

INCENTIVE PRICE REVISION-FIRM TARGET (FPI)

- (a) General. The scope of work identified in the order is subject to price revision in accordance with this article; provided, that in no event shall the total final price exceed the ceiling price identified in the order. Any supplies or services that are to be (1) ordered separately under, or otherwise added to, this order and (2) subject to price revision in accordance with the terms of this article shall be identified as such in a modification to this order.
- (b) Definition of Cost. For the purpose of this article, "cost" or "costs" means allowable costs in accordance with subpart 31.2 of the Federal Acquisition Regulations (FAR) as supplemented or modified by DEAR subpart 931.2 if DOE-funded, or DFARS part 231 if NAVY-funded, in effect on the date of this order.
- (c) Data Submission.
- (1) Within 90 days after the end of the month in which the Seller has delivered the last unit of supplies and completed the services specified in paragraph (a) above, the Seller shall submit, for the purpose of determining the final order cost amount, a statement of costs in any form on which the parties agree--
 - (i) A detailed statement of all costs incurred up to the end of that month in performing all work;
 - (ii) An estimate of costs of further performance, if any, that may be necessary to complete performance of all work;
 - (iii) A list of all residual inventory and an estimate of its value; and
 - (iv) Any other relevant data that Bettis may reasonably require.
 - (2) If the Seller fails to submit the data required by subparagraph (1) above within the time specified and it is later determined that Bettis has overpaid the Seller, the Seller shall repay the excess to Bettis immediately. Unless repaid within 30 days after the end of the data submittal period, the amount of such excess shall bear interest at the rate established in accordance with the Interest Article in FAR 52.232-17. Interest shall be computed for the period from the date data was due to the date of repayment.
- (d) Price Revision. Upon Bettis' receipt of the data required by paragraph (c) above and subsequent to final audit results, Bettis and the Seller shall promptly establish the total final price as specified in (a) above by applying to the final negotiated cost an adjustment for profit or loss, as follows:
- (1) On the basis of the information required by paragraph (c) above, together with any other pertinent information, the parties shall negotiate the total final cost incurred or to be incurred for supplies delivered (or services performed) and accepted by Bettis and which are subject to price revision under this article.

- (2) The total final price shall be established by adjusting the total final negotiated cost by an amount for profit or loss determined as follows:

When the total final
negotiated cost is:

The adjustment for profit or loss is:

- | | |
|---|--|
| i. Equal to the total target cost | Total target profit. |
| ii. Greater than the total target cost | Total target profit less ___% of the amount by which the total final negotiated cost exceeds the total target cost. Costs in excess of the ceiling price are not chargeable. |
| iii. Less than the total target cost but greater than or equal to \$_____ | Total target profit plus ___% of the amount by which the total final negotiated cost is less than the total target cost. |
| iv. Less than \$_____ | Total profit in (iii) above plus ___% of the amount by which the final negotiated cost is less than \$_____. |

- (e) Order Modification. The total final price of the work specified in paragraph (a) above shall be evidenced by a modification to this order, signed by the Seller and Bettis. This price shall not be subject to revision, notwithstanding any changes in the cost of performing the order, except to the extent that--

- (1) The parties may agree in writing, before the determination of the total final price, to exclude specific elements of cost from this price and to a procedure for subsequent disposition of those elements; and
- (2) Adjustments or credits are explicitly permitted or required by this or any other article in this order.

- (f) Adjusting Billing Prices.

- (1) Pending execution of the order modification (see paragraph (e) above), the Seller shall submit invoices or vouchers in accordance with the requirements of the purchase order and as provided in this paragraph (f).
- (2) If at any time it appears from information provided by the Seller under subparagraph (g)(2) below that the then-current billing prices will be substantially greater than the estimated final prices, the parties shall negotiate a reduction in the billing prices. Similarly, the parties may negotiate an increase in billing prices by any or all of the differences between the target prices and the ceiling price, upon the Seller's submission of factual data showing that final cost under this order will be substantially greater than the target cost.

- (3) Any billing price adjustment shall be reflected in an order modification and shall not affect the determination of the total final price under paragraph (d) above. After the order modification establishing the total final price is executed, the total amount paid or to be paid on all invoices or vouchers shall be adjusted to reflect the total final price, and any resulting additional payments, refunds, or credits shall be made promptly.
- (g) Quarterly Limitation on Payments Statement. This paragraph (g) shall apply until the final price revision under this order has been completed.
- (1) Within 45 days after the end of each quarter of the Seller's fiscal year in which a delivery is first made (or services are first performed) and accepted by Bettis under this order, and for each quarter thereafter, the Seller shall submit to Bettis (with a copy to the Government auditor) a statement, cumulative from the beginning of the order, showing--
- (i) The total order price of all supplies delivered or services performed and accepted by Bettis and for which final prices have been established;
 - (ii) The total costs (estimated to the extent necessary) reasonably incurred for, and properly allocable solely to, the supplies delivered or services performed and accepted by Bettis and for which final prices have not been established;
 - (iii) The portion of the total target profit (used in establishing the initial order price or agreed to for the purpose of this paragraph (g)) that is in direct proportion to the supplies delivered or services performed and accepted by Bettis and for which final prices have not been established - increased or decreased in accordance with subparagraph (d)(2) above, when the amount stated under subdivision (ii), immediately above, differs from the aggregate target costs of the supplies or services; and
 - (iv) The total amount of invoices or vouchers for supplies delivered or services performed and accepted by Bettis (including amounts applied or to be applied to liquidate progress payments).
- (2) Notwithstanding any provision of this order authorizing greater payments, if on any quarterly statement the amount under subdivision (1)(iv) above exceeds the sum due the Seller, as computed in accordance with subdivisions (1)(i), (ii), and (iii) above, the Seller shall immediately refund or credit to Bettis the amount of this excess. The Seller shall provide complete details to support any claimed reductions in refunds.
- (3) If the Seller fails to submit the quarterly statement within 45 days after the end of each quarter and it is later determined that Bettis has overpaid the Seller, the Seller shall repay the excess to Bettis immediately. Unless repaid within 30 days after the end of the statement submittal period, the amount of such excess shall bear interest at the rate established in accordance with the Interest Article in FAR 52.232-17. Interest shall be computed for the period from the date the quarterly statement was due to the date of repayment.

- (h) Subcontracts. No subcontract placed under this order may provide for payment on a cost-plus-a-percentage-of-cost basis. The Seller shall--
- (1) Insert in each price redetermination or incentive price revision subcontract the substance of paragraph (g), above, and of this paragraph (h), modified to omit mention of Bettis and to reflect the position of the Seller as the purchaser and of the subcontractor as the vendor; and
 - (2) Include in each cost-reimbursement subcontract a requirement that each lower-tier price redetermination or incentive price revision subcontract contain the substance of paragraph (g) above and of this paragraph (h), modified as required by subparagraph (1) above.
- (i) Termination. If this order is terminated before the total final price is established, prices of supplies or services subject to price revision shall be established in accordance with this article for (1) completed supplies and services accepted by Bettis and (2) those supplies and services not terminated under a partial termination. All other elements of the termination shall be resolved in accordance with other applicable articles of this order.
- (j) Equitable Adjustment Under Other Articles. If an equitable adjustment in the order price is made under any other article of this order before the total final price is established, the adjustment shall be made to the total target cost and may be made in the maximum dollar limit of the total final price, then total target profit, or both. If the adjustment is made after the total final price is established, only the total final price shall be adjusted.
- (k) Exclusion From Target Price and Total Final Price. If any article of this order provides that the order price does not or will not include an amount for a specific purpose, then neither any target price nor the total final price includes or will include any amount for that purpose.
- (l) Separate Reimbursement. If any article of this order expressly provides that the cost of performance of an obligation shall be at Bettis expense, that expense shall not be included in any target price or in the total final price, but shall be reimbursed separately.
- (m) Taxes. As used in the Federal, State, and Local Taxes article or in any other article that provides for certain taxes or duties to be included in, or excluded from, the order price, the term "order price" includes the total target price or, if it has been established, the total final price. When any of these articles requires that the order price be increased or decreased as a result of changes in the obligation of the Seller to pay or bear the burden of certain taxes or duties, the increase or decrease shall be made in the total target price or, if it has been established, in the total final price, so that it will not affect the Seller's profit or loss on this order.