



Fair Market Value Analysis Workshop

May 2022

Fair Market Value

Why is a Fair Market Value (FMV) analysis important?

There are two primary legal requirements for a FMV analysis when selling to external parties:

1. When we use federally funded equipment, because those equipment costs are not included in rate calculations, we must price at FMV to avoid the perception of using federal grants to undercut industry.
2. As a matter of general 501(c)(3) law, our tax exemption is conditioned on not giving away charitable resources to others. This is measured by FMV.

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Provost's Office Guidance Regarding Pricing for External Customers

The University has two expectations for rates charged to external customers (“external rates”):

1. External rates must at least include the full direct cost to provide the service plus 30% (the “calculated rate”); and
2. The external rate should fall within the range of fair market values for similar services.

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What is FMV?

Federal government regulations do not clearly define fair market value for external sales or establish specific requirements for how to conduct a fair market value analysis.

Yale follows general principles for FMV analysis. Our FMV analysis for a specific service will involve gathering comparable rates charged by for-profit companies and then determining whether the proposed rates for that service fall within that range.

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What if I can't find comparable services?

We acknowledge that data on comparable services for a FMV analysis is sometimes limited— because competitors do not publish rates, because no one else provides the services, or because there is not enough information to know whether the services listed by competitors are comparable to our services.

We understand these challenges. The requestor will gather **reasonable data using reasonable efforts** based upon the situation and what is available. The requestor must **document** the data and search efforts so others, including federal auditors, can confirm that the data and search efforts are reasonable.

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What does “reasonable data using reasonable efforts” mean?

- Do I need to call or email for quotes?
No; reasonable efforts involve searching online for data from competitor websites or other online sources (e.g., Science.com or Science Exchange).
- What if there aren't comparable rates for every Yale service we offer?
A FMV analysis for a group of similar services may be reasonable.
- What if there are few to no for-profit comparable rates?
If there are fewer than two comparable for-profit company rates for each service, the rates of non-profits and other academic institutions should be provided as additional data points.

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What if the service only has few or no comparables of any kind?

- Provide evidence that the uniqueness of our service is why there are few or no competitors. Explanations may include Yale's novel technology or Yale's novel operational model for delivering service. Include information about the closest functional alternatives for comparison.
- At a minimum, establish that:
 - When there are only a small number of customers, there are no individual or institutional conflicts of interest between Yale and the external customers.
 - The prices are above marginal costs, defined as the cost of producing one additional unit.

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Best practices for documenting the FMV analysis:

- Use [Form 1410 FR.05](#) to document at least five comparable for-profit rates.
- Dated screen shots of competitors' rates with the URL of the website used.
- Narrative to “tell the story” of the FMV analysis performed.

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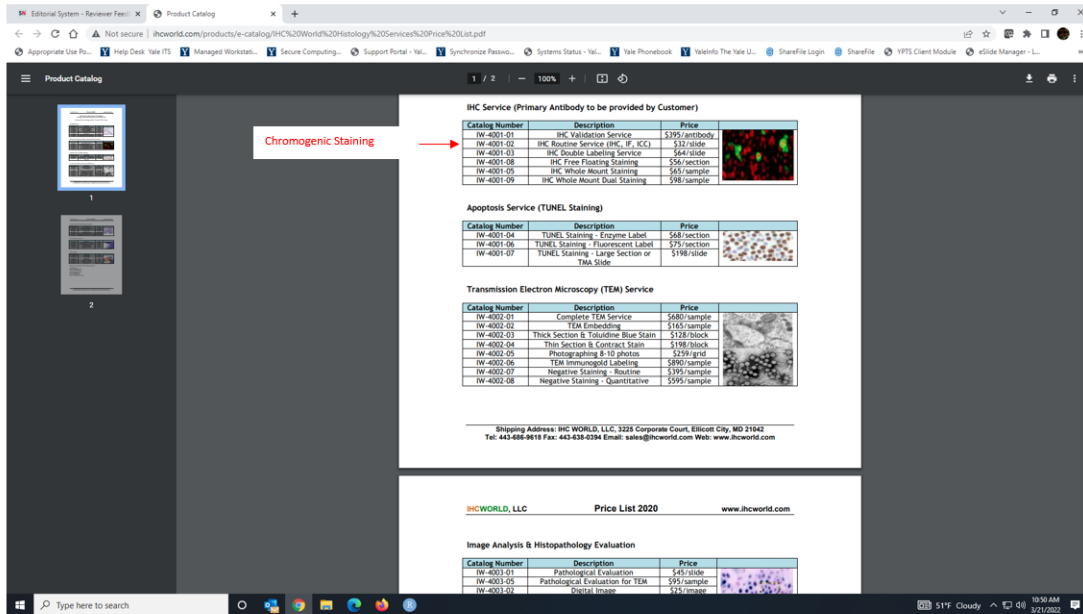
FMV Template

A template is available to assist with preparing the FMV analysis.

FAIR MARKET VALUE ANALYSIS		Prepared by: Danielle Feldman							
ISP999 ABC Cleanroom		Date prepared: 11/19/2021							
Service	Service ABC		Service DEF		Service GHI		Service JKL		
USP Internal Customer Fully Costed Rate (The calculated cost-to-deliver service rate per unit)	\$5,024.84		\$1,500.00		\$172.47		\$253.10		
USP Internal Customer User Rate	\$1,000.00		\$600.00		\$60.00		\$45.00		
	For-Profit Customer	Non-Profit Customer	For-Profit Customer	Non-Profit Customer	For-Profit Customer	Non-Profit Customer	For-Profit Customer	Non-Profit Customer	
USP External Customer Fully Costed Rate (The calculated cost-to-deliver service rate per unit) plus F&A at 30%	\$6,543.35	\$6,543.35	\$1,790.00	\$1,790.00	\$224.21	\$224.21	\$145.00	\$145.00	
USP External Customer Proposed User Rate	\$5,800.00	\$2,900.00	\$3,600.00	\$1,800.00	\$300.00	\$150.00	\$300.00	\$150.00	
Proposed User Rate as Percent of the Fully Costed Rate	88.6%	44.3%	201.1%	100.6%	133.8%	66.9%	206.9%	103.4%	
Data Summary									
For-Profit Seller Comparables	Range of Customer Rates		Range of Customer Rates		Range of Customer Rates		Range of Customer Rates		
Fair Market Value Range per Comparables	\$0.00 to \$0.00		\$1,200.00 to \$1,755.00		\$265.00 to \$265.00		\$0.00 to \$0.00		
Does proposed External Rate fall below the FMV range?			Yes		Below Range				
Non-Profit Seller Comparables	For-Profit Customer	Non-Profit Customer	For-Profit Customer	Non-Profit Customer	For-Profit Customer	Non-Profit Customer	For-Profit Customer	Non-Profit Customer	
NP Peer Value Range per Comparables	\$5,440.00 to \$6,844.79	\$2,680.00 to \$4,409.44	\$0.00 to \$0.00	\$0.00 to \$0.00	\$250.00 to \$315.00	\$200.00 to \$265.00	\$0.00 to \$0.00	\$0.00 to \$0.00	
Does proposed External Rate fall below the NP peer rate range?	Yes	Yes			Yes	Below Range			

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Screenshots of Comparable Rates



CCMR Shared Facility Rates - Academic Use (Effective February 2021)

Some rates consist of a fixed charge plus an hourly rate or a minimum charge.

For academic users, use exceeding \$10k in the calendar year will be charged at 60% of the normal instrument use fee.

Manager Labor Rate (may be charged in addition to instrument rates below for assisted use)

Academic Rate
\$100.00 /hr

Electron Microscopy

Arctica-S/TEM

\$35.00 /hr

Cryo-S/TEM

\$62.50 /hr

\$52.00 /hr

FEI F20 TEM STEM

\$62.50 /hr

\$52.00 /hr

NION UltraSTEM 100

\$62.50 /hr ‡

FEI Strata 400 STEM FIB

\$88.50 /hr

\$73.00 /hr

Thermo-Helios-G4-UX-FIB

\$88.50 /hr

\$73.00 /hr

FEI Tecnai 12 BioTwin TEM

\$67.50 /hr

after hours rate
(if different)

Include: 1) URL/website, 2) date retrieved/effective date of rates, and 3) identifying which rates correlate to Yale's services. Make sure the amounts agree to the FMV template!

Rates should be "refreshed" every 2 years.

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FMV Narrative

- Explanations of the search method (terms and platforms) used;
- Explanations of the competitors' prices and how they do and do not match the proposed external rates for each service;
- Explanations for instances where there are few or no comparable rates;
- Explanations for instances where rates are not in accordance with the Provost's Office Guidance Regarding Pricing for External Sales; and
- Other explanations as necessary to “tell the story” of why the proposed rates are reasonable.

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Who approves my external customer rates & FMV analysis?

- USPs will submit their FMV analysis with their annual USP registration and rate calculation schedule. These should be reviewed internally prior to submission.
- A review of external customer rates and the FMV analysis will be performed by the USP Rate Reviewers, but this does not indicate approval of external customer rates.
- Approval of external customer rates is done through the External Sales Approval Process (ESAP).
- Grand-parented USPs are still responsible for complying with all federal, state, Yale and other rules, as stated in Procedure 2100 PR.02.

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Resources

The following are housed on the [External Sales Resources Page](#):

- FAQs Regarding the Fair Market Value (FMV) Analysis for ESAP
- Provost's Office Guidance Regarding Pricing for External Customers

[Form 2100 FR.05](#) – FMV Analysis Template

[Procedure 2100 PR.02](#) – External Sales Approval Process (ESAP)

Questions?