552.216–70

Modification if the Contracting Officer determines after award of this contract or contract modification that the price negotiated was increased by a significant amount because the Contractor failed to:

1. Provide information required by this solicitation/contract or otherwise requested by the Government;
2. Submit information that was current, accurate, and complete; or
3. Disclose changes in the Contractor’s commercial pricelist(s), discounts or discounting policies which occurred after the original submission and prior to the completion of negotiations.

(b) The Government will consider information submitted to be current, accurate and complete if the data is current, accurate and complete as of 14 calendar days prior to the date it is submitted.

(c) If any reduction in the contract price under this clause reduces the price for items for which payment was made prior to the date of the modification reflecting the price reduction, the Contractor shall be liable to and shall pay the United States—

1. The amount of the overpayment; and
2. Simple interest on the amount of such overpayment to be computed from the date(s) of overpayment to the Contractor to the date the Government is repaid by the Secretary of Treasury under 26 U.S.C. 6621(a)(2).

(d) Failure to agree on the amount of the overpayment as requested when all conditions of (b), (c), and (d) of this clause are satisfied;

(e) The Government reserves the right to exercise one of the following options:

1. Accept the Contractor’s price increases as requested when all conditions of (b), (c), and (d) of this clause are satisfied;
2. Negotiate more favorable discounts from the new commercial prices when the total increase requested is not supported; or,
3. Remove the product(s) from contract involved pursuant to the Cancellation Clause of this contract, when the increase requested is not supported.

(f) The contract modification reflecting the price adjustment shall be signed by the Contracting Officer, provided that in no event shall such price adjustment be effective prior to the effective date of the commercial price increases. The increased contract prices shall apply to delivery orders issued to the Contractor on or after the effective date of the contract modification.

(End of clause)

552.216–70 Economic Price Adjustment—FSS Multiple Award Schedule Contracts.

As prescribed in 516.203–4(a), insert the following clause:

ECONOMIC PRICE ADJUSTMENT—FSS MULTIPLE AWARD SCHEDULE CONTRACTS (SEP 1999)

Price adjustments include price increases and price decreases. Adjustments will be considered as follows:

(a) Contractors shall submit price decreases anytime during the contract period in which they occur. Price decreases will be handled in accordance with the provisions of the Price Reduction Clause.

(b) Contractors may request price increases under the following conditions:

1. Increases resulting from a reissue or other modification of the Contractor’s commercial catalog/pricelist that was used as the basis for the contract award.
2. Only three increases will be considered during the contract period.
3. Increases are requested after the first 30 days of the contract period and prior to the last 60 days of the contract period.
4. At least 30 days elapse between requested increases.
5. The aggregate of the increases in any contract unit price under this clause shall not exceed * percent of the original contract unit price. The Government reserves the right to raise this ceiling where changes in market conditions during the contract period support an increase.
6. The following material shall be submitted with the request for a price increase:

1. A copy of the commercial catalog/pricelist showing the price increase and the effective date for commercial customers.
2. Commercial Sales Practice format regarding the Contractor’s commercial pricing practice relating to the reissued or modified catalog/pricelist, or a certification that no change has occurred in the data since completion of the initial negotiation or a subsequent submission.
3. Documentation supporting the reasonableness of the price increase.

(e) The Government reserves the right to raise this ceiling where changes in market conditions during the contract period support an increase.

(f) The contract modification reflecting the price adjustment shall be signed by the Contracting Officer and made effective upon receipt of notification from the Contractor that the new catalog/pricelist has been mailed to the addresses previously furnished by the Contracting Officer, provided that in no event shall such price adjustment be effective prior to the effective date of the commercial price increases. The increased contract prices shall apply to delivery orders issued to the Contractor on or after the effective date of the contract modification.

(End of clause)

* Insert the percent appropriate at the time the solicitation is issued. This percentage should normally be 10 percent, unless based on a trend established by an appropriate index such as the Producer Price Index.
Prices and Price Index during the most recent 6-month period indicates that a different percentage is more appropriate. Any ceiling other than 10 percent must be approved by the contracting director.

Alternate I (SEP 1999). The following is substituted for paragraphs (b) and (c) of the clause:

(b) Contractors may request price increases to be effective on or after the first 12 months of the contract period providing all of the following conditions are met:
   (1) Increases resulting from a reissue or other modification of the Contractor’s commercial catalog/pricelist that was used as the basis for the contract award.
   (2) No more than three increases will be considered during each succeeding 12-month period of the contract. (For succeeding contract periods of less than 12 months, up to three increases will be considered subject to the other conditions of this subparagraph (b)).
   (3) Increases are requested before the last 60 days of the contract period.
   (4) At least 30 days elapse between requested increases.
   (c) In any contract period during which price increases will be considered, the aggregate of the increases during any 12-month period shall not exceed * percent of the contract unit price in effect at the end of the preceding 12-month period. The Government reserves the right to raise the ceiling when market conditions during the contract period support such a change.

* Insert the percentage appropriate at the time the solicitation is issued. This percentage should be determined based on the trend established by an appropriate index such as the Producer Prices and Price Index. A ceiling of more than 10 percent must be approved by the Contracting Director.

[64 FR 37229, July 9, 1999; 64 FR 49844, Sept. 14, 1999]

552.216-71 Economic Price Adjustment—Special Order Program Contracts.

As prescribed in 516.203-4(a), insert the following clause:

ECONOMIC PRICE ADJUSTMENT—SPECIAL ORDER PROGRAM CONTRACTS (AUG 2010)

(a) “Producer Price Index” (PPI), as used in this clause, means the originally released index, not seasonally adjusted, published by the Bureau of Labor Statistics, U.S. Department of Labor (Labor) for product code found under Table

(b) During the term of the contract, the award price may be adjusted once during each 12-month period upward or downward. However, if an upward adjustment, a maximum of * percent shall apply. Any price adjustment for the product code shall be based upon the percentage change in the PPI released in the month prior to the initial month of the contract period specified in the solicitation for sealed bidding or the month prior to award in negotiation (the base index) and the PPI released 12 months later (the updated index). The formula for determining the Adjusted Contract Price (ACP) applicable to shipments for the balance of the contract period is—

\[
ACP = \frac{\text{Updated Index}}{\text{Base Index}} \times \text{Award Price}
\]

(c) If the PPI is not available for the month of the base index or the updated index, the month with the most recently published PPI prior to the month determining the base index or updated index shall be used.

(d) If a product code is discontinued, the Government and the Contractor will mutually agree to substitute a similar product code. If Labor designates an index with a new title and/or code number as continuous with the product code specified above, the new index shall be used.

(e) Unless the Contractor’s written request for a price adjustment resulting from the application of the formula in (b) above is received by the Contracting Officer within 30 calendar days of the release of the updated index, the Contractor shall have waived its right to an upward price adjustment for the balance of the contract. Alternatively, the Contracting Officer will unilaterally adjust the award price downward when appropriate using the updated index defined in (b) above.

(f) Price adjustments shall be effective upon execution of a contract modification by the Government or on the 31st day following the release of the updated index, whichever is later, shall indicate the updated index and percent of change as well as the ACP, and shall not apply to delivery orders issued before the effective date.

(End of clause)

Alternate I (AUG 2010). As prescribed in 516.203-4(a)(1) and (2), substitute the following paragraphs (b), (e), and (f) for paragraphs (b), (e), and (f) of the basic clause:

(b) Once during each 12-month period, the contract price may be adjusted upward or downward a maximum of * percent.

(1) For the first option period, any price adjustment for the product code shall be based upon the percentage change in the PPI released in the month prior to the initial