

CHAPTER 4**PRICING REIMBURSABLE AGREEMENTS**

0401 PRICING REIMBURSABLE SPACE ACT AGREEMENTS

040101. Space Act Reimbursable Agreement Pricing Policy

A. Market Rate Pricing In order to avoid putting commercial providers of similar services at a competitive disadvantage, NASA may adjust its cost recovery to account for market prices. The NASA pricing policy for Space Act Reimbursable Agreements when the types of services to be provided are available from non-NASA sources is to charge market rates. When market rates apply to a reimbursable agreement, those rates must be based on a market survey. The market based price should recover at least the incremental costs of doing the work, but normally not more than the full cost of the work. However, market based pricing does not apply where the pricing requirements for specific services or facilities are otherwise established by law or regulation. Section 040105 contains the special pricing provisions applicable to certain types of NASA services and facilities.

B. Cost Based Pricing In the event there is no market source for the specific or similar services the Center proposes to provide under a reimbursable agreement, the Center CFO is not required to perform a market survey. The Center CFO shall establish a price, based on the best information available, that is consistent with the cost NASA will incur and the benefit NASA will receive when the work is performed. In such cases it is likely that the price charged the customer will equal the full cost as determined in accordance with Chapter 3 of this Volume and identified on the EPR. The process used and the factors considered in the development of such prices must be consistently applied and fully documented. This documentation must be maintained for at least three years.

C. Limits on Competition with U.S. Commercial Sources Legal or policy considerations can affect the circumstances in which the Agency can make specific types of facilities or services available if commercial services are otherwise available. For example, the Commercial Space Competitiveness Act (15 U.S.C. § 5807) states the Federal Government, including NASA, may allow non-Federal entities to use space-related facilities on a reimbursable basis if equivalent commercial services are not available on reasonable terms. For these facilities and services, the customer requesting that NASA undertake reimbursable activities bears the burden of establishing that they cannot obtain equivalent goods or services from the private sector. Centers with questions concerning the offering of specific services that are also available from a U.S. commercial source should contact their Center Chief Counsel.

040102. Procedures for Establishing “Market Rates”

A. Market Survey Center CFOs will ensure that a comparable pricing survey is conducted of providers of similar services that the Center wishes to offer through Space Act agreements. These surveys are performed annually or as reasonable and necessary, depending upon the degree of external market price stability for the services being offered. Since the responsible technical managers have established working relationships with other providers, it is expected that these managers will conduct the surveys and provide the results to the Center CFOs. Such a survey will include a representative sample of providers, and be conducted in a thorough manner, so that an analysis of the results will provide reasonable assurance that a comparable pricing structure can be determined for the current year for that Center. The process, analyses, and results will be documented and available for review.

1. A representative sample of service providers will be surveyed through interviews, reviewing their published rates, or by appropriate alternative methods (e.g., knowledgeable industry representatives or associations). The information obtained during the surveys will be documented, labeled proprietary information, and access will be restricted. The documentation will include:

- a. Name of the service provider;
- b. Date the information was received;
- c. Pricing information obtained;

2. The Center CFO will ensure that the results of the survey are consolidated, evaluated, and analyzed, with the objective of reaching a pricing structure for the Center that is:

- a. Supported by the survey results;
- b. Comparable to prices that customers could expect to find at other providers, given any discount or premium that is needed to compensate for bona-fide differences; and,
- c. Rational, fair, and consistently applied.

3. The Center CFO will ensure that the survey results, evaluation, analysis, and judgments are appropriately documented and retained for review in accordance with NASA document retention policies.

B. Interim Pricing Adjustments Between Market Surveys During the year between the market surveys, new pricing-related information may be discovered that the Center CFO should review, analyze, and evaluate for justifying possible interim adjustments to the Center's pricing structure. These adjustments should be kept to an absolute minimum in order to maintain pricing consistency and fairness to customers. In addition, pricing changes should not be influenced by "negotiations" with individual customers. The pricing strategy is market-based, not negotiated customer by customer. Nevertheless, in those rare cases when an interim adjustment to the Center pricing structure is necessary, it should be well documented and the supporting evidence maintained for three years.

040103. Market Adjustments on Estimated Price Reports (EPR) The adjustments needed to reconcile the market price to the full cost will be identified in a separate column of the EPR. The total adjustment for the agreement should be distributed to the individual lines on the EPR based on the information available at the Center.

040104. Treatment of Differences between Cost and Price

A. Incremental Costs Not Covered by the Price If the market based price is below the incremental cost the Center will incur to perform the work, the CFO must obtain alternative direct program funding and/or CM&O funding.

B. Market Based Price Exceeds Full Cost If the market based price is above full cost, Centers must deposit the amount collected that exceeds full cost into the Miscellaneous Receipts Account at Treasury.

040105. SPECIAL PRICING PROVISIONS APPLICABLE TO SPECIFIC AGREEMENTS Reimbursable work for certain types of services or facilities are governed by statutes and regulations other than the Space Act and NASA must follow the pricing and/or non-competition requirements of those authorities rather than NASA's general Space Act authority. Market based pricing only applies to the extent it is consistent with these other requirements. For example:

A. Wind Tunnel Fees

1. Unitary Wind Tunnel Act of 1949, 50 USC sections 511-515 implemented in 14 C.F.R. 1210 The prices charged reimbursable customers for the use of the wind tunnels covered by the Unitary Wind Tunnel Act of 1949, 50 U.S.C. 511-515, will be set in accordance with the provisions of 14 C.F.R. 1210.

2. The reimbursement required for Space Act agreements using any other wind tunnels operated by NASA will be based on the applicable pricing method in accordance with paragraph 040102 above. This includes:

a. Projects At National Aeronautical Facilities Projects

The national aeronautical facilities include the National Transonic Facility (NTF) at Langley Research Center and the National Full-Scale Aerodynamic Complex, consisting of the 40 by 80 foot and the 80 by 120 foot wind tunnels and related support facilities at Ames Research Center. NASA operates these facilities for NASA, industry, the Department of Defense, and other Government agency projects.

b. All Other Wind Tunnels

All other NASA wind tunnels will be used primarily for NASA research. However, all of these wind tunnels may be used for industry work when it is in the public interest either in joint programs with NASA or on a fee basis.

B. Space Shuttle Payloads ([14 CFR 1214](#))

1. Standard Services NASA may charge uniform prices for shuttle payloads, and escalate them annually unless updated.

2. Pricing Optional Services To the extent practical, optional services will be provided on a fixed-price or fixed-rate basis. If this is not practical, the price will be on a governmental cost basis; i.e., the actual cost or in certain cases the estimated actual costs. They shall be escalated annually unless updated.

C. Tracking and Data Relay Satellite System (TDRSS)

([14 CFR 1215](#)) This regulation covers considerations to be used in pricing TDRSS charges such as:

1. Annual determination of User Charges and Service Rates ([14 CFR 1215.113 and .114](#)).

2. Payment and billing including administrative charges ([14 CFR 1215.115](#)).

3. Estimated Service Rates and Escalation for Commercial Space Launch Act (CSLA) customers and others ([14 CFR 1215.115 Appendix A](#)).

4. Other multiplication factors for service rates ([14 CFR 1215.115, Appendix B](#)).

D. Commercial Space Activity This section covers the use of NASA facilities for Commercial Space Activities (see [15 USC 5802](#) for the definition of such activities) using NASA facilities. Space Launch Activities ([49 USC chapter 701](#)) is the primary activity of concern, though this section could apply to any Commercial Space Activities.

1. NASA may allow non-Federal entities to use NASA space-related facilities on a reimbursable basis if the Associate Administrator of the Space

Operations Mission Directorate ([NPD 1000.3 paragraph 4.3.2.3. and 4.3.2.9.](#)) determines that all of the following conditions are met:

- a. The facilities will be used to support commercial space activities.
- b. Such use can be supported by existing or planned Federal resources.
- c. Such use is compatible with Federal activities;
- d. Equivalent commercial services are not available on reasonable terms.
- e. Such use is consistent with public safety, national security, and international treaty obligations.

2. Basis of Reimbursement [15 U.S.C. 5807](#) (b) (1) states: “The reimbursement referred to in subsection (a) [of 15 USC 5897] of this section may be an amount equal to the direct costs (including salaries of United States civilian and contractor personnel) incurred by the United States as a result of the use of such facilities by the private sector. For the purposes of this paragraph, the term “direct costs” means the actual costs that can be unambiguously associated with such use, and would not be borne by the United States Government in the absence of such use.” Pricing of these agreements shall observe the following:

- a. The cost of commercial space activity support is to be calculated based on “Full Cost” as required in Section 0303 of this Chapter.
- b. Since NASA may charge only direct costs for these services, Center Management and Operations and Corporate G&A along with any other indirect costs will not be included in the price charged the customer. However, these indirect costs must be identified on the EPR as both components of full cost and adjustments to arrive at the amount the customer is required reimburse NASA. The requirements of Chapter 4 of this Volume apply to all adjustments from full cost, including adjustments required to comply with the provisions of 15 USC 5807.

3. The amount of any reimbursement received by the NASA for commercial Space Activities support under this subsection shall be credited to the appropriation from which the cost of providing such support was paid.

E. Host-Tenant Agreements Host tenant agreements represent a separate category of reimbursable agreement that may or may not be executed as Space Act Agreements. The pricing methodology used must be based on the authority under which the agreement is executed. As with all reimbursable agreements the Center General Counsel must review the agreement before it is signed

1. Space Act Agreements When host tenant agreements are executed under the authority of the Space Act the price charged the customer will be set as follows:

a. NASA Owned Facility In those cases where the host-tenant agreement is established as a Space Act agreement the price will be calculated based on the applicable pricing method in Section 040102 of this Volume.

b. Customer Owned or Constructed Facility When one or more Federal Agencies has ownership of buildings or facilities, or has constructed the facility and turned it over to NASA, on a NASA Center and those facilities represent a substantial portion of the facilities on the Center, the Center may enter into a Cooperative agreement with the tenant(s) under which all facilities operating costs and associated indirect costs are shared equitably. The Centers are not required to use the EPR format to develop the full cost of the agreement as long as the reimbursement Center receives is equal to the actual costs the Center incurs to support the tenant. As with all other reimbursable agreements, the Centers must maintain documentation that supports computation of the reimbursement the tenant is required to provide.

2. Economy Act Agreement with a Federal Customer When host tenant agreements are executed as Economy Act Orders the customer Agency will be charged the actual cost.

0402 NON-SPACE ACT REIMBURSABLE WORK FOR OTHER FEDERAL AGENCIES

040201. The Economy Act While the Space Act provides specific authority to NASA to engage in reimbursable and cooperative agreements with various parties including other Federal agencies, the Economy Act ([31 USC 1535](#)) provides authority for all Federal Agencies to engage in interagency reimbursable activity within certain constraints. If the reimbursable agreement cites the Economy Act as authority to execute the reimbursable work, market based pricing does not apply.

040202. Actual Cost The Economy Act requires all work be priced and charged to the ordering agency on an “actual cost basis.” The Economy Act prohibits an agency from deriving profit, augmenting its appropriations, or using another agency’s funds for purposes other than which the funds were originally appropriated. Actual cost means the direct cost of providing the work, plus indirect costs significantly related to providing the work and funded from current appropriations.

0403 CHARGES FOR RENTAL QUARTERS AND RELATED FACILITIES

This section provides additional policies, responsibilities and requirements NASA must follow when setting and administering rental rates for rental quarters and charges for related facilities.

040301. Legislative and Regulatory Authority The references below provide the authority and policy governing Agencies charges for rental quarters and related facilities.

A. [5 USC 5911](#), Quarters and Facilities; Employees on the United States.

B. [OMB Circular A-45](#), Rental and Construction of Government Quarters, Revised, dated October 20, 1993.

040302. Definitions

A. Rental quarters include all housing supplied under specific Government direction as an incidental service in support of Government programs. "Public Quarters" designated for occupancy by members of the uniformed services with loss of allowances, and sleeping facilities furnished on a temporary basis are excluded. Otherwise all quarters owned by or leased to the Government are included whether occupied by Government employees, contractors, contractors' employees, or any other person to whom housing is provided as incidental to the performance of a Government activity. Housekeeping and non-housekeeping units, including trailers but not tents, furnished, and unfurnished are included.

B. Related facilities include, but are not limited to utilities, services, furniture, and appliances.

040303. Roles and Responsibilities

A. The Installation Director, who has custody over quarters, as well as, the authority to rent the quarters will:

1. Monitor the use of rental quarters.
2. Annually determine whether an adjustment to the basic rental rate is required based on changes in the Consumer Price Index (CPI). Determine specifically when periodic reviews are necessary so that qualified appraisers may be obtained as required.
3. Annually advise the Associate Administrator for Institutions and Management of the need to adjust basic rental rates based on changes in the CPI. Advise the Associate Deputy Administrator for Institutions and Management of

the need to conduct a periodic review and of the recommended time schedule for the timely completion of the review. Request that the services of appraisers be provided.

4. Conduct the review using qualified appraisers.

B. The Assistant Administrator for Infrastructure and Administration, will:

1. Keep the CFO and the Associate Deputy Administrator for Institutions and Management advised of all significant events concerning the use of and charges for NASA rental quarters.

2. Designate person(s) to receive appeals and ensure that necessary administrative reviews and approvals are made in accordance with the provisions of OMB Circular A-45.

3. Establish by amending the lease or rental agreement the general rates and charges authorized by the Associate Administrator for Institutions and Management on the effective date and ensure they are collected.

4. Authorize specific adjustments to general rents.

C. The Associate Administrator for Institutions and Management will:

1. Provide qualified appraisers to Installation Directors to perform the necessary reviews. Where practicable, appraisers of the Federal Housing Administration, the Army Corps of Engineers, the Naval Facilities Engineering Command, or the General Services Administration will be used.

2. Make the final evaluation of the annual adjustment required based on changes in the CPI and the periodic reviews. Approve the general rates and charges to be established.

3. Review and decide on appeal actions and adjustments, as necessary.

040304. Determining Rental Rates Rental rates for quarters and charges for related facilities will be based upon reasonable value in the circumstances under which they are provided, occupied, or made available. The amount of rental rates shall not be set so as to provide an inducement in the recruitment or retention of employees or as an inducement to encourage the occupancy of existing Government housing. The detailed procedures for determining rental rates are contained in OMB Circular A-45, Rental and Construction of Government Quarters.