

Standard 9904.415. Other terms defined elsewhere in this Chapter 99 shall have the meanings ascribed to them in those definitions unless paragraph (b) of this subsection, requires otherwise.

(1) *Contribution* means the amount paid by a contractor to satisfy the contractor's obligation under a deferred compensation plan. The contribution may be made in cash, stock, or other property, or any combination thereof. Contribution does not include the sale of stock or property by a contractor to a trust.

(2) *Deferred compensation* means an award made by a contractor to compensate an employee in a future cost accounting period or periods for services rendered in one or more cost accounting periods prior to the date of the receipt of compensation by the employee. This definition shall not include the amount of year end accruals for salaries, wages, or bonuses that are to be paid within a reasonable period of time after the end of a cost accounting period.

(3) *Employee Stock Ownership Plan (ESOP)* means any deferred compensation plan designed to invest primarily in the stock of the contractor's corporation including, but not limited to, plans covered by the Employee Retirement Income Security Act (ERISA).

(4) *Fair value* means the amount that a seller would reasonably expect to receive in a current sale between a willing buyer and a willing seller, that is, other than a forced or liquidation sale.

(b) The following modifications of terms defined elsewhere in this Chapter 99 are applicable to this Standard:

(1) *Market value* means the current or prevailing price of a stock or other property as indicated by market quotations.

(2) [Reserved].

5. Section 9904.415-40 is revised to read as follows:

9904.415-40 Fundamental requirement.

(a) The cost of deferred compensation shall be assigned to the cost accounting period in which the contractor incurs an obligation to compensate the employee. In the event no obligation is incurred prior to payment, the cost of deferred compensation shall be the amount paid and shall be assigned to the cost accounting period in which the payment is made.

(b) Measurement of deferred compensation costs.

(1) For deferred compensation other than ESOPs, the deferred compensation cost shall be the present value of the

future benefits to be paid by the contractor.

(2) For an ESOP, the deferred compensation cost shall be the amount contributed to the ESOP by the contractor.

(c) The cost of each award of deferred compensation shall be considered separately for purposes of measurement and assignment of such costs to cost accounting periods. However, if the cost of deferred compensation for the employees covered by a deferred compensation plan can be measured and assigned with reasonable accuracy on a group basis, separate computations for each employee are not required.

6. Section 9904.415-50 is revised to read as follows:

9904.415-50 Techniques for application.

(a) The contractor shall be deemed to have incurred an obligation for the cost of deferred compensation when all of the following conditions have been met. However, for awards which require that the employee perform future service in order to receive the benefits, the obligation is deemed to have been incurred as the future service is performed for that part of the award attributable to such future service:

(1) There is a requirement to make the future payment(s) which the contractor cannot unilaterally avoid.

(2) The deferred compensation award is to be satisfied by a future payment of money, other assets, or shares of stock of the contractor.

(3) The amount of the future payment can be measured with reasonable accuracy.

(4) The recipient of the award is known.

(5) If the terms of the award require that certain events must occur before an employee is entitled to receive the benefits, there is a reasonable probability that such events will occur.

(6) For stock options, there must be a reasonable probability that the options ultimately will be exercised.

(b) If any of the conditions in 9904.415-50(a) is not met, the cost of deferred compensation shall be assignable only to the cost accounting period or periods in which the compensation is paid to the employee.

(c) If the cost of deferred compensation can be estimated with reasonable accuracy on a group basis, including consideration of probable forfeitures, such estimate may be used as the basis for measuring and assigning the present value of future benefits.

(d) The following provisions are applicable for plans that meet the conditions of 9904.415-50(a) and the compensation is to be paid in money.

(1) If the deferred compensation award provides that the amount to be paid shall include the principal of the award plus interest at a rate fixed at the date of award, such interest shall be included in the computation of the amount of the future benefit. If no interest is included in the award, the amount of the future benefit is the amount of the award.

(2) If the deferred compensation award provides for payment of principal plus interest at a rate not fixed at the time of award but based on a specified index which is determinable in each applicable cost accounting period; e.g., a published corporate bond rate, such interest shall be included in the computation of the amount of future benefit. The interest rate to be used shall be the rate in effect at the close of the period in which the cost of deferred compensation is assignable. Since that interest rate is likely to vary from the actual rates in future periods, adjustments shall be made in any such future period in which the variation in rates materially affects the cost of deferred compensation.

(3) If the deferred compensation award provides for payment of principal plus interest at a rate not based on a specified index, or not determinable in each applicable year, the

(i) Cost of deferred compensation for the principal of the award shall be measured by the present value of the future benefits of the principal, and shall be assigned to the cost accounting period in which the employer incurs an obligation to compensate the employee; and

(ii) Interest on such awards shall be assigned to the cost accounting period(s) in which the payment of the deferred compensation is made.

(4) If the terms of the award require that the employee perform future service in order to receive benefits, the cost of the deferred compensation shall be appropriately assigned to the periods of current and future service based on the facts and circumstances of the award. The cost of deferred compensation for each cost accounting period shall be the present value of the future benefits of the deferred compensation calculated as of the end of each such period to which such cost is assigned.

(5) In computing the present value of the future benefits, the discount rate shall be equal to the interest rate as determined by the Secretary of the Treasury pursuant to Public Law 92-41, 85 Stat. 97, at the time the cost is assignable.

(6) If the award is made under a plan which requires irrevocable funding for