

CONTRACT PRICE IS SUBJECT TO PRIOR WRITTEN APPROVAL BY THE RESPONSIBLE MANAGER IN THE USING AGENCY AND CERTIFICATION BY THE APPROPRIATE FISCAL AUTHORITY AS TO THE AVAILABILITY OF FUNDS AND TO THE EFFECT OF THE MODIFICATION, CHANGE, OR ADJUSTMENT ON THE PROJECT BUDGET OR THE TOTAL CONSTRUCTION COST. IF THE CERTIFICATION DISCLOSES A RESULTING INCREASE IN THE PROJECT BUDGET OR TOTAL CONSTRUCTION COST, THE PROCUREMENT OFFICER MAY NOT EXECUTE OR MAKE THE MODIFICATION, CHANGE, OR ADJUSTMENT UNLESS SUFFICIENT FUNDS ARE AVAILABLE, OR THE SCOPE OF THE PROJECT IS ADJUSTED TO PERMIT ITS COMPLETION WITHIN THE PROJECT BUDGET.

SUBTITLE 7. TYPES OF CONTRACTS

3-701.

THE COST-PLUS-A-PERCENTAGE-OF-COST SYSTEM OF CONTRACTING MAY NOT BE USED.

3-702.

(A) COST-REIMBURSEMENT CONTRACTS MAY NOT BE AWARDED TO PRIME CONTRACTORS UNDER SECTIONS 3-203, 3-204, OR 3-205 UNLESS THE PROCUREMENT OFFICER DETERMINES THAT THE CONTRACT IS LIKELY TO BE LESS COSTLY TO THE STATE THAN ANY OTHER TYPE OF CONTRACT, OR THAT IT IS IMPRACTICABLE TO OBTAIN SUPPLIES, SERVICES, OR CONSTRUCTION OF THE KIND OR QUALITY REQUIRED EXCEPT UNDER SUCH A CONTRACT.

(B) (1) EACH CONTRACTOR UNDER A COST-REIMBURSEMENT TYPE CONTRACT SHALL GIVE NOTICE AND SECURE APPROVAL, AS REQUIRED BY THE CONTRACT, BEFORE ENTERING INTO:

(I) A COST-REIMBURSEMENT SUBCONTRACT; OR

(II) ANY OTHER SUBCONTRACT INVOLVING MORE THAN \$25,000, OR 5 PERCENT OF THE ESTIMATED COST OF THE PRIME CONTRACT.

(2) THE COST-PLUS-A-PERCENTAGE-OF-COST SYSTEM OF CONTRACTING MAY NOT BE USED BETWEEN CONTRACTORS AND SUBCONTRACTORS.

(C) COST-REIMBURSEMENT CONTRACTS SHALL PROVIDE THAT COSTS WILL BE REIMBURSED ONLY IF THEY ARE COSTS RECOGNIZED AS ALLOWABLE AND ALLOCABLE UNDER THE COST PRINCIPLE REGULATIONS ADOPTED PURSUANT TO TITLE 6, OR IN THE CONTRACT.

3-703.

SUBJECT TO THE LIMITATIONS OF SECTIONS 3-701 AND 3-702, ANY TYPE OF CONTRACT WHICH WILL PROMOTE THE BEST INTERESTS OF THE STATE MAY BE USED. HOWEVER, PREFERENCE SHALL BE GIVEN IN THE ORDER INDICATED TO THE FOLLOWING TYPES OF CONTRACTS: FIRST, FIXED-PRICE; SECOND, FIXED-PRICE INCENTIVE; THIRD, COST-PLUS INCENTIVE FEE; AND FOURTH, COST-PLUS FIXED FEE OR COST-REIMBURSEMENT.