (see (h) below). For purposes of this clause, Seller development costs are those costs incurred after the Seller has identified a specific VE project and prior to acceptance by the Buyer.

(ii) Calculations and Actions.

- (A) Calculate the net amount (Buyer and Seller shares) of the estimated instant purchase contract savings and subtract the results from the total target cost of items affected on this contract; add _____ % of the net amount to the total target profit; and subtract _____ % from the maximum dollar limit on the total final price of such items.
- (B) If the Seller's cost of developing and implementing the VECP would result in an increase in the instant purchase contract target cost , but the Buyer accepts the VECP because such action is desirable in view of concurrent or future savings, equitably adjust the total target cost, total target profit and maximum dollar limit on the total price of the items affected in accordance with the "Changes" clause.

(2) Concurrent Contracts.

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

(ii) Calculations:

The Seller's share shall be _____ % of the share the Buyer actually receives from its customer (after all deductions and offsets have been made) as a result of incorporating the VECP in such concurrent contracts. The dollar amount represented by such _____ % share shall be added to the instant purchase contract as a separate line item independent of the incentive sharing arrangement and without adjustment to any of the incentive parameters of the contract.

(3) Future Contracts.

- (i) If the VECP accepted under this contract is used on future purchases of essentially the same item by the Government purchasing office, or its successor, the Seller shall share in the savings on all affected end items scheduled for delivery not later than three (3) years after acceptance of the first item on the prime contract under which this contract 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, the Seller's share shall be _____ % of the share the Buyer actually receives from its customer (after all deductions and offsets have been made) as a result of using such VECP on such future purchases. The dollar amount represented by such _____ % share shall be added to the instant purchase contract as a separate line item independent of the incentive sharing arrangement and without adjustment to any of the incentive parameters of the contract.

(4) Collateral Savings.

If an accepted VECP results in a measurable net reduction in the cognizant Military Department'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 contract shall be increased by % of the share the 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 the Buyer's instant contract. The dollar amount represented by such % share shall be added to the instant purchase contract as a separate line item independent of the incentive sharing arrangement and without adjustment to any of the incentive parameters of the contract. In all cases, degradation of performance, service life, or capability shall be a consideration in the determination of actual savings to the Military Department.

- (f) Payments. Payments to the Seller for concurrent or future contract savings or for collateral savings are subject to the condition that the Buyer receives applicable VECP payments from its customer the condition that should the Buyer for any reason pay back customer from Buyer's share or any portion of such share, the shall promptly pay back to the Buyer a proportionate amount payments it has received from the Buyer. It is the intent parties to condition the Buyer's obligations hereunder on the receipt and retention by the Buyer of the applicable VECP payments form its customer after all deductions and offsets have been made. The Seller's % share shall be solely applied against and realized from such actual payments and the Buyer shall bear no responsibility to the extent it fails to receive and retain the applicable VECP payments from its customer.
- (g) Operation and Maintenance Contracts. If the prime contract under which this contract is placed is for overhaul or maintenance (including repair, alteration, modification or modernization), the 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.
- (h) Lower Tier Subcontracts. The Seller shall include appropriate Value Engineering arrangements in any subcontract of \$100,000 or greater, and may include such arrangements in contracts of lesser value which, in the judgment of the Seller, are of such size and nature as to offer reasonable likelihood of VECP submittals. To compute any adjustment in the price of this contract under paragraph (e)(1) above, the Seller's cost of development and implementation of a VECP which is accepted under this contract shall include development and implementation costs of a lower tier subcontractor and VE incentive payments to such subcontractor, which clearly pertain to such VECP. However, no such payment or accrual to a lower tier subcontractor will be permitted, either as a part of the Seller's development or implementation costs or otherwise, to reduce the Government's or Buyer's share on collateral savings and additional purchases.
- (i) Data. The Seller may restrict the 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 to its Seller of the of the actual 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 the Buyer under this paragraph be considered "Technical Data" within the meaning of the "Rights in Data" clause if any, included in this contract 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.

(j) Miscellaneous Provisions.

- (1) For purpose of sharing under paragraph (e)(1) above, the term "instant purchase contract" shall not include any modifications of the instant purchase contract, executed after acceptance of the particular VECP, by which the Buyer increases the quantity of any item or adds any item, nor shall it include any extension of the instant purchase contract through exercise of an option provided under this contract after acceptance of the VECP.
- (2) If this is an indefinite delivery type contract (see FAR 16.501) the term "instant purchase contract" for purposes of sharing under paragraph (e)(1) above, shall include only those contracts actually placed by the 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 contract" for purposes of sharing under paragraph (e)(1) above, shall be the contract under which the particular VECP is approved.
- (4) If this clause is included in a multi-year contract, the term "instant purchase contract" for the purpose of sharing under paragraph (e)(1) above, shall be the funded contract at the time the VECP is approved.
- (5) If this clause is included in a fixed price contract providing for prospective price redetermination, the term "instant purchase contract" for purposes of sharing under paragraph (e)(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 contract shall be rewarded under the provisions of this clause to the extent that they are not rewarded under the other performance incentive provisions.
- (7) The Buyer may require the Seller to provide written notification prior to risking significant expenditures for VECP effort.