

# Guidelines for Pricing on the Basis of Cost

## (Annex to Regulation PR No. 30/53 of 21 November 1953)

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### Footnote

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## **I. General**

### **No. 1 Scope**

- (1) These Guidelines govern the determination of prices on the basis of cost,
  - a) where regulations or decrees
    - (aa) prescribe the application of these Guidelines, or
    - (bb) give the customer the right to require that these Guidelines be applied and the customer exercises this right or
  - b) where the customer and the contractor, in compliance with price law, agree to apply these Guidelines.
- (2) In particular, they govern price determination in all contracts according to Articles 5 to 8 of VO PR No. 30/53 – Pricing Regulation for Public Contracts of 21 November 1953 (BAnz No. 244 of 18 December 1953).

### **No. 2 Contractor's Accounting System**

The contractor is required to maintain a proper accounting system. This accounting system shall at any time permit the determination of costs and performance, the harmonization of cost and performance accounting with the income statement and the determination of prices on the basis of cost.

### **No. 3 Declaration by the Contractor**

The public customer may request the contractor to make a declaration

- a) that the prices and fees determined by pricing on the basis of cost are in compliance with the price regulations and
- b) that such pricing was performed in accordance with these guidelines.

## **II. Determination of Prices on the Basis of Cost**

### **No. 4 Costs and Cost Prices**

- (1) Costs are calculated from the quantity and value of the goods used up and services used during the performance of work.
- (2) In the determination of prices on the basis of cost as defined in these Guidelines, only those costs shall be considered which, in their nature and amount, do not exceed those which, with due regard to economic plant management, would be incurred in the performance of the contract.

(3) The cost price as defined in these Guidelines equals the total allowable cost of the contract as determined in accordance with these Guidelines plus the calculated profit (see Nos. 51 and 52 below).

(4) Where the contractor's accounting system is based on principles that differ from the provisions of these Guidelines, particularly with regard to valuation, the costs allowable under these Guidelines for the purposes of cost price determination may be derived from the contractor's accounts by way of additions and deductions, provided that this does not affect verifiability.

## **No. 5 Ways of Determining Prices on the Basis of Cost**

The different ways of determining prices on the basis of cost can be classified

(1) according to time:

- a) preliminary costing (calculations on the basis of predetermined costs prior to contract performance),
- b) actual costing (calculations on the basis of actual costs after contract performance).

(2) by method:

- a) process costing (division method, equivalence coefficient costing),
- b) job-order costing (billing rate method (batch-type costing and single-item costing)),
- c) combinations of a) and b).

## **No. 6 Types of Cost Prices**

Cost-based prices may be established

- a) by preliminary costing, either as fixed prices or as target cost prices,
- b) by actual costing, as cost reimbursement prices,
- c) by preliminary costing for some cost categories and actual costing for the remaining cost categories.

## **No. 7 Quantities**

(1) Unless section III of these Guidelines provides otherwise, and with due regard to economic plant management, the quantities used in determining prices shall be,

- a) where prices are determined by preliminary costing, the goods and services to be used in the performance of the contract as estimated at the time of submission of the bid,
- b) where prices are determined by actual costing, the goods and services actually used in the performance of the contract.

(2) Where prices are determined by preliminary costing for some cost categories and by actual costing for the remaining cost categories, the provisions of paragraph (1) above will apply to the respective cost categories as appropriate.

## **No. 8 Valuation**

(1) For the purposes of the valuation of goods and services, any taxes and amounts deductible according to the German VAT Act (Umsatzsteuergesetz) will not be considered. Taxes and amounts not deductible under those provisions are allowable costs within the meaning of No. 4 above.

(2) Unless section III of these Guidelines provides otherwise, the valuation of goods and services shall be based,

- a) where prices are determined by preliminary costing, on prices current at the time of submission of the bid,
- b) where prices are determined by actual costing, on acquisition cost if goods or services were specifically purchased for performance under the contract or,

if materials were not specifically purchased but were issued from stock, on prices current at the time of issue.

(3) Where prices are determined by preliminary costing for some cost categories and by actual costing for the remaining cost categories, the provisions of paragraph (2) above will apply to the respective cost categories as appropriate.

## **No. 9 General Information to be provided with Price Calculations**

(1) With every price calculation the following information shall be provided:

- a) an exact identification of the goods or services to which the calculation relates (contract number, bill-of-materials number, drawing number, drawing changes, design or model number, etc.),
- b) the supplier's plant and the production department,
- c) the overall quantity (units, kg, m, etc.) produced or to be produced to which the calculation refers,
- d) the date of completion of the calculation,
- e) the overall quantity delivered or to be delivered to which the calculation applies,
- f) the terms of delivery as far as they have an impact on the cost price.

(2) Where pricing is based on actual costing, the following additional information is required:

- a) the period of performance during which the services were rendered,
- b) any similar goods or services previously supplied or yet to be supplied under contracts awarded or promised.

## **No. 10 Price Calculation Format**

(1) Subject to the provisions of Nos. 2 and 4(4) above, the customer and the contractor may agree to use specific calculation formats for preliminary costing and actual costing.

(2) The calculation formats used for preliminary costing and actual costing respectively shall follow a uniform pattern so as to permit comparisons.

(3) Subject to No. 2 above, and unless paragraphs (4) and (6) below provide otherwise, costs shall be broken down at least into the following categories, provided, however, that any further breakdown in accordance with the contractor's usual practice or otherwise agreed upon and meeting the requirements of a verifiable price calculation shall not be excluded:

Cost of direct materials (including materials overhead)

Manufacturing cost excluding design cost

Development and design costs

Administrative costs

Selling costs

Total cost

Calculated profit

Cost price

(4) If the costing method used (see No. 5(2) above) permits and where this is commercial practice, direct and indirect costs shall be stated separately for each cost category. If appropriate, direct costs shall be broken down into manufacturing direct costs and special direct costs. Special costs that have to be identified according to section III of these Guidelines shall be included in the appropriate cost categories.

(5) A subtotal "production costs" shall be entered where it customarily appears in accordance with commercial practice or according to the contractor's normal practice.

(6) To ensure efficiency in accounting, the following indirect costs may be grouped together:

Materials overhead and manufacturing overhead,  
Administrative expenses and selling expenses.

(7) If the accounting system permits, and provided that the principles of proper accounting according to No. 2 above are observed, actual costing may be confined to determining variations from preliminary-costing data.

(8) Where the contractor has supplied identical or similar goods or services under previous contracts, the price may be derived from the actual cost data for these contracts making allowance for any cost changes that may have occurred.

### **III.**

## **Elements of the Cost Price**

### **A.**

## **Materials**

### **No. 11 Direct Materials**

(1) Direct materials include

a) raw materials (including semifinished goods that become part of the finished product),

- b) intermediate products (products at the various stages of the production process or parts entering into the final product that are not self-contained products manufactured for sale as part of the production program),
  - c) externally procured finished goods (completely finished goods made by other manufacturers on the basis of the contractor's own or other drawings, designs, etc. that are incorporated into the contractor's own products).
- (2) Reference is made to No. 13(3) below.

## **No. 12 External Processing**

- (1) External processing includes the use of intermediate products made of (free of charge) contractor-furnished materials and the performance of certain manufacturing processes by other manufacturers (outsourcing).
- (2) Where contractor-furnished materials are processed by other manufacturers, the costs of this external processing shall be recorded as a separate item of cost and shown as a separate position in the price calculation. The same applies to work outsourced to other manufacturers.
- (3) Manufacturing overhead incurred by the contractor may not be charged to work outsourced to other manufacturers.

## **No. 13 POL Products and Auxiliary Products**

- (1) Auxiliary products shall be treated as direct materials unless they are classified as indirect costs for accounting reasons.
- (2) POL products are not direct materials. For accounting reasons, fuel and energy costs shall be treated as POL products.
- (3) Direct materials, POL products and auxiliary products should be uniformly and consistently defined.

## **No. 14 Special Tooling and Equipment**

- (1) Special tooling and equipment includes all equipment used exclusively for the development or manufacture of the item supplied or to be supplied, such as special molds, dies, patterns, jigs and similar special tools and gages.
- (2) The costs of special tooling and equipment shall be reimbursed to the contractor by a one-time payment if they are allocable to a single contract or else amortized by appropriate installments by allocation to the items supplied or to be supplied as special manufacturing costs.
- (3) A record of the amortization of the costs and their allocation to the items supplied or to be supplied shall be maintained.

## **No. 15 (deleted)**

## **No. 16 Determination of Quantities**



(1) The quantities entering into the price calculation shall be the quantities consumed of each type of material, including the residual materials (scrap or shavings) left over from the normal manufacturing process, or including an addition for defective work. Reusable residual material shall be credited to material costs.

(2) Where the quantities of materials consumed can be determined from the records, by measuring etc., the data thus obtained shall be used. Otherwise, the quantities of materials consumed shall be determined by means of other objective standards, on the basis of samples, etc.

(3) For the purposes of preliminary costing, material quantities shall be determined on the basis of drawings, bills of materials, formulations, lists of materials required, etc., while, for actual-costing purposes, they shall be derived from records of materials consumed, etc.

## **No. 17 Valuation**

(1) The materials, etc. shall be valued at current prices according to No. 8 above. Prices according to the first sentence of this paragraph may be adjusted to reflect cost (see No. 18 below).

(2) Materials issued from stocks may be valued at accounting prices. These shall be based on realistic assessments, i.e. for preliminary-costing purposes on prices according to No. 8(2)a) above and for actual-costing purposes on prices according to No. 8(2)b) above. Accounting prices should not be changed at short intervals unless prices have changed fundamentally.

(3) Standard values or standard rates shall be replaced by prices according to No. 8 or paragraph (2) above or converted into such prices.

(4) Valuation principles differing from those established by these Guidelines may be applied unless there are other legal provisions to the contrary. They are subject to contractual agreement.

## **No. 18 Acquisition Cost**

(1) The acquisition cost will as a rule be based on the price free contractor's works. It includes the price of the purchased goods and the associated delivery costs such as freight, postage, cartage and packing costs.

(2) When purchasing the goods, the contractor shall seek to obtain in behalf of the customer the same favorable terms and conditions as are customarily granted in accordance with normal business practice.

(3) Any quantity discounts, trade discounts, credits for loyalty, annual and turnover discounts, for returned packing material, etc. shall be recorded and verified, and allowance shall be made for them in calculating the acquisition cost unless, for accounting reasons, they are deducted otherwise in the cost price calculation.

## **No. 19 Goods Supplied by Contractor-owned Plants**

(1) Where commercial goods are supplied by contractor-owned plants, the acquisition cost will be the current market price taking into account the distribution cost saved and customary discounts and allowances.

- (2) Where non-commercial goods are supplied by contractor-owned plants, the acquisition cost will be,
- a) if such transactions are the usual practice of the trade, the total cost as determined in accordance with these Guidelines,
  - b) if such transactions are not the usual practice of the trade, the cost price as determined in accordance with these Guidelines.

## **No. 20   Furnished Materials, Personnel or Equipment**

If materials, personnel or equipment furnished by the customer give rise to overhead costs, their value or estimated value shall be added to the cost, and an equal amount shall subsequently be deducted from total cost.

## **No. 21   Residual Materials**

- (1) Where reusable residual materials can be used in the contractor's plant, they shall be valued like materials and credited to material costs.
- (2) Sold or salable residual materials shall be credited to material costs at the average salvage value reduced by any processing and selling expenses incurred.

## **B. Wages, Salaries and Other Labor Costs**

### **No. 22   Allocation**

- (1) Where the job-order costing method according to No. 5(2)b) is used, wages, salaries and calculated entrepreneurial remuneration shall be broken down into
- a) direct labor costs:  
wages, salaries and entrepreneurial remuneration directly allocable to the product,
  - b) indirect labor costs: wages, salaries and entrepreneurial remuneration not directly allocable to the product.
- (2) Calculated entrepreneurial remuneration may also be included among imputed costs.
- (3) Cost accounting according to paragraphs (1) and (2) above should be based on uniform principles and on a continuous basis.

### **No. 23   Allowability**

In preliminary costing and actual costing, only those wages, salaries and other labor costs may be included which, in their nature and amount, are in compliance with the principles of economic plant management (see No. 4 above).

### **No. 24   Valuation**

(1) In preliminary costing and actual costing, the wages and salaries established by collective labor agreements or, where these are reasonable, the wages and salaries negotiated with the individual employees shall be used.

(2) Where the contractor is a sole proprietorship or partnership, imputed entrepreneurial remuneration may be included in the costs as compensation in lieu of salary for services rendered by sole proprietors or partners. Similarly, imputed remuneration will be allowed as appropriate as compensation in lieu of salary for services rendered by relatives of sole proprietors or partners.

(3) Irrespective of the actual withdrawals made by sole proprietors or partners, imputed entrepreneurial remuneration shall be the equivalent of the average salary of an employee having similar functions in a company at the same location, in the same trade and of equal importance, or an amount determined by reference to some other objective measure of performance. The size of the company, turnover and the number of sole proprietors or partners working in the company shall be taken into account.

## **No. 25 Social Costs**

(1) Social costs shall be broken down into

- a) statutory payments such as employers' contributions to social insurance (pension insurance, unemployment insurance, health insurance, long-term care insurance and accident insurance),
- b) payments made under collective labor agreements,
- c) costs of additional benefits.

(2)

- a) Social costs incurred under statute or collective labor agreement are fully allowable.
- b) The costs of additional benefits are allowable to the extent that they are in accordance with the company's normal practice or commercial practice and conform to the principle of economic plant management.

## **C. Maintenance and Repair**

### **No. 26 Allowability**

(1) Costs for the ongoing maintenance and repair of company buildings, operating facilities, machinery, devices, tools and the like are costs. Where such costs are incurred intermittently, they shall be amortized in proportion to consumption.

(2) Repair costs shall be capitalized and distributed over the useful life of the asset by depreciation

- a) If the repair raises the value of the asset considerably compared to its value at the time of acquisition, or
- b) if the repair is intended to extend the useful life of the asset beyond its original life expectancy (see No. 39(1) below).

## **D. Development, Design and Test Contracts**

### **No. 27 “Free” and “Committed” Development**

Development and design work, research, testing and the manufacture of test specimens beyond the scope of the contractor’s so-called “free” development shall be expressly agreed between the customer and the contractor (“committed” development).

### **No. 28 Verification of Costs**

(1) All costs incurred for contractor’s “free” development and “committed” development and the associated amounts paid shall be evidenced separately for each type of work. Details shall be determined in agreement with the customer as appropriate.

(2) In price calculations, development and design costs shall be broken down into costs of “free” and costs of “committed” development.

## **E. Production Startup, Design Modifications**

### **No. 29 Allowability**

Where additional material and manufacturing costs not normally incurred arise in connection with a contract, e.g. for official acceptance tests, overtime work, the start of a new type of production, the training of new employees or design modifications requested by the customer, these shall be shown as separate items in costing and price calculations.

## **F. Taxes, Fees and Contributions**

### **No. 30 Taxes**

For the purposes of cost price determination, taxes will be divided into

- a) taxes that are allowable costs within the meaning of these Guidelines (determinable taxes), in particular trade tax, property tax, real estate tax and motor vehicle tax.  
The following taxes shall be set out as special costs in the price calculation:
  - (aa) VAT on goods and services supplied or to be supplied by the contractor, without deducting taxes and amounts deductible according to the VAT Act. Any VAT reliefs granted for the goods or services supplied or to be supplied by the contractor shall be deducted;
  - (bb) special excise taxes levied on the product.
- b) taxes that are not allowable costs within the meaning of these Guidelines (indeterminable taxes), in particular income tax, corporate tax, church tax, inheritance tax and gift tax.

### **No. 31 (deleted)**

## **No. 32 Fees and Contributions**

- (1) Compulsory fees and contributions are allowable costs to the extent that they are related to the contractor's operations.
- (2) Non-statutory contributions and donations to organizations and corporations are allowable costs within reasonable limits if they are in the interest of the contractor's operations.

## **G. Licenses, Patents and Industrial Property Protection**

### **No. 33 Allowability and Allocation**

- (1) License fees are allowable costs within the meaning of these Guidelines if they are in reasonable proportion to the volume of goods or services supplied or to be supplied and their sales prices. At the customer's request, the contractor shall present the pertinent license agreements for information.
- (2) Expenses incurred for the acquisition of third-party patents shall be capitalized and amortized, or allocated on an accrual basis.
- (3) License fees and charges for industrial property protection, and the cost of own and purchased patents shall be identified as special costs in the price calculations if they relate to specific products or groups of products.

## **H. Rents, Office, Advertising and Transportation Costs, etc.**

### **No. 34 Quantities and Valuation**

In the determination of other types of costs, in particular

rental costs,  
office costs,  
advertising and entertainment costs,  
transportation costs and  
costs of payments,

Nos. 4 and 16 to 21 above apply analogously.

## **I. Special Distribution Costs**

### **No. 35 Agents' Commissions**

- (1) An agent's commission or similar compensation is fully allowable only if the services of the agent are required in the preparation, conclusion or administration of the contract and if it is kept within reasonable limits; the contractor's market situation should be duly taken into account. In all other cases, an appropriate deduction shall be made.

(2) A maximum allowable amount may be established by mutual agreement between the customer and the contractor for agent's commissions and similar compensation.

(3) Commissions and similar compensation shall be shown as a separate item in price calculations.

### **No. 36 Terms of Delivery and Delivery Costs**

The costs of packing material, freight, cartage, transportation insurance, etc. shall be stated separately in the price calculation as provided for by the agreed terms of delivery unless they are charged to other costs in the interest of efficient accounting.

## **K. Imputed Costs**

### **a) Depreciation of Fixed Assets**

#### **No. 37 Definition**

(1) Depreciation of fixed assets is a cost arising from the reduction in the value of fixed assets required in the contractor's operations.

(2) The depreciation allowance may be determined per unit of time or per unit of output (ton, unit, machine-hour, etc.).

#### **No. 38 Depreciation Allowance and Valuation Method**

The depreciation allowance shall be determined independently of the asset values stated in the balance sheet and tax statements. It is obtained by dividing the purchase price or manufacturing cost of an asset over its useful life. Installation and startup costs are part of the purchase price or manufacturing cost.

#### **No. 39 Useful Life**

(1) The useful life of an asset is determined by the normal life expectancy of this kind of asset or its estimated output taking into account its usual technical performance.

(2) The estimates of the useful lives of assets or groups of similar assets shall be periodically reviewed. Where depreciation allowances are found to have been excessive or insufficient, they shall be charged or credited, as appropriate, to depreciation risks subject to the provisions of Nos. 49(3) and 50 below; the customer and the contractor may agree other conditions.

(3) Where the time of the useful life of an asset consumed so far cannot be clearly determined, its estimated residual value (purchase price or manufacturing cost less past depreciation) may be used as a basis for computing the depreciation charge.

#### **No. 40**

#### **No. 41 Special Depreciation Allowances**

Depreciation allowances according to Nos. 38 to 40 above may be exceeded to compensate for unforeseeable technical developments or shifts in demand or for other reasons (special depreciation allowances), provided that the customer expressly agrees to such higher depreciation allowances. Special depreciation allowances according to the first sentence of this paragraph shall be identified separately.

#### **No. 42 Records of Fixed Assets**

(1) Records of all fixed assets shall be maintained containing all data relevant to depreciation, in particular initial values, estimated entire useful life, useful life consumed so far, depreciation allowances per unit of time or output and residual values.

(2) A separate record shall be maintained for each individual asset; however, similar assets of identical initial value or of low value may be grouped together.

(3)

#### **b) Interest**

#### **No. 43 Allowability**

(1) Imputed interest may be included in the price calculation for the working capital. For cost accounting purposes, it shall be treated as a separate type of cost.

(2) A maximum rate of imputed interest will be established by the Federal Ministry for Economic Affairs and Energy in agreement with the Federal Ministry of Finance.

(3) The actual costs of borrowed capital (interest, bank charges, etc.) will not be considered in the price calculation unless they are included in the costs of payments according to No. 34 above.

(4) Additional earnings from parts of the working capital (e.g. interest, rents) shall be treated as credits.

#### **No. 44 Determination of Working Capital**

(1) Working capital is business assets less any interest-free advance payments and deposits received for orders and any credits granted free of interest by suppliers under the agreed terms of payment.

(2) Business assets are those fixed and current assets that serve the primary operations of the company. Non-business assets will not be taken into consideration. The latter include in particular decommissioned facilities except standby equipment necessary to the operations of manufacturing or trading enterprises, agricultural land, houses not occupied by the contractor's staff and nonoperating investments.

#### **No. 45 Valuation of Business Assets**

(1) Fixed assets shall be included at residual values according to the provisions regarding depreciation (see No. 37 ff.).

(2) Current assets shall be valued on the basis of purchase prices or manufacturing cost.

- (3) Unusable or depreciated materials or semifinished or finished goods shall be deducted from current assets or included at reasonable residual values.
- (4) Foreign currency securities and accounts shall be valued at the current exchange rates at the reference dates for which the business assets are determined.
- (5) The rest of the current assets shall be included at their current values at the reference dates.
- (6) In determining working capital, provisions for reductions in asset values shall be deducted from the gross book value of the assets unless paragraphs (1) to (5) above provide otherwise.

#### **No. 46 Volume of Business Assets**

In determining business assets and non-interest bearing liabilities, the average volumes during the accounting period shall be used.

### **c) Individual Risks**

#### **No. 47 Definition**

- (1) A risk is a danger of loss resulting from the nature of the company and its operations.
- (2) Risks affecting the company as a whole and resulting from the nature of the company, the specific conditions in the trade or business activity in general constitute the general business risk.
- (3) Individual risks are dangers of loss related to the various activities of the company during contract performance.

#### **No. 48 Allocation**

- (1) The general business risk is covered by the calculated profit.
- (2) To cover individual risks, imputed risk may be included in the costs. Risks not related to the operations of the company are not permissible. Where risks are covered by insurance or losses incurred have been charged to other cost items, imputed risk cost are not permissible.

#### **No. 49 Determination of Imputed Risk Cost**

- (1) Imputed risk cost shall be determined on the basis of losses that have actually arisen from risks in the past. These losses shall be set off against any related profits. The actual risks in the current accounting period shall be taken into account. Where no reliable actual data are available, imputed risk cost shall be carefully estimated.
- (2) In determining risk cost, a sufficiently long period covering several years, if possible, should be used as a reference basis. In this context, it shall be aimed at adjusting the imputed risk cost to the actual losses arising from risk.



(3) Imputed risk cost shall be determined and adjusted separately for each type of risk and cost unit group.

(4) Small and medium-sized companies may, in the interest of efficient accounting, use a simplified method of determining and allocating risk cost. Medium-sized companies should break down risk cost at least by cost unit groups.

#### **No. 50 Verification**

(1) Losses or profits arising from risks as well as allocated calculated risk cost shall be maintained and harmonized with the accounts.

(2) Where the customer and the contractor so agree, the allowability of individual risk cost may be made subject to their verification by the contractor.

#### **L.**

#### **Calculated profit**

#### **No. 51 Definition**

The calculated profit includes

- a) compensation for the general business risk,
- b) an incentive fee to be granted if the contractor's economic, technical or organizational performance has been outstanding. The incentive fee should be in proportion to the contractor's additional performance.

#### **No. 52 Allowability**

(1) Compensation for the general business risk shall be a percentage of the net cost or a fixed amount. The Federal Ministry for Economic Affairs and Energy may establish standard or maximum rates or amounts.

(2) An incentive fee is allowable only where it has been negotiated between the customer and the contractor.

(3) The calculated profit shall be directly allocated to the cost units (marketable supplies/services).

(4) If the amount of the remuneration for the general business risk for the performance has not been determined by the contractual parties, the usual profit markup paid under public contracts shall be applied.