

**PRICE REVISION CLAUSES**

The aim of this note is to remind readers of the rules and practices concerning the establishment and application of price revision formulae. There is no "general formula for Agoria". Each company must adapt the content of this note to its own particular situation. For public contracts, companies must respect the stipulations in the specifications.

**What is the need for price revision formulae?**

For products which require a fairly long manufacturing period or for those delivered over a period of time, the evolution of manufacturing cost between the time of the offer and delivery is unknown. The price revision clause enables a company to guarantee its client or supplier that the base price on which they agreed will follow economic trends, upwards or downwards, and will avoid any speculation on their part.

One cannot "presume" a price revision clause. To be valid, it must be agreed between the parties concerned. This is why it must feature either in the contract, or in the specifications, or in the general or special conditions.

It is important that price revision clauses, and notably the formula, should be drafted fully and precisely.

Please note that these clauses are independent of the modalities for payment. If payments in advance or down payments have been provided for, the price revision concerns the full base price, in conformity with the clauses of the contract, unless the contract stipulates the contrary.

**Price revision clauses – model formula**

For companies with work and supplies to be carried out in-factory:

$$P = P_o \left( a \frac{M}{M_o} + b \frac{S}{S_o} + c \right)$$

in which:

- P = Invoice price
- Po = Initial price on (date) .....
- Mo = Value of ..... (material to be defined) on (date) ..... as quoted in ..... (name of publication), i.e. .... BEF.
- M = Value of same material on (date) .....  
(date corresponding to supply or invoicing)
- So = Reference hourly wage plus social charges in the metal manufacturing industry (national or regional average to be defined) as recognized by the Federal Public Service Economy, SMEs, Self-employed and Energy - Assignments and published by Agoria on (date) ....., i.e. .... BEF
- S = Same wage on (date) .....  
(period of executing the order or of invoicing)
- a – b – c = Are replaced by the coefficient values

## Modalities for application

The requirement is for the simplest and most precise price revision formulae possible but which remain close to the overall breakdown of cost price. This will ensure that there is no discussion at the time of invoicing and the parties will be able to monitor and check changes in the components of the formula.

### a. Regulation

Article 57 of the law of 30 March 1976 governs price revision clauses in contracts concerning the Belgian market except those containing a foreign origin clause. This exception may not be invoked, however, if the work/services are performed in Belgium and the agreements are made by persons residing in Belgium. Thus, making a foreign law applicable will not be sufficient to qualify for exemption from article 57.

Article 57 forbids the indexation of a price or of a parameter in the consumer prices index or any other general index.

It restricts the application of the clauses to 80% of the final price and thus imposes a fixed term of 20% minimum.

It stipulates that the references must concern parameters which represent real costs and that each parameter is applicable only to the part of the cost that it represents.

### b. Coefficient values

The value of **coefficients a and b** relating to the share of materials and wages must be determined in proportion with the importance of materials and wages in the price of the product as stipulated in the above-mentioned article 57.

Consequently, the sum of coefficients a and b must be less than or equal to 0.80, at least for the Belgian market.

NB: Coefficient **a** may be divided into **a<sub>1</sub>, a<sub>2</sub> or a<sub>3</sub>** if several principal materials are used in manufacturing the product.

**Coefficient c** must be equal to a minimum 0.20 in conformity with article 57 so that the sum of the coefficients is equal to 1 for the Belgian market. The coefficient may be lower for contracts with a foreign origin clause and for contracts concluded with a foreign country.

### c. Materials prices

Generally speaking, reference is made to materials with official prices, i.e. the prices noted by the Commission for Market Prices of Materials at the the Federal Public Service Economy, SMEs, Self-employed and Energy - Assignments and published by Agoria. Every month this Commission notes the prices of steels, non-ferrous metals, plastics and other building materials.

For products whose prices are not noted by this Commission and which are not quoted on the Belgian market and for which there is no factory price scale, the reference should be international prices such as those on the London or New York markets, if need be coupled with an exchange clause.

The prices actually paid could be used as reference prices for the materials but by referring to the official prices one avoids any later contestation.

### d. Wages

The wages to be taken into consideration are the reference hourly wages in metal manufacturing plus charges and social insurance, recognized by the the Federal Public Service Economy, SMEs, Self-employed and Energy - Assignments and published by Agoria. It must be made clear whether the wage concerned is the national average or a regional average.

It is also possible to refer to the average of the wages actually paid in the metal manufacturing industry or in the supplier's factory, but this may provoke numerous disputes.

**e. Reference dates and periods of variation**

The price revision clause concerns the contractually agreed period of execution.

$M_0$  and  $S_0$ : The base values of the  $M_0$  and  $S_0$  parameters are usually the prices pertaining 10 days before the date on which the offer is submitted.

M: For the final prices, the reference period to be taken for M are the dates corresponding to the period for supplying the materials, i.e. the average price of the material(s) provided for in the clause. The periods chosen must be fixed by mutual agreement.

S: For wages, the value of S must correspond to the real period of execution, i.e. the average of wages during the execution period provided for and fixed by mutual agreement.

**Safeguard clauses**

The parties may stipulate that if the price variation exceeds a given percentage (usually 15%), the price revision formula will be adjusted or replaced by another method of calculation which must be stipulated.

**Public contracts**

The price revision clauses for public contracts must conform with the regulations on the subject and are the subject of special stipulations in the model specifications published by the Public Services.