Certified Cost or Pricing Data vs. Data Other Than Certified Cost or Pricing Data

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Requiring Certified Cost or Pricing Data

- FAR 15.403-4(a)
  - Negotiated contract award
  - $750,000 or more ($2 million under current class deviation, until adopted in the FAR)
  - Applies to subcontracts as well, at any tier
  - Applies to contract (and subcontract) modifications, even if C&P data was not required for the original award.
  - Applies to “final pricing actions” such as termination settlements and price redeterminations.

Prohibition on Obtaining Certified Cost or Pricing Data

- FAR 15.403-1(b)
  - Adequate price competition
  - Prices set by law or regulation
  - Acquisition of commercial items
  - When modifying a contract or subcontract for commercial items
  - When a waiver is granted by the HCA
  - Deviation through 2020 – certain small business awards under $7.5 million.

Vendor Proposal Analysis Requirements

FAR 15.404-1(a)(3), *Proposal Analysis Techniques*, states, “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.”

Cost and price analyses serve different purposes and, in many instances, both may be required.

Price Analysis

FAR 15.404-1(b)(1), *Price Analysis for Commercial and Non-Commercial Items*, states, "Price analysis is the process of examining and evaluating a proposed price without evaluating its separate cost elements and proposed profit."

A price analysis, to fulfill its purpose, must be based on objective information, scientific analytic methods, expertise, and sound judgment.

Cost Analysis

FAR 15.404-1(c)(1), *Cost Analysis*, states, “Cost analysis is the review and evaluation of any of the separate cost elements and profit or fee in an offeror’s or contractor’s proposal as needed to determine a fair and reasonable price or to determine cost realism, and the application of judgment to determine how well the proposed costs represent what the cost of the contract should be, assuming reasonable economy and efficiency.”

A cost analysis, to fulfill its purpose, must be based on objective information, scientific analytic methods, expertise, and sound judgment. A cost analysis is not complete without the evaluation of price.

Techniques for Price Analysis FAR 15.404-1(b)(2)

- Comparison of proposed prices received in response to the solicitation. Normally, adequate **price** competition establishes a fair and reasonable price (see 15.403-1(c)(1)(i)).
- Comparison of proposed prices to historical prices paid, whether by the Government or other than the Government, for the same or similar items.
  - The prior price must be a valid basis for comparison. If there has been a significant time lapse between the last acquisition and the present one, if the terms and conditions of the acquisition are significantly different, or if the reasonableness of the prior price is uncertain, then the prior price may not be a valid basis for comparison.
  - The prior price must be adjusted to account for materially differing terms and conditions, quantities and market and economic factors. For similar items, the contracting officer must also adjust the prior price to account for material differences between the similar item and the item being procured.
  - Expert technical advice should be obtained when analyzing similar items, or commercial items that are "of a type" or requiring minor modifications, to ascertain the magnitude of changes required and to assist in pricing the required changes.

Techniques for Price Analysis FAR 15.404-1(b)(2)

- Use of parametric estimating methods/application of rough yardsticks (such as dollars per pound or per horsepower, or other units) to highlight significant inconsistencies that warrant additional pricing inquiry.
- Comparison of proposed prices to historical prices paid, whether by the Government or other than the Government, for the same or similar items.
- Comparison with competitive published price lists, published market prices of commodities, similar indexes, and discount or rebate arrangements.
- Comparison of proposed prices with independent 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 (as defined at 2.101) provided by the offeror.

In Addition - Commercial Item Determination

If the subcontract item is commercially priced, the price analysis generally must be accompanied by a CID. DFARS 244.402(a), *Subcontract for Commercial Items and Commercial* Components, states, "Contractors shall determine whether a particular subcontract item meets the definition of a commercial item."

- For costs being proposed as commercial items, the prime contractor/higher tier subcontractor is responsible for determining the subcontractor's commerciality assertion is acceptable.

- An adequate CID clearly identifies and supports how the item meets the commercial item definition in FAR 2.101. Generally, support for a CID would include market analysis and sales history.

Techniques for Cost Analysis FAR 15.404-1(c)(1)

- Verification of cost data or pricing data and evaluation of cost elements, including:
  - (A) The necessity for, and reasonableness of, proposed costs, including allowances for contingencies;
  - (B) Projection of the offeror's cost trends, on the basis of current and historical cost or pricing data;
  - (C) Reasonableness of estimates generated by appropriately calibrated and validated parametric models or cost-estimating relationships; and
  - (D) The application of audited or negotiated indirect cost rates, labor rates, and cost of money or other factors.
- Evaluating the effect of the offeror's current practices on future costs. In conducting this evaluation, the contracting officer shall ensure that the effects of inefficient or uneconomical past practices are not projected into the future. In pricing production of recently developed complex equipment, the contracting officer should perform a trend analysis of basic labor and materials, even in periods of relative price stability.

Techniques for Cost Analysis FAR 15.404-1(c)(1)

- Comparison of costs proposed by the offeror for individual cost elements with--
  - (A) Actual costs previously incurred by the same offeror;
  - (B) Previous cost estimates from the offeror or from other offerors for the same or similar items;
  - (C) Other cost estimates received in response to the Government's request;
  - (D) Independent Government cost estimates by technical personnel; and
  - (E) Forecasts of planned expenditures.
- Verification that the offeror's cost submissions are in accordance with the contract cost principles and procedures in Part 31 and, when applicable, the requirements and procedures in 48 CFR Chapter 99, Cost Accounting Standards.

Techniques for Cost Analysis FAR 15.404-1(c)(1)

- Review to determine whether any cost data or pricing data, necessary to make the offeror's proposal suitable for negotiation, have not been either submitted or identified in writing by the offeror. If there are such data, the contracting officer shall attempt to obtain and use them in the negotiations or make satisfactory allowance for the incomplete data.
- Analysis of the results of any make-or-buy program reviews, in evaluating subcontract costs (see 15.407-2).

Questions/Comments