



Government Contract Pricing

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Topics to be covered

- Pricing Policy
- Proposal Analysis Techniques
- Solicitation Methods
- Inflation
- Sources of Information and Training

Pricing Policy (FAR 15.402)

- ▶ Contracting Officers are required to:
 - ▶ Determine prices paid to be fair and reasonable
 - ▶ Price each contract independently
 - ▶ Not include contingencies

Proposal Analysis Techniques

- ▶ FAR 15.404-1
 - ▶ (a)(2) Price Analysis - shall be used when certified cost or pricing data are not required
 - ▶ (a)(e) Cost Analysis - shall be used to evaluate the reasonableness of individual cost elements when certified cost or pricing data are required. (Price analysis should be used to verify that the overall price offered is fair and reasonable).

When are Certified Cost or Pricing Data Required?

- ▶ Unless an exception applies, certified cost or pricing data are required before accomplishing any of the following actions expected to exceed the current threshold or, in the case of existing contracts, the threshold specified in the contract:
 - ▶ The award of a negotiated contract
 - ▶ The award of a subcontract at any tier, if the contractor and each higher-tier subcontractor were required to furnish certified cost or pricing data
 - ▶ The modification of any sealed bid or negotiated contract
- ▶ The threshold for obtaining certified cost or pricing data is \$750,000 for prime contracts awarded before July 1, 2018, and \$2 million for prime contracts awarded on or after July 1, 2018.

What are Certified Cost or Pricing Data?

- ▶ Cost or Pricing Data, submitted by an offeror on a negotiated procurement as required by the Truth in Negotiations Act (TINA) or Truthful Cost or Pricing Data Statute (10 USC chapter 271 and 41 USC Chapter 35).
- ▶ All facts that, as of the date of agreement on price...prudent buyers and sellers would reasonably expect to affect price negotiations significantly (FAR 2.101)
 - ▶ Examples include: vendor quotes, make or buy decisions, changes in production methods).
- ▶ For more information, consider enrolling in CON 7700, Defective Pricing

Exceptions to Certified Cost or Pricing Data

- ▶ Prices based on Adequate Price Competition
- ▶ Prices set by law or regulation
- ▶ Commercial products and commercial services

Price Analysis Techniques

- ▶ Comparison of proposed prices received in response to the solicitation [FAR 15.404-1 (b)(2)(i)] – aka Adequate Price Competition*
- ▶ Comparison of the proposed prices to historical prices paid*
- ▶ Use of parametric estimating methods/application of rough yardsticks
- ▶ Comparison with competitive published price lists, published market prices of commodities, similar indexes, and discount or rebate arrangements
- ▶ Comparison of proposed prices with independent Government cost estimates.
- ▶ Comparison of proposed prices with prices obtained through market research for the same or similar items.
- ▶ Analysis of data other than certified cost or pricing data

*preferred techniques

Cost Analysis Techniques

- ▶ Verification of cost data or pricing data and evaluation of cost elements
- ▶ Evaluating the effect of the offeror's current practices on future costs
- ▶ Comparison of costs proposed by the offeror for individual cost elements
- ▶ Verification that the offeror's cost submissions are in accordance with the contract cost principles and procedures and cost accounting standards (if applicable)
- ▶ Analysis of the results of any make-or-buy program reviews, in evaluating subcontract costs
- ▶ Review to ensure all data has been submitted or identified in writing

Cost Elements – Table 15-2 FAR 15.408

- ▶ **Materials/subcontractors/Intra-company transfers:**

- ▶ A consolidated priced summary of individual material quantities (Bill of Material), identifying the item, source, quantity, and price.

- ▶ **Labor Hours and Dollars:**

- ▶ A time-phased (e.g., monthly, quarterly, etc.) breakdown of labor hours, rates, and costs by appropriate category, and furnish basis of estimates (BOEs)

Other Direct Costs:

- ▶ All other costs that are not otherwise included in the above categories, such as Travel

The BOEs are where the contractor tells us “how and why” they bid hours they did. They almost always includes judgmental factors

Cost Elements cont.

▶ Indirect Costs:

- ▶ Costs that are not identifiable or incurred for the benefit of one cost objective, but identified with two or more cost objectives. The Contractor shall indicate the rates used and provide an appropriate explanation. The details behind the rates are contained in the contractor's forward pricing rate proposal (FPRP) submitted to DCAA & DCMA.

▶ Examples of Indirect Costs:

- ▶ Overhead
- ▶ Fringe
- ▶ General & Administration (G&A)
- ▶ Facilities Capital Cost of Money (FCCOM)

▶ Profit/Fee:

- ▶ FAR 15.404-4(b)(1)(i): PCO shall use a structured approach for determining the profit or fee objective in those acquisitions that require a cost analysis

Other Proposal Analysis Techniques

- ▶ Cost Realism Analysis - Cost realism analysis is the process of independently reviewing and evaluating specific elements of each offeror's proposed cost estimate to determine whether:
 - ▶ The estimated proposed cost elements are realistic for the work to be performed;
 - ▶ Reflect a clear understanding of the requirements; and
 - ▶ Are consistent with the unique methods of performance and materials described in the offeror's technical proposal.
- ▶ Cost realism analyses shall be performed on cost-reimbursement contracts to determine the probable cost of performance for each offeror.

Other Proposal Analysis Techniques

- ▶ Technical Analysis – Personnel having specialized knowledge, skills, experience, or capability review the proposal to determine the need for and reasonableness of the proposed resources, assuming reasonable economy and efficiency (e.g., types and quantities of material proposed and the need for the types and quantities of labor hours and the labor mix).
- ▶ Unit Prices – Unit prices shall reflect the intrinsic value of an item or service
- ▶ Unbalanced Pricing – Unbalanced pricing exists when, despite an acceptable total evaluated price, the price of one or more line items is significantly over or understated
- ▶ Pass-through Contracts – Applies when subcontractors perform 70% or more of the work

Solicitation Methods and Pricing Strategy

- ▶ Depends on contract type, extent of competition, and dollar value
 - ▶ Sole Source
 - ▶ Competitive
 - ▶ Fixed Price
 - ▶ Cost Reimbursement
 - ▶ Thresholds

So What About Inflation?

- ▶ Current contracts: inflation and affect based on contract type
 - ▶ Cost-Reimbursable: In a cost-reimbursement type contract, the Government pays the contractor's allowable, allocable, and reasonable costs of performance up to the funded amount on the contract. The contractor is not obligated to continue performance or otherwise incur costs in excess of the funded amount on the contract. Therefore, the Government bears the risk of increased contract cost due to inflation.
 - ▶ Firm-Fixed-Price contracts. In the absence of a contract clause, such as an EPA clause authorizing a contract price adjustment as a result of inflation, there is no mechanism for providing contractual relief under a Firm-Fixed-Price contract, meaning no price change as a result of inflation. Under an FFP contract, the contractor bears all cost risk and full responsibility for all costs and resulting profit or loss.
 - ▶ Fixed-Price Incentive (Firm Target): Under a Fixed-Price Incentive (Firm Target) contract, the Government will pay the contractor's (allocable, allowable and reasonable) actual cost of performance (including cost increases as a result of inflation), up to the ceiling price. To the extent that the actual cost differs from the target cost, the target profit will be adjusted by application of the contract share ratio to the costs over or under target cost.

So What About Inflation?

- ▶ Current contracts: inflation and affect based on contract type
 - ▶ Under a Fixed-Price Economic Price Adjustment arrangement, the Government will bear the risk up to the limit specified in the applicable clause. Except for DFARS 252.216-7003, the FAR/DFARS clauses limit any increase in contract price to 10% of original contract unit price; however, that limit may be increased if approved (for the FAR clauses) by the chief of the contracting office (see 16.203-4(a)(4); 16.203-4(b)(6); and 16.203-4(c)(5)) or (for the DFARS clauses) at a level above the contracting officer (DFARS 216.203-4-70(a)(1)(ii) and (b)(5)). For economic price adjustment clauses based on cost indexes of labor or material, the DFARS PGI indicates that, normally, the clause should not provide either a ceiling or a floor for adjustment unless adjustment is based on indices below the six-digit level of an appropriate BLS index.
 - ▶ Time and Materials: A time-and-materials contract provides for acquiring supplies or services on the basis of direct labor hours at specified fixed hourly rates that include wages, overhead, general and administrative expenses, and profit; and actual cost for materials (except as provided for in 31.205-26(e) and (f)). Thus, a T&M contract is not a fixed-price contract, but may be termed a flexibly priced contract where there is a fixed hourly rate, but the number of hours and materials act more like a cost-reimbursement arrangement. Therefore, absent another authority to increase the wage rate, the contractor bears the risk of inflation for the fixed portion and the Government the risk for the flexibly priced portion.

Sources of Information and Training

- ▶ Summer Small Business Pricing Series: <https://www.dau.edu/event/Summer-Small-Business-Pricing-Series-Incurred-Cost-Submissions>
 - ▶ May 4, 2022: Introduction and DCAA Overview and Accounting System Requirements
 - ▶ June 9, 2022: Proposal Adequacy
 - ▶ June 22, 2022: Incurred Cost Submissions
 - ▶ July 13, 2022: Monitoring Subcontracts
 - ▶ July 27, 2022: Audit Process Overview
 - ▶ August 10, 2022: Contract Briefs and Provisional Billing Rates
 - ▶ August 24, 2022: Public Vouchers and Real-time Labor Evaluations
- ▶ Recommend you take CON 7470, Inflation and Economic Price Adjustments available through DAU.
(https://icatalog.dau.edu/onlinecatalog/courses.aspx?crs_id=12806)
- ▶ Contract Pricing Reference Guides: <https://www.dau.edu/tools/p/cprg>
- ▶ Small Business Series - Subcontracting and Small Business Participation

Sources of Information and Training

- ▶ Small Business Series - Subcontracting and Small Business Participation
 - ▶ <https://www.dau.edu/event/Small-Business-Series-Subcontracting-and-Small-Business-Participation-12-October-2022>
- ▶ SBP 110 Fundamentals of the FAR for SBP
- ▶ SBP 120 Contract Lifecycle for Small Business Professionals
- ▶ SBP 220 Business Decisions for Small Business
- ▶ All Things Small Business Podcast: Published monthly at Apple podcast link: <https://podcasts.apple.com/us/podcast/all-things-small-business/id1523710805>

DAU Doing Business with DoD

- ▶ Designed to make it easier for companies to do business with DoD
- ▶ Highlights the importance of a strong DIB, consisting of both large and small companies, to enable DoD to meet the objectives of the National Defense Strategy
- ▶ The page hosts:
 - ▶ The DoD Small Business Strategy
 - ▶ Doing Business with the DoD Toolkit
 - ▶ All Things Small Business podcast – “Listen Now” button
 - ▶ Upcoming DAU Events

<https://www.dau.edu/industry-support/p/doing-business-with-the-department-of-defense>

Questions?