

CONTRACT PRICE REVISIONS

INSTRUCTIONS FOR PRICE ADJUSTMENTS PURSUANT TO THE REVISION OF PRICES CLAUSE

The Revision of Prices clause, DOD FAR Supplement 252.247-7002, permits the adjustment of contract prices in the event of (1) a wage adjustment, or (2) a change in conditions. The clause is printed in full text in the solicitation (Terms and Conditions) and the offeror is expected to be thoroughly familiar with the provisions of this clause. A price revision may be requested by either party and may result in an increase or decrease in the contract prices. The following is a general summary of these provisions and our policies with respect to contract price revisions.

1. Wage Adjustments. A wage adjustment, as defined by the clause, is a change in wages, salaries, or other terms or conditions of employment which (1) substantially affects the cost of performing the contract; (2) is generally applicable to the port where work under the contract is performed; and (3) is generally applicable to the contractor's operations on non-Government work as well as work under the contract. The following policies apply:

- a. Generally, wages, fringe benefits, payroll tax rates, and insurance rates are considered adjustable. However, all requested changes must meet the three criteria set forth above.
- b. The offeror's proposal must be based on the wages, fringe benefits, payroll tax rates and insurance rates in effect on the date of the contract. No adjustments will be allowed for changes which occurred prior to or on that date except in the event of retroactive changes in items which (1) were unknown at the time of contract award, and (2) would have applied to all offerors participating in the acquisition.
- c. The proposal upon which contract award is made forms the baseline from which future adjustments will be made. Therefore, the offeror's proposal must be sufficiently detailed to permit, without the submission of further data, the identification of all elements which may be subject to adjustment and the calculation of any revised price in the event of such adjustments. Any otherwise adjustable price or element of cost which has not been described in sufficient detail, at the time of contract award, to allow the Government to determine that adjustments are appropriate and calculate the effect of such adjustments on the price(s) will be considered unadjustable for the life of the contract. Post-award submission of supplemental data will not be considered.
- d. The offeror must include documentation with its proposal substantiating all wages, fringe benefits, payroll tax rates and insurance rates for which future adjustments may be requested. Such documentation should include copies of all applicable collective bargaining agreements supporting the wages charged; notices from employer organizations (port authorities, maritime associations, etc.) or other source

substantiating the fringe benefit rates or other assessments in effect; notices from the appropriate state and/or federal labor departments supporting the payroll tax rates in effect; and notices from the contractor's insurance carrier(s) of rates charged as well as the period such rates will be in effect. In the event that any of the wages, fringe benefits, tax or insurance rates charged in the proposal differ from those supported by the independent documentation described above, as in the case of "normalized" tax rates, the offeror must include copies of its working papers detailing completely the calculation of such rates. Any rate which has not been thoroughly documented by the time of contract award will be considered unadjustable for the life of the contract. Supporting documentation submitted after contract award will not be considered.

e. The contractor's price revision proposal should be in the same format and detail as the proposal upon which the award was based, with the revised wages, etc., substituted for the previous ones. In addition to the data called for in paragraph (d) of the Revision of Prices clause, the contractor must include documentation, as described above, in support of all changes requested and setting forth the effective date of such changes.

f. No changes shall be allowed in the dollar amount of profit in the contract.

g. No changes shall be allowed in the dollar amount of general and administrative or similar expense in the contract. Anticipated increase or inflation in these costs must be considered and allowed for in the offeror's proposal.

h. With respect to other indirect expense pools (i.e., indirect labor, gear and equipment expenses, overhead), adjustments for change in wages, fringe benefits, payroll taxes, and insurance rates included in these pools will be considered only to the extent that such changes meet the three criteria set forth in paragraph 1 above. Normally, this requirement will limit adjustments to those wages, fringe benefits, taxes, and insurance rates applicable to labor governed by valid collective bargaining agreements. All other cost elements in these pools will remain fixed for the life of the contract, so anticipated increases or inflation in these costs must be considered and allowed for in the offeror's proposal. All items for which adjustments may be requested must be specifically identified in the proposal as subject to adjustment and presented in sufficient detail to allow us to single out these costs, apply the adjustments, and calculate the effect of such adjustments on contract prices. In addition, the offeror must provide documentation, as described in paragraph 2d above, with its proposal supporting the amounts charged for each item in the indirect expense pool for which adjustments may be requested. If the requirements for detailed presentation and supporting documentation have not been met by the time of contract award, no adjustments will be permitted in these costs and the amounts charged will remain fixed for the life of the contract. Documentation, as described in paragraph 2e above, must be provided with any requests for adjustments of these costs supporting all changes in these items as well as the effective date of such changes.

i. The contractor should submit any request for price revision, including the price revision proposal and all required documentation, as soon as possible after the changes are known. The normal processing time for the standard wage adjustment, assuming that the required submissions are complete and substantially correct, is approximately 60 days from receipt of the proposal to execution of the contract modification. Every effort is made to handle requests for price revisions on a "first-in, first-out" basis so the contractor is encouraged to submit its proposal as far in advance of the effective date as possible, to avoid retroactive billings.

2. Change in Condition. A change in conditions is a change in other conditions in effect on the date of the contract which (1) substantially affects the cost of performing the contract, and (2) is beyond the control of the contractor. Each claim will be considered individually on its own merits. Normally, a significant change in the work required may be considered a change in conditions and, historically, a substantial under- or over-realization of the cargo estimates has been held to constitute a change in conditions. In general, however, the following criteria must be met:

- a. The contractor must establish that a change in condition has, in fact, occurred;
- b. The contractor must establish that the change in condition was beyond its control or responsibility to control; and
- c. The contractor must demonstrate that the condition in question had direct effect on the development of contract price(s) and that, as a result of the change in this condition, the cost of performing the contract has been substantially affected. Generally, the contractor will be required to demonstrate this using the cost data submitted in support of its proposal rather than through the submission of supplemental clarifying data. Therefore, the offeror is cautioned to ensure that its proposal adequately describes the development of each contract price and all conditions taken into consideration in this development.

The contractor will be required to submit a price revision proposal, similar to that required in the case of a wage adjustment, completely describing the change and how it affects the contract price(s).

(End)