



**DEPARTMENT OF DEFENSE**  
**Defense Contract Management Agency**

# **INSTRUCTION**

## **Forward Pricing Rates**

**Contracts Directorate**  
**CPR: DCMA-AQ**

**DCMA-INST 130**  
**July 21, 2014**

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**1. PURPOSE.** This Instruction:

a. Revises and reissues DCMA Instruction (DCMA-INST) 130, "Forward Pricing Rates" (Reference (a)).

b. Establishes policies, assigns roles and responsibilities, and outlines process and procedures for developing and monitoring forward pricing rate agreements (FPRA) and forward pricing rate recommendations (FPRR).

c. Implements Federal regulations and policy pursuant to References (b) through (j).

d. Complies with the authority in DoD Directive 5105.64, "Defense Contract Management Agency (DCMA)" (Reference (b)) and all subsequent references listed.

**2. APPLICABILITY.** This Instruction applies to all DCMA activities unless higher-level regulations, policy, guidance, or agreements take precedence.

**3. MANAGERS' INTERNAL CONTROL PROGRAM.** In accordance with the DCMA-INST 710, "Managers' Internal Control Program" (Reference (c)) this Instruction is subject to evaluation and testing. Process flowcharts are located on the policy resource Web page (resource page) for this Instruction.

**4. RELEASABILITY – UNLIMITED.** This Instruction is approved for public release.

**5. PLAS CODE(S).**

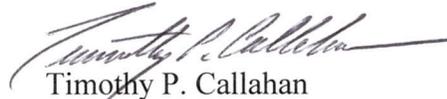
a. Process: 043 – Forward Pricing Rate Agreements

b. Programs: ACAT/Other Customers (when applicable)

c. Other National; Training and Travel; Local Programs (when applicable)

**6. POLICY RESOURCE PAGE.** <https://home.dcma.mil/policy/130r>

**7. EFFECTIVE DATE.** By order of the Director, DCMA, this Instruction is effective July 21, 2014, and all applicable activities shall be fully compliant within 60 days from this date.



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## SUMMARY OF CHANGES

This Instruction has been rewritten and should be read in its entirety. The following identifies the most notable changes.

- The requirement for establishment an FPRA or FPRR has been revised in order to reconcile to the requirement for establishment a Cost Monitoring Program.
- A few paragraphs are added to reflect the comments by the DoD Inspector General (DoDIG). The paragraphs refer the mandatory use of two checklists, FPRP Adequacy checklist and FPRA Review checklist which were developed in order to incorporate the DoDIG comments into this instruction. The checklists are posted the resource page of this Instruction.
- Requirements were added for ACOs to use the PNM, the PNOM, and the Rate templates developed by direction of Office of Defense Pricing. The three templates, the example of use of the rate template, and user guidance are posted to the resource page of this instruction.
- A few sentences in Chapter 1 are removed since they are stated in Chapter 3 as well.

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## REFERENCES

- (a) DCMA-INST 130, "Forward Pricing Rates," July 26, 2013 (hereby cancelled)
- (b) DoD Directive 5105.64, "Defense Contract Management Agency (DCMA)," January 10, 2013
- (c) DCMA-INST 710, "Managers' Internal Control Program," April 21, 2014
- (d) Defense Federal Acquisition Regulation Supplement, Procedures, Guidance and Information (DFARS PGI)
- (e) Federal Acquisition Regulation (FAR)
- (f) DCMA-INST 809, "Records Management," May 1, 2011
- (g) DCMA-INST 134, "Boards of Review," November 4, 2013
- (h) DCMA-INST 123, "Cost Monitoring," August 14, 2013
- (i) Defense Federal Acquisition Regulation Supplement (DFARS)
- (j) DCMA-INST 552, "Information Security Program," October 29, 2013

## CHAPTER 1

### POLICY

**1.1. POLICY.** It is DCMA policy that:

1.1.1. The administrative contracting officer (ACO) shall establish an FPRA or FPRR for all contractors whose sales to the Government, during the contractor's next contractor fiscal year (CFY), are expected to exceed \$200 million (Defense Federal Acquisition Regulation Supplement, Procedures, Guidance and Information (DFARS PGI), 242.302(a)(S-75)(c)(1)(i)(A) (Reference (d) and Federal Acquisition Regulation (FAR) 42.1701(a) (Reference (e))).

**NOTE:** Hereinafter, the term ACO shall include corporate administrative contracting officers (CACO), divisional administrative contracting officers (DACO), and ACOs who perform the FPRA/FPRR process.

1.1.2. The ACO shall monitor the rates and issue revisions as appropriate (FAR 42.1701) (Reference (e)).

1.1.3. Once a need for an FPRR/FPRA is determined, the FPRA eTool record shall be created by the ACO before an FPRA or FPRR is issued and updated immediately. When a rate record for a business unit is created in the eTool, the record can be edited as conditions change. There is no need to create a new record. Contract Business Analysis repository (CBAR) is automatically updated when an FPRR or FPRA is uploaded to the FPRA eTool. However, CBAR accuracy shall be confirmed within 2 business days after the ACO uploads the document to the FPRA eTool.

1.1.4. The FPRA or FPRR shall represent reasonable projections of specific costs that are not easily estimated, identified with, or generated by a specific contract end item or task. The FPRA or FPRR could include rates for direct labor, indirect costs, general and administrative expenses, and cost of money factors.

1.1.5. When establishment of FPRR or FPRA is required, ACOs shall complete an FPRR within 30 calendar days of the contractor's adequate forward pricing rate proposal (FPRP) submission and strive to complete an FPRA within 60 days of the adequate FPRP submission.

1.1.6. When an FPRR or FPRA is not available or the establishment of FPRR or FPRA is not required at a business unit, the cognizant ACO will provide customers with the best information available at the time to assist the customers in developing a rate position for negotiation.

1.1.7. All FPRR or FPRA supporting materials shall be retained in accordance with DCMA-INST 809, "Records Management" (Reference (f)) in either Electronic Document Workflow (EDW), an Agency-approved alternative, or if neither is available, in a location designated by a Contract Management Office (CMO) contracts director, a CACO/DACO Group supervisor, or a Special Programs (DCMAS) DACO supervisor to establish an FPRA.

1.1.8. For CMOs or CACO/DACO Group conducting a Cost Monitoring Program, the FPRA or FPRR will be prepared using the price negotiation objective memorandum (PNOM) template, price negotiation memorandum (PNM) template, and historical rate data template located on the resource page for this Instruction. The PNM, PNOM, and historical rate data shall be uploaded in CBAR through FPRA eTool.

## CHAPTER 2

### ROLES AND RESPONSIBILITIES

**2.1. CMO CONTRACTS DIRECTOR, CACO/DACO GROUP SUPERVISOR, OR DCMAS DACO SUPERVISOR.** The responsible CMO contracts director, CACO/DACO Group supervisor, or DCMAS DACO supervisor shall:

2.1.1. Review and approve/disapprove the ACO's written determination related to the non-establishment of an FPRA/FPRR in accordance with paragraph 1.1.2. of this Instruction.

2.1.2. Review and approve/disapprove the ACO's written determination to establish an FPRA/FPRR for a contractor, when the criteria (as described in (PGI 242.302(a)(S-75) (c)(1)(i)(A)) (Reference (d)), which would require an FPRA/FPRR for that contractor, have not been met.

2.1.3. Review and provide written concurrence or nonconcurrence by signing decisional memorandums.

2.1.4. Ensure that Boards of Review (BoR) are properly requested when required (DCMA-INST 134, "Boards of Review" (Reference (g))).

2.1.5. Establish a file location to contain the records of all FPRA/FPRR actions in accordance with FAR 4.801(a) (Reference (e)).

2.1.6. Ensure the accuracy of data in the FPRA eTool and the CBAR eTool is maintained.

**2.2. ADMINISTRATIVE CONTRACTING OFFICER (ACO).** The ACO shall:

2.2.1. Determine the need for an FPRA/FPRR.

2.2.2. Provide written justification if an FPRA/FPRR is not required when the contractor meets the criteria in the paragraph 3.1.1.1. (FAR 42.1701) (Reference (e)).

2.2.3. Document the rationale for requiring an FPRA/FPRR when the contractor does not meet the criteria in the paragraph 3.1.1.2. (FAR 42.1701) (Reference (e)).

2.2.4. Analyze the proposal for adequacy and make a determination.

2.2.5. Ensure the appropriate supervisory review or BoR are completed prior to issuing the PNOM (FAR 15.406-1 (Reference (e))), DFARS PGI 215.406-1 (Reference (d)), and PNM for an FPRA as required by DCMA-INST 134 (Reference (g)) prior to agreement of rates or issuance of an FPRR or FPRA.

2.2.6. Establish an FPRR and negotiate an FPRA. Properly document all processes for establishing the FPRR/FPRA in a PNOM, and for negotiating the FPRA in a PNM.

2.2.7. Ensure the FPRA complies with FAR 42.1701 (Reference (e)). An FPRA template is available on this Instruction's resource page.

2.2.8. Whether a cost monitoring program is required or not, if there is an FPRR or FPRA, conduct and document systematic monitoring of the FPRA/FPRR to ensure the continued validity of the rates and make revisions as needed. Guidance for monitoring rates is available in DCMA-INST 123, "Cost Monitoring" (Reference (h)) and on its resource page.

2.2.9. Ensure information in FPRA eTool and CBAR eTool is current, accurate, and complete.

2.2.10. Notify buying commands that they shall use an FPRA or FPRR in all pricing actions unless they can document justifiable reasons why they should not use the rates (FAR 15.407-3(b) (Reference (e)) and DFARS 215.407-3 (Reference (i))).

2.2.10.1. Contracting officers will use FPRA rates as bases for pricing all contracts, modifications, and other contractual actions to be performed during the period covered by the agreement, unless the ACO determines that changed conditions have invalidated part or all of the agreement (FAR 15.407-3) (Reference (e)).

**2.3. COST MONITORING SPECIALIST (CMS).** The CMS (when a cost monitoring program is required) or assigned individuals shall:

2.3.1. Assist the ACO with the analysis of the contractor's rate proposal.

2.3.2. Conduct cost monitoring plan activities supporting review of costs that form the basis of a recommended position on rates and pricing factors.

2.3.3. Monitor actual performance of rates and factors as compared to recommended or agreed-to rates and factors and populate the historical rate data (template on the resource page) for cost monitoring program sites.

**2.4. CACO/DACO GROUP DIRECTOR.** In the situation where Defense Contract Audit Agency (DCAA) and DCMA differ in rate determination positions and a joint resolution cannot be attained on issues meeting the criteria which require a BoR, the ACO shall request a BoR and the Director, CACO/DACO Group will facilitate a final resolution position at the BoR.

## **CHAPTER 3**

### **PROCEDURES**

#### **3.1. DETERMINE WHETHER A FORWARD PRICING RATE IS REQUIRED.**

3.1.1. The ACO shall determine whether an FPRA or FPRR shall be established based on an assessment of contractor sales volume.

3.1.1.1. The ACO shall establish an FPRA or FPRR for all contractors whose sales to the Government, during the contractor's next CFY, are expected to exceed \$200 million. Sales to the Government during the next CFY are determined by the ACO in consideration of (1) contracts based on costs incurred; or (2) contracts negotiated based on projected costs (PGI 242.302(a)(s-75)(c)(1)(i)(A))(Reference (d)). An exception exists where the ACO makes a written determination that the contractor will not have a significant volume of negotiated Government contract proposals in future periods. A CMO contracts director, a CACO/DACO Group supervisor, or a DCMAS DACO supervisor shall review and approve or disapprove the ACO written determination not to establish an FPRA/FPRR for a contractor with more than \$200 million expected Government sales in the next CFY.

3.1.1.2. The ACO may establish an FPRA or FPRR even if the contractor does not meet the criteria for a mandatory FPRA or FPRR when there is a significant volume of negotiations, customer demand, or a contractor request. In determining whether to establish an FPRA or FPRR, the ACO should consider whether the benefits to be derived from an FPRA or FPRR are commensurate with the effort to establish and track an FPRA or FPRR (FAR 42.1701(a)) (Reference (e)). A CMO contracts director, a CACO/DACO Group supervisor, or a DCMAS DACO supervisor shall serve as approval authority over any ACO written determination to establish an FPRA/FPRR for a contractor with less than \$200 million expected Government sales in the next CFY.

3.1.1.3. When an FPRR or FPRA is not available or establishment of FPRR or FPRA is not required, the ACO will provide customers with the best information available at the time to assist the customers in developing a rate position for negotiation.

3.1.2. When the determination is made that an FPRA/FPRR is required or permitted, the record shall be entered into the FPRA eTool application and CBAR. A determination that meets the criteria of paragraphs 3.1.1.1. or 3.1.1.2. to require approval from a CMO contracts director, a CACO/DACO Group supervisor, or a DCMAS DACO supervisor shall be documented in a memorandum and stored, in accordance with DCMA-INST 809 (Reference (f)), in either EDW, an Agency-approved alternative, or if neither is available, in a location designated by a CMO contracts director, a CACO/DACO Group supervisor, or a DCMAS DACO supervisor.

#### **3.2. OBTAIN CONTRACTOR'S PROPOSAL AND REVIEW FOR ADEQUACY.**

3.2.1. The ACO shall obtain the contractor's FPRP and require that it include cost or pricing data that are accurate, complete, and current as of the date of submission (FAR 42.1701(b))

(Reference (e)). However, the ACO shall not require certification at the time of agreement for data supplied in support of an FPRA's or other advance agreements. When an FPRA or other advance agreement is used to price a contract action that requires a certificate, the certificate supporting that contract action shall cover the data supplied to support the FPRA or other advance agreements and all other data supporting the action (FAR 15.407-3(c)) (Reference (e)).

3.2.2. When the contractor submits an FPRP, the ACO and/or CMS or other assigned personnel shall review for (but not limited to):

3.2.2.1. The ACO determines whether data supporting FPRP is submitted in a form acceptable to the ACO (FAR 15.403-5(b)(3)) (Reference (e)). The ACO shall use the "Contractor Forward Pricing Rate Proposal Adequacy Checklist" linked in the resource page of this Instruction to determine whether the contractor's FPRP is adequate for the Government to conduct an evaluation of the FPRP. The checklist will be retained as part of the official file. The proposal shall contain:

3.2.2.1.1. An explanation of how the rates were derived for each of the out-years so that reasonableness can be determined. For example, flat-lining of the out-year rates with no explanation of why the rates do not change is not adequate. Adjustments to out-year pools and bases should be made based on reasonable sales forecasts and the contractor's assumptions for changes to major groupings of costs (e.g., variable, semi-variable, and fixed).

3.2.2.1.2. An appropriate level of documentation with any supporting data provided by the contractor. This determination calls for an exercise of judgment by the ACO. The ACO shall consider the specific contractor and pending contract awards in determining whether the contractor has provided documentation which adequately supports the contractor's FPRP. For instance, smaller contractors may not develop detailed budgetary data because it is impractical for their organization. Also, it is common for smaller contractors to assert that historical costs are the most appropriate basis to estimate out-year rates. In these cases, the contractor should provide the necessary trend data with appropriate explanations to support a conclusion that historical costs are the most reasonable for forecasting out-year rates (FAR 15.406-3) (Reference (e)).

3.2.3. If the ACO determines that the contractor's proposal is inadequate based on the review stated above, the ACO shall return the proposal to the contractor and request the contractor submit an adequate proposal. The request shall identify the nature of the inadequacy so that the contractor will have sufficient information to be able to respond appropriately to the request. The ACO should consider this inadequacy in developing his or her determination of the adequacy of the contractor's estimating system. Where applicable, the ACO shall document the actions taken to obtain adequate cost or pricing data (FAR 15.404-2(d) and FAR 15-404-1(c)(2)(v)) (Reference (e)).

### **3.3. CONDUCT PROPOSAL ANALYSIS.**

3.3.1. The objective of the analysis is to ensure that the final agreed-to price is fair and reasonable (FAR 15.401-1(a)) (Reference (e)).

3.3.2. Cost analysis shall be used to evaluate the reasonableness of individual cost elements when cost or pricing data are required (FAR 15.404-1(a)(3) and (4)) (Reference (e)). Cost analysis is the review and evaluation of any of the separate cost elements in a contractor's proposal as needed to determine a fair and reasonable price or to determine cost realism, and the application of judgment to determine how well the proposed rates represent what the rates of the contract should be, assuming reasonable economy and efficiency (FAR 15.404-1(c)(1)) (Reference (e)). The cost analysis that can be used by the ACO is included in the "Cost Monitoring Handbook." The handbook is linked in the resource page of the DCMA-INST 123 (Reference (h)).

3.3.3. The ACO may use various cost analysis techniques and procedures to ensure fair and reasonable rates. Such techniques and procedures include (but are not limited to) the determination of the following areas:

3.3.3.1. The contractor's bases of estimates are reasonable.

3.3.3.2. The supporting cost or pricing data are current, accurate, and complete as of the date of submission (FAR 42.1701(b)) (Reference (e)).

3.3.3.3. The contractor's estimating practices comply with the contractor's disclosed or established cost accounting practices.

3.3.3.4. Projected business volume, allocation bases, and indirect costs are reasonable and consistent with contractor and customer business projections.

3.3.3.5. Rate computations are mathematically correct.

3.3.3.6. The proposal is in compliance with the cost principles and procedures in FAR 31.2 and DFARS 231.2 (FAR 31.103(a)) (Reference (e)).

3.3.3.7. Verification that the contractor's FPRP is in compliance with, when applicable, the requirements and procedures in 48 CFR Chapter 99, Cost Accounting Standards (FAR 15.404-1(c)(2)(iv)) (Reference (e)).

3.3.3.8. Verification of cost data and the evaluation of cost elements including, but not limited to (FAR 15.404-1(c)(2)(i)) (Reference (e)):

3.3.3.8.1. The necessity for, and reasonableness of, proposed costs, including allowances for contingencies.

3.3.3.8.2. Projection of the contractor's cost trends, on the basis of current and historical cost data.

3.3.3.8.3. Reasonableness of estimates generated by appropriately calibrated and validated parametric models or cost-estimating relationships.

3.3.3.8.4. The application of audited indirect cost rates, labor rates, and cost of money or other factors.

3.3.3.9. The evaluation of the effect of the contractor's current practices on future costs. In conducting this evaluation, the ACO shall ensure that the effects of inefficient or uneconomical past practices are not projected into the future (FAR 15.404-1(c)(2)(ii)) (Reference (e)).

3.3.3.10. The comparison of costs proposed by the contractor for individual cost elements with the following data. (FAR 15.404-1(c)(2)(iii)) (Reference (e)):

3.3.3.10.1. Actual costs previously incurred by the same contractor.

3.3.3.10.2. Previous cost estimates from the contractor or from other offerors for the same or similar items.

3.3.3.10.3. Other cost estimates received in response to the Government's request.

3.3.3.10.4. Independent Government cost estimates by technical personnel.

3.3.3.10.5. Forecasts of planned expenditures.

3.3.3.11. Review of cost elements from the "should-cost" point of view, if applicable, to evaluate significant indirect cost elements in-depth, and identify and recommend corrective actions regarding inefficient and uneconomical practices (FAR 15.407-4(c)) (Reference (e)).

3.3.4. The ACO determines the need for audit and/or technical support.

3.3.4.1. DCAA Audit.

3.3.4.1.1. Request. The ACO or the CMS delegated by the ACO requests a DCAA audit when the contractor submits a rate proposal or updated rate position and the ACO or the CMS determines that functional support from DCAA is required to support a sound rate position for negotiation. If the ACO and/or the CMS determine that a DCAA audit is not necessary because they have the capability to conduct a thorough review, they should justify the decision in the PNOM. While awaiting the results of the audit, if delay in issuing the audit report is anticipated, the ACO and/or the CMS shall continue to analyze and develop a negotiation objective and proceed to establish an FPRR as a minimum.

3.3.4.1.2. Receipt of a DCAA Audit.

3.3.4.1.2.1. Upon receipt of a DCAA audit report, the ACO shall review the audit findings, determine whether the current FPRR or FPRA requires revision, issue a revised FPRR within 5 working days, and continue to work toward negotiating a FPRA if appropriate. The current DCAA-recommended rates shall be reflected as the ACO's FPRR position unless the

ACO has received and analyzed information that supports an alternate position. The ACO must address DCAA unsupported costs and unresolved costs in either the PNOM or PNM.

3.3.4.1.2.2. If the ACO detects deficiencies in the audit report, or has reason(s) to depart from the DCAA audit position because of more current or new information, the ACO will discuss these issues with the DCAA auditor to obtain a joint resolution. If a joint resolution cannot be reached on significant issues and DCAA's management requests DCMA management review of the ACO's position, DCMA review will be accomplished in accordance with DCMA-INST 134 (Reference (g)) prior to the issuance of the FPRR or FPRA. The ACO's PNOM shall document all discussions with DCAA, mutual resolutions, and/or differences of opinion. If major issues are escalated to DCMA management to assist in their resolution, the forward pricing rates (FPR) memorandum or PNOM shall document the results and conclusions of this management review process.

3.3.4.2. Technical support reviews such as Overhead Should-Cost Reviews, pension/insurance specialists, engineering, industrial specialists, or legal review should be obtained where subject matter expertise is expected to be beneficial to the development of rates. The ACO shall be responsible for determining the need for the reviews and audit.

3.3.4.3. Program Office Support. Consultation with program offices may be needed to obtain input on program issues, such as expected work schedules and current status of contract awards to which the contractor may not be privy. This process is necessary to validate the accuracy and completeness of the contractor's proposed business base.

3.3.4.3.1. Each fiscal year, 45 days after the public release of the presidential budget, major components will provide business base forecasts to DCMA that will be posted to the resource page for this Instruction as well as the resource page for DCMA-INST 123 (Reference (h)). The ACOs shall incorporate the result of the business base forecast review into their rate analysis.

3.3.4.4. Agencies performing audits of FPRPs by foreign contractors outside the United States adhere to audit practices established by their respective Host Nation Agreements with the U.S. Government and/or locally established practices. In those instances where practices are different from requirements set forth in this Instruction, the ACO shall document the FPRA/FPRR file accordingly.

### **3.4. DOCUMENT AND REVIEW PRENEGOTIATION OBJECTIVES.**

3.4.1. Preparation and Approval. The PNOM shall be prepared and approved prior to negotiation of an FPRA or issuance of an FPRR in accordance with FAR 15.406-1(b) (Reference (e)). The ACO uses the PNOM to negotiate an FPRA and document the FPRR. The PNOM approval requirements shall be in accordance with the BoR matrix per DCMA-INST 134 (Reference (g)). The ACO sometimes issues an FPRR without cost analysis such as when DCAA issues an audit report; the ACO shall issue a revised FPRR within 5 working days. In that case, the ACO can issue the FPRR without a PNOM but with memorandum for record (MFR) and the historical rate data. In this situation, the ACO shall upload the MFR and the

historical rate data in CBAR. Within 90 days, the MFR must be replaced by a PNOM or ratified by a CMO contracts director, a CACO/DACO Group supervisor, or a DCMAS DACO supervisor when the ACO intends to issue another FPRR without a PNOM.

3.4.2. Format and Required Documentation. The ACO shall use the PNOM format on the Instruction's resource page and upload the signed and reviewed PNOM into CBAR through FPRA eTool. The scope and depth of the documentation and analysis supporting the PNOM should be directly related to the dollar value, importance, and complexity of the contractor's overall rates and individual elements of cost. Also, the depth of FPRR PNOM documentation depends on the stage at which the FPRR is developed. The PNOM shall include, but is not limited to, the following documentation as appropriate:

3.4.2.1. An affirmative statement that the ACO agreed or disagreed with each audit or other specialist's (DCAA audit, cost monitor, legal, engineering, pension, insurance, etc.) findings and recommendations. The ACO shall demonstrate how such field pricing assistance, including audit, was used in establishing the recommended rates or negotiated rates in accordance with FAR 15.404-2(c) (Reference (e)).

3.4.2.2. Sound rationale to support agreement or disagreement with any audit or other specialist's recommendation. The rationale must demonstrate that the ACO has considered all appropriate FAR and DFARS provisions and DCMA Instructions related to the issues raised or questioned by DCAA and other specialists (e.g., cost principles, cost accounting standards). ACOs shall document their analyses to show that the rates are well supported. This documentation is required even when the ACO agrees with the contractor's proposed rates.

3.4.3. The ACO shall invite the cognizant contract auditor and contracting offices having a significant interest to participate in developing a Government objective and in negotiations, as required by FAR 42.1701(b) (Reference (e)) and the proof of invitation shall be kept in the ACO's file.

3.4.4. The ACO and reviewing officials shall use the FPRR/A Review Checklist linked in the resource page of this Instruction to confirm whether the ACO conducted the necessary review processes and documented all processes. The FPRR/A Review Checklist in this paragraph and Contractor Forward Pricing Rate Proposal Adequacy Checklist in paragraph 3.2.2.1. shall be included in the PNOM package.

3.4.5. The historical rate data shall be used in the PNOM by the ACOs at Cost Monitoring Program sites. The historical rate data template is linked in the resource page of this Instruction and shall be uploaded in CBAR through FPRA eTool whenever there are changes in the negotiation position.

### **3.5. ESTABLISH AN FPRR OR NEGOTIATE RATES.**

3.5.1. Based on initial proposal analysis, the ACO shall issue an FPRR to be in effect until an FPRA is issued or another FPRR is issued. The FPRR must be issued within 30 days of receipt of an adequate proposal and available at all times when rates are required.

3.5.2. The ACO should negotiate rates as soon as possible. Where supported by formal cost monitoring planned activities and/or an Integrated Cost Analysis Team (ICAT), the ACO should negotiate rates within 60 days from receipt of an adequate proposal. If the ACO could not obtain supports by formal cost monitors and/or an ICAT, the ACO should negotiate rates within 90 days. During negotiation, the ACO shall request continued support from DCAA and contracting offices. The request shall be kept in the ACO's file. An FPRR or FPRA can be established without a DCAA audit report, when DCAA cannot meet the ACO's requested due date or DCAA audit report is otherwise not available.

3.5.3. The FPRA shall establish specific terms and conditions covering expiration, application, and data submission requirements to facilitate monitoring to ensure the validity of the rates. The agreement shall provide for cancellation at the option of either party and shall require the contractor to submit to the ACO and to the cognizant contract auditor immediate notice of any significant changes in cost or pricing data used to support the FPRA (FAR 42.1701(c)) (Reference (e)).

3.5.4. If an FPRA which can be applied to all upcoming pricing actions is not achievable, the ACO may consider the use of an FPRA with expressly defined limitation (see FPRA template located on the resource page for this Instruction). The limited FPRA is an FPRA that may apply to pricing actions under a certain dollar limit or to certain types of acquisitions like spare parts procurement, over and above pricing actions, or overhaul and repair. The limited FPRA should be suggested by the ACO for high volume, low dollar negotiations where extended discussion of rate differences is not practical or cost effective. The limits of tailoring an FPRA could include, but are not limited to:

3.5.4.1. Length of time; e.g., all negotiations with performance in calendar year 20X1 and 20X2.

3.5.4.2. Dollar value of the negotiation; e.g., negotiations less than \$500,000.

3.5.4.3. Types of acquisitions; e.g., spare and repair parts.

3.5.5. If an FPRA is not achieved, the ACO shall unilaterally establish an updated FPRR if necessary. The FPRR should include the recommended rates and the specific bases to which the rates apply. The FPRR should be used as billing rates as well and the ACO shall include mention of this in the FPRR memorandum.

3.5.6. The ACO will enter the details of the FPRA/FPRR in the FPR eTool application and in the CBAR eTool application and update the data as appropriate. All documents uploaded in CBAR must be appropriately marked in accordance with DCMA-INST 552, "Information Security Program" (Reference (j)). The most commonly required marking is "For Official Use Only" when a document contains proprietary information belonging to a contractor.

### **3.6. DOCUMENT AND REVIEW PRICE NEGOTIATION MEMORANDUM (PNM) AND ISSUE RATE AGREEMENT.**

3.6.1. The PNM shall be prepared in accordance with FAR 15.406-3 (Reference (e)). The ACO shall use the PNM template on the resource page of this Instruction and upload the PNM to CBAR thru FPRA eTool.

3.6.2. The PNM details shall include the eleven elements listed at FAR 15.406-3 (Reference(e)), as well as:

3.6.2.1. Addressing whether the ACO sustained the positions by cost element as identified in the PNOM. For any prenegotiation positions not sustained, the negotiated positions will be supported by sound rationale based on additional information that became available during negotiation.

3.6.2.2. Stating which cost and pricing data provided by the contractor were relied upon in reaching settlement. A certificate of current cost and pricing data is not required for rates at the time of negotiation.

3.6.2.3. Including the most significant facts and considerations controlling the establishment of the prenegotiation objectives and, if applicable, the negotiated agreement including an explanation of any significant differences between the two positions (FAR 15.406-3(a)(8)) (Reference (e)).

3.6.2.4. Demonstrating fair and reasonable pricing (FAR 15.406-3(a)(11)) (Reference (e)).

3.6.3. When meeting BoR criteria, the ACO shall obtain BoR review of the PNM in accordance with DCMA-INST 134 (Reference (g)). The ACO may request a waiver for PNM review in accordance with DCMA-INST 134, paragraph 3.4. During the PNOM review process, the BoR may determine whether the waiver request should be granted or denied in order to expedite the establishment of FPRA

3.6.4. If agreement is achieved, the ACO shall establish an FPRA in accordance with FAR 42.1701 (Reference (e)). An FPRA template is available on this Instruction's resource page. The FPRA will include, but is not limited to:

3.6.4.1. The agreed upon rates.

3.6.4.2. Bases to which the rates apply.

3.6.4.3. Specific terms and conditions covering effective date and expiration date of the FPRA, notification requirements, application, and submission of data requirements to facilitate monitoring to ensure the validity of the rates (FAR 42.1701) (Reference (e)).

3.6.4.4. Defined limits of the rates' applicability if they are only agreed to be used for specific types of acquisitions (e.g., spare parts or pricing cases under a certain dollar amount).

3.6.4.5. A requirement for the contractor to provide immediate notification of changes to projected sales forecasts and other business conditions that affect the base assumptions used to establish the FPRA in the out-years.

3.6.4.6. Other reports the contractor will be required to provide the ACO to permit adequate rate monitoring.

3.6.4.7. The frequency of the contractor's required reporting and analysis (FAR 42.1701) (Reference (e)).

3.6.4.8. A requirement for the contractor to compare its actual rates with the FPRA and immediately inform the ACO of any significant change in cost or pricing data used to support the FPRA (FAR 42.1701) (Reference (e)).

3.6.4.9. A cancellation provision at the option of either party.

3.6.5. If an FPRA is invalidated, the contractor should submit and negotiate a new proposal to reflect the changed conditions. If an FPRA has not been established or has been invalidated, the ACO will issue an FPRR to buying activities with documentation to assist negotiators. In the absence of an FPRA or an approved FPRR, the ACO shall include support for rates utilized (FAR 42.1701(e)) (Reference (e)).

3.6.6. The ACO may negotiate continuous updates to the FPRA. The FPRA will include specific terms and conditions covering notification, update triggers, application, and data requirements for systematic monitoring to ensure the validity of the rates. (FAR 42.1701, paragraph (e)) (Reference (e)). The continuous updates method of negotiating an FPRA can only be implemented where formal cost monitoring is performed.

### **3.7. DISTRIBUTE RATE AGREEMENT, RATE RECOMMENDATION, AND NEGOTIATION MEMORANDUM.**

3.7.1. The ACO shall promptly distribute a copy of the signed rate agreement to the contractor, enter required data into FPRA eTool and CBAR , and confirm the accuracy of data in CBAR.

3.7.2. The ACO shall promptly distribute signed copies of the rate agreement and negotiation memorandum or rate recommendation to the cognizant DCAA auditor and all contracting offices that are known to be affected by the FPRA rates. The ACO shall notify DoD customers they must use the ACO-established rates unless waived on a case-by-case basis by the head of the customer's contracting activity in accordance with DFARS 215.407-3 (Reference (i)).

3.7.3. Billing rates shall be revised in accordance with FAR 42.704 (Reference (e)). The FPRA or FPRR used for the billing rates for the current year shall be as close as possible to the

final indirect cost rates anticipated for the contractor's fiscal period, as adjusted for any unallowable costs, to preclude overbilling or underbilling. Once established, billing rates may be prospectively or retroactively revised by mutual agreement of the ACO at either party's request to prevent substantial overpayment or underpayment. The elements of indirect cost and the base or bases used in computing billing rates shall not be construed as determinative of the indirect costs to be distributed or of the bases of distribution to be used in the final settlement (FAR 42.704) (Reference (e)).

3.7.4. The ACO shall ensure that rate documents are correctly marked with contractor proprietary markings and are marked "For Official Use Only." Contractor financial data is designated as Controlled Unclassified Information that is protected from unauthorized disclosure under federal law. Such data should not be released or disclosed to any non-federal employee without first consulting with DCMA Legal Counsel. Unauthorized disclosure of proprietary data may be subject to criminal prosecution. Refer to FPRA, PNOM, and PNM templates in the resource page for an example of the marking.

3.7.5. FPRRs may be provided to the contractor at the discretion of the contracting officer.

3.7.6. The ACO shall ensure that the taxonomy used to identify the files will allow for clear identification and retrieval in accordance with DCMA-INST 809 (Reference (f)) in either EDW, an Agency-approved alternative, or if neither is available, in a location designated by a CMO contracts director, a CACO/DACO Group supervisor, or a DCMAS DACO supervisor. FPRA eTools and CBAR shall be updated as well.

### **3.8. MONITOR RATES.**

3.8.1. Formal cost monitoring is conducted in accordance with the DCMA-INST 123 (Reference (h)) in order to ensure the validity of the rates. However, if an FPRA is established, it must be monitored and the monitoring process should be documented to ensure the validity of the rates regardless of whether a cost monitoring plan is required. The CMS or assigned individual shall invite the contractor to be a cost monitor team member if the contractor is willing to participate. The ACO or designated CMS/assigned individual shall establish a documented schedule to monitor the rates which includes the requirement to compare and analyze:

3.8.1.1. The contractor's actual rates versus the FPRA or FPRR.

3.8.1.2. Updated sales forecasts and changed base assumptions that affect the data used to establish the FPR or recommendations for the out-years.

3.8.1.3. Any other specific reports the contractor will be required to provide the ACO to permit adequate rate monitoring (e.g., direct labor rates, indirect expenses, and sales forecasts).

3.8.2. An FPRR or FPRA may require frequent updates to remain accurate, complete, and current. An FPRR or FPRA may require revision based on:

3.8.2.1. When contractors are required to submit certified cost and pricing data in support of contract and contract modification proposals, they are certifying that their FPRP rates are current, accurate, and complete as of the date of submission. Common reasons why contractor FPRPs are revised include changes in the business base forecast, internal/external restructuring, accounting changes, union negotiations/contracts, actual salary/wage increases, cost reduction initiatives, mergers, acquisitions, and/or the review of actual incurred, allowable costs.

3.8.2.1.1. Upon receipt of a contractor FPRP, the ACO shall perform a preliminary review of the updated rate estimates to determine if the current FPRR or FPRA needs to be revised in order to protect the Government's interest. If the rates require revision, the ACO will formulate a revised FPRR or FPRA position, and document that position within a PNOM. It is prudent to request DCAA audit input, when possible, regarding proposed FPRR or FPRA revisions.

3.8.2.1.2. The ACO will then proceed with an in-depth review of the proposal, as appropriate.

3.8.2.2. As a result of cost monitoring activities, including monitoring of the contractor actuals, allowable incurred pool and base costs, the ACO may need to update the FPRR or FPRA positions to protect the Government's interest. The ACO shall review the documented results of these activities to decide if the current FPRR or FPRA position requires updating. Conditions that may affect the FPRA's validity shall be reported promptly to the ACO. If the ACO determines that a changed condition invalidates the agreement, the ACO shall notify all interested parties of the extent of its effect and status of efforts to establish a revised FPRA. If rates require revision, the ACO decision and resulting updated rates shall be documented within a PNOM. It is prudent to request DCAA audit input, when possible, regarding proposed FPRR or FPRA revisions. Review and approval of the revised FPRR or FPRA position is obtained in accordance with this Instruction. If rates do not require revision, the ACO's review and decision not to update the current FPRR or FPRA will be documented, and this written documentation shall be maintained in the cost monitoring workload files or contract file if data is classified.

3.8.2.3. Upon receipt of a DCMA Overhead Should-Cost report, the ACO shall determine whether to revise the current FPRR in order to coincide with the Overhead Should-Cost recommended rates. Subsequently, if necessary, FPRR rates should be updated again as DCMA Should-Cost findings are resolved (PGI 215.407-4) (Reference (d)). Where there is an FPRA in place, the ACO shall attempt to negotiate a revised FPRA, considering the results of the Should Cost Review.

3.8.2.4. Upon receipt of an FPRR or FPRA position that addresses the costs allocated from other contractor business segments, service centers, and/or corporate entities, the ACO shall review the position and revise the FPRR, if necessary, within 14 working days. The ACO will proceed to negotiate a revision to the FPRA. If the ACO detects deficiencies in this DCMA FPRR or FPRA position, the ACO will discuss these issues with the ACO counterparts who provided the position. If a joint resolution cannot be attained on significant issues, the issue will

be elevated to the Director, CACO/DACO Group for final resolution. The ACO's PNOM shall document all discussions, mutual resolutions, and/or differences of opinion.

### **3.9. RETENTION OF RECORDS.**

3.9.1. The ACO shall review DCMA's policies and procedures with a requirement to establish files containing the records of all contractual actions as they relate to the FPRR/FPRA (FAR 4.801(a)) (Reference (e)). According to the DCMA Records Schedule linked in DCMA-INST 809 (Reference (f)), the records related to implementation of price/cost and financial analysis, and contractor systems reviews shall be retained for a minimum of 6 years and 3 months after completion of the contract, or final payment or termination of the program effort, or settlement of disputes/incidents, whichever is later. Retention of the file documentation is the responsibility of the ACO.

3.9.2. DCMA-INST 809 (Reference (f)) provides an orderly system for organizing records for filing and eventual disposition. The ACO is responsible for complying with the records management requirements. The work product shall be stored using a naming convention that will allow for its logical retrieval and shall be stored in a specific location identified by the component or in accordance with Agency direction. If the amount of the records is too large to be uploaded electronically, the uploaded record will cite a specific location where the hard copy documents/disk will be stored. It will be a location sanctioned by the component for the retention of records conforming to DCMA policy on retention of records. EDW application or an Agency directed replacement is the preferred location.

3.9.3. A CMO contracts director, a CACO/DACO Group supervisor, or a DCMAS DACO supervisor shall establish files containing the records of all FPRA/FPRR actions in accordance with FAR 4.801(a) (Reference (e)). The documentation in the files shall be sufficient to constitute a complete history of the transaction for the purpose to, but not limited to, (FAR 4.801(b)) (Reference (e)):

3.9.3.1. Provide a complete background as a basis for informed decisions at each step in the analysis process.

3.9.3.2. Support actions taken.

3.9.3.3. Provide information for reviews and investigations.

3.9.3.4. Furnish essential facts in the event of litigation or congressional inquiries.

3.9.4. The examples of the records normally contained in contract files, if applicable, are listed in FAR 4.803 (Reference (e)).

## GLOSSARY

### DEFINITIONS

**Billing rates.** An indirect cost rate: (1) Established temporarily for interim reimbursement of incurred indirect costs; and (2) Adjusted as necessary pending establishment of final indirect cost rates. (FAR 42.701) (Reference (e)).

**Cost estimating relationship (CER).** A technique used to estimate a particular cost or price by using an established relationship with an independent variable. Identification of an independent variable (driver) that demonstrates a measureable relationship with contract cost or price establishes a CER.

**Forward pricing factors.** A percentage or ratio that is applied to an existing cost or estimate in order to arrive at another, usually related, cost determination or estimate.

**Forward pricing rate agreement (FPRA).** A written agreement negotiated between a contractor and the Government to make certain rates available during a specified period for use in pricing contracts or modifications. These rates represent reasonable projections of specific costs that are not easily estimated for, identified with, or generated by a specific contract, contract end item, or task. These projections may include rates for such things as labor, indirect costs, material obsolescence and usage, spare part provisioning, and material handling. (FAR 2.101) (Reference e).

**Forward pricing rate proposal (FPRP).** An FPRP is a set of rates and factors established by the Contractor and submitted to the Government for use bilaterally; by the Contractor to develop proposals; and by the Government to set an FPRR or negotiate an FPRA.

**Forward pricing rate recommendation (FPRR).** A rate set unilaterally by the administrative contracting officer for use by the Government in negotiations or other contract actions when forward pricing rate agreement negotiations have not been completed or when the contractor will not agree to a forward pricing rate agreement. (FAR 2.101) (Reference (e)).

**Formula Pricing Agreement (FPA).** A written agreement between a DoD contracting office and a large volume contractor which sets forth a methodology that the contractor agrees to follow when pricing items covered by the FPA. It differs from an FPRA in that, once established, the FPA may be used to determine the complete final price of individual orders. A typical FPA, for example, may be established to cover and expedite the acquisition of spares.

## GLOSSARY

### ACRONYMS

ACAT	acquisition category
ACO	administrative contracting officer
BoR	Boards of Review
CACO	corporate administrative contracting officer
CBAR	Contract Business Analysis Repository
CER	cost estimating relationship
CFY	contractor fiscal year
CMO	contract management office
CMS	cost monitoring specialist
DACO	divisional administrative contracting officer
DCAA	Defense Contract Audit Agency
DCMA-INST	DCMA Instruction
DCMAS	DCMA Special Program
DFARS	Defense Federal Acquisition Regulation Supplement
DFARS PGI	DFARS Procedures, Guidance, and Information
DoDIG	DoD Inspector General
EDW	Electronic Document Workflow
FAR	Federal Acquisition Regulation
FPA	Formula Pricing Agreement
FPR	forward pricing rates
FPRA	forward pricing rate agreement
FPRP	forward pricing rate proposal
FPRR	forward pricing rate recommendation
ICAT	Integrated Cost Analysis Teams
MFR	memorandum for record
PGI	procedures, guidance, and information
PLAS	Performance Labor Accounting System
PNM	price negotiation memorandum
PNOM	prenegotiation objective memorandum