

INCENTIVE PRICE REVISION - SUCCESSIVE TARGETS (Jan 2006)

(a) General. The supplies or services identified in the Agreement as item numbers _____ are subject to price revision in accordance with this clause; provided, that in no event shall the total final price of these items exceed the ceiling price of _____ dollars (\$_____). The prices of these items shown in the Agreement are the initial target prices, which include an initial target profit of _____ percent of the initial target cost. Any supplies or services that are to be (1) ordered separately under, or otherwise added to, this Agreement and (2) subject to price revision in accordance with this clause shall be identified as such in a modification to this Agreement.

(b) Definition. "Costs," as used in this clause, means allowable costs in accordance with Part 31 of the Federal Acquisition Regulation (FAR) in effect on the date of this Agreement.

(c) Submitting Data for Establishing the Firm Fixed Price or a Final Profit Adjustment Formula. (1) Within _____ days after the end of the month in which the Seller has completed _____ [see Note (1)], the Seller shall submit the following data:

(i) A proposed firm fixed price or total firm target price for supplies delivered and to be delivered and services performed and to be performed.

(ii) A detailed statement of all costs incurred in the performance of this Agreement through the end of the month specified above, on the Company's Contract Pricing Proposal form (or in any other form on which the parties may agree), with sufficient supporting data to disclose unit costs and cost trends for:

(A) Supplies delivered and services performed; and

(B) Inventories of work in process and undelivered subcontract supplies on hand (estimated to the extent necessary).

(iii) An estimate of costs of all supplies delivered and to be delivered and all services performed and to be performed under this Agreement, using the statement of costs incurred plus an estimate of costs to complete performance, on the Company's Contract Pricing Proposal form (or in any other form on which the parties may agree), together with:

(A) Sufficient data to support the accuracy and reliability of the estimate; and

(B) An explanation of the differences between this estimate and the original estimate used to establish the initial target prices.

(2) The Seller shall also submit, to the extent that it becomes available before negotiations establishing the total firm price are concluded:

(i) Supplemental statements of costs incurred after the end of the month specified in subparagraph (1) above for:

(A) Supplies delivered and services performed; and

(B) Inventories of work in process and undelivered subcontract supplies on hand (estimated to the extent necessary); and

(ii) Any other relevant data that the Company may reasonably require.

(3) If the Seller fails to submit the data required by subparagraphs (1) and (2) above within the time specified and it is later determined that the Company has overpaid the Seller, the Seller shall repay the excess to the Company immediately. Unless repaid within 30 days after the end of the data submittal period, the amount of the excess shall bear interest, computed from the date the data were due to the date of repayment, at the rate established in accordance with the Interest clause.

(d) Establishing Firm Fixed Price or Final Profit Adjustment Formula. Upon the Company's receipt of the data required by paragraph (c) above, the Company and the Seller shall promptly establish either a firm fixed price or a profit adjustment formula for determining final profit, as follows:

(1) The parties shall negotiate a total firm target cost, based upon the data submitted under paragraph (c) above.

(2) If the total firm target cost is more than the total initial target cost, the total initial target profit shall be decreased. If the total firm target cost is less than the total initial target cost, the total initial target profit shall be increased. The initial target profit shall be increased or decreased by _____ percent [see Note (2)] of the difference between the total initial target cost and the total firm target cost. The resulting amount shall be the total firm target profit; provided, that in no event shall the total firm target profit be less than _____ percent or more than _____ percent of the total initial target cost.

(3) If the total firm target cost plus the total firm target profit represent a reasonable price for performing that part of the Agreement subject to price revision under this clause, the parties may agree on a firm fixed price, which shall be evidenced by an Agreement modification signed by the Seller and the Company.

(4) Failure of the parties to agree to a firm fixed price shall not constitute a dispute under the Resolution of Disputes clause. If agreement is not reached, or if establishment of a firm fixed price is inappropriate, the Seller and the Company shall establish a profit adjustment formula under which the total final price shall be established by applying to the total final negotiated cost an adjustment for profit or loss, determined as follows:

(i) If the total final negotiated cost is equal to the total firm target cost, the adjustment is the total firm target profit.

(ii) If the total final negotiated cost is greater than the total firm target cost, the adjustment is the total firm target profit, less _____ percent of the amount by which the total final negotiated cost exceeds the total firm target cost.

(iii) If the total final negotiated cost is less than the total firm target cost, the adjustment is the total firm target profit, plus _____ percent of the amount by which the total final negotiated cost is less than the total firm target cost.

