

37.115-2 General policy.

(a) Use of *uncompensated overtime* is not encouraged.

(b) When professional or technical services are acquired on the basis of the number of hours to be provided, rather than on the task to be performed, the *solicitation shall* require *offerors* to identify *uncompensated overtime* hours and the *uncompensated overtime* rate for direct charge Fair Labor Standards Act-exempt personnel included in their proposals and subcontractor proposals. This includes *uncompensated overtime* hours that are in *indirect cost* pools for personnel whose regular hours are normally charged direct.

(c) *Contracting officers must* ensure that the use of *uncompensated overtime* in contracts to acquire services on the basis of the number of hours provided will not degrade the level of technical expertise required to fulfill the Government's requirements (see [15.305](#) for competitive negotiations and [15.404-1\(d\)](#) for *cost realism* analysis). When acquiring these services, *contracting officers must* conduct a risk assessment and evaluate, for award on that basis, any proposals received that reflect factors such as-

(1) Unrealistically low labor rates or other costs that *may* result in quality or service shortfalls; and

(2) Unbalanced distribution of *uncompensated overtime* among skill levels and its use in key technical positions.

(d) Whenever there is *uncompensated overtime*, the *adjusted hourly rate (including uncompensated overtime)* (see definition at [37.101](#)), rather than the hourly rate, *shall* be applied to all proposed hours, whether regular or *overtime* hours.

Parent topic: [37.115 Uncompensated overtime](#).