

Cost and Price Analysis of Suppliers/Subcontractors

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Course Description / Presenters

Title: Cost/Price Analysis of Suppliers/Subcontractors

Description:

Subcontractor/vendor Cost and Price analyses are generally conducted in accordance with FAR part 15. These types of analysis are required when subcontracting under a U.S. Government prime contract. The work required is dependent on many factors such as the award type, value, and level of competition related to the subcontract. In this course we will help you understand the requirements for price analysis and cost analysis, provide insight about common pitfalls and how to avoid them, and to discuss industry and enforcement trends.

Presenters:

Steven Tremblay, Executive Director – Government Contract Services (GCS), steven.tremblay@ey.com, Ernst & Young

Timothy Manning, Manager – Government Contract Services (GCS), tim.manning@ey.com, Ernst & Young

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- ▶ Certified Cost or Pricing Analysis Overview
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Overview of the Proposal Process

- ▶ A Government agency produces a Request for Proposal (RFP)
- ▶ Prime Contractor(s) compile a proposal, including certified cost and pricing data pursuant to FAR Part 15
- ▶ In determining a contract award the Contract Officer (CO) must determine if the cost and pricing data is fair and reasonable
- ▶ Certified Cost and Pricing Data is required for all contracts and subcontracts greater than \$750,000. Exceptions do apply and are defined in FAR Part 15 (e.g., adequate competition exists, commercial item, prices set by law)

Overview – What is Cost v. Price Analysis

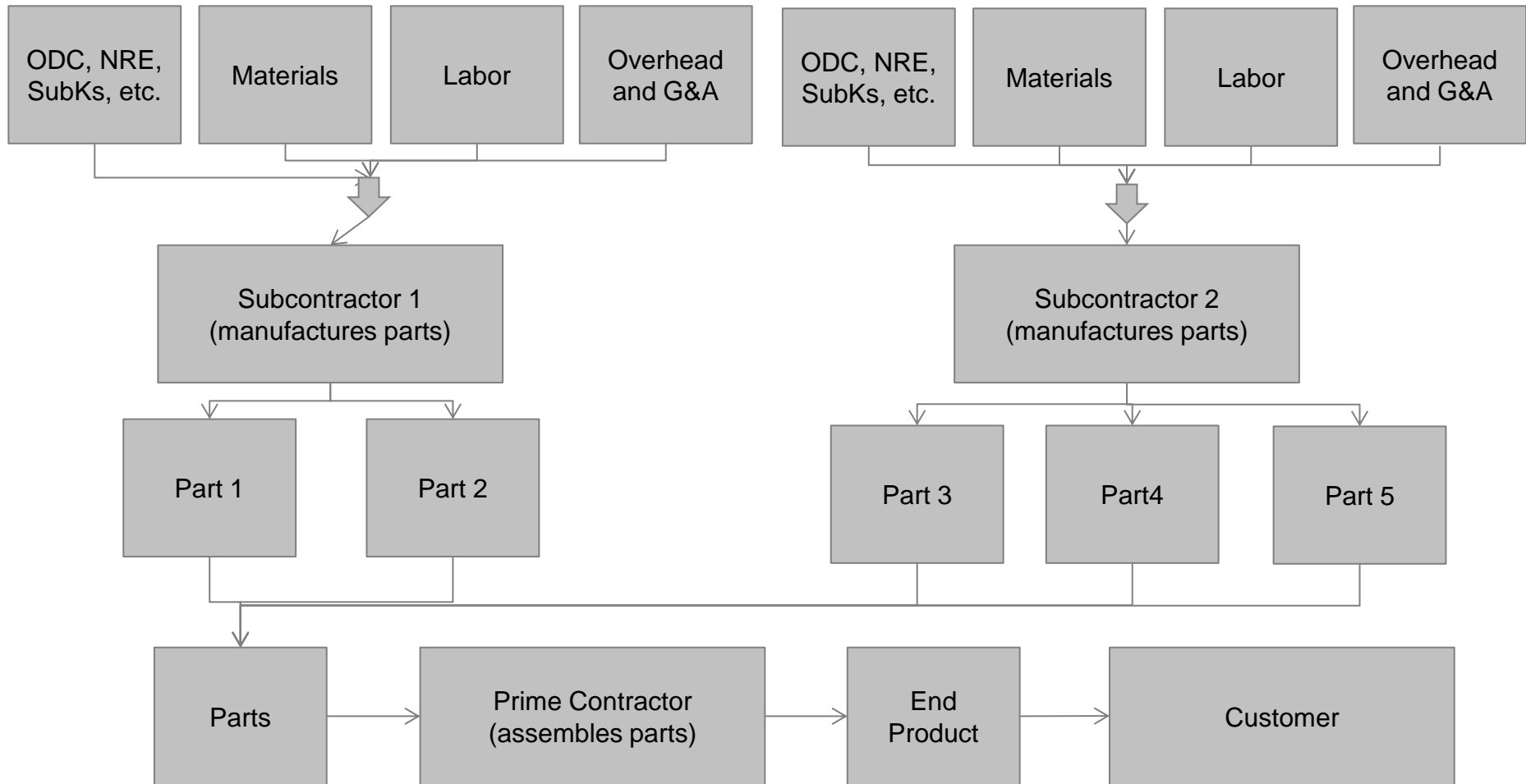
Cost Analysis

- ▶ FAR 15-404-1(c)(1) Cost analysis is the review and evaluation of any 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.

Price Analysis

- ▶ FAR 15-401 - "Price" means cost plus any fee or profit applicable to the contract type.
- ▶ FAR 15-404-1(b)(1) Price analysis is the process of examining and evaluating a proposed price without evaluating its separate cost elements and proposed profit. Unless an exception from the requirement to obtain certified cost or pricing data applies under [15.403-1\(b\)\(1\)](#) or (b)(2), at a minimum, the contracting officer shall obtain appropriate data, without certification, on the prices at which the same or similar items have previously been sold and determine if the data is adequate for evaluating the reasonableness of the price. Price analysis may include evaluating data other than certified cost or pricing data obtained from the offeror or contractor when there is no other means for determining a fair and reasonable price. Contracting officers shall obtain data other than certified cost or pricing data from the offeror or contractor for all acquisitions (including commercial item acquisitions), if that is the contracting officer's only means to determine the price to be fair and reasonable.

Cost Analysis



Certified Cost or Pricing Data

- ▶ “Certified Cost or Pricing Data” means any cost or pricing data that is required to be certified pursuant to TINA.
- ▶ Certification states that – to the best of certifier’s knowledge and belief the cost or pricing data are accurate, complete and current as of the date of certification.
- ▶ If certificate is submitted and it is later determined that the award is not subject to TINA the data is no longer considered “certified cost or pricing data”.

Background and Purposes of TINA

- ▶ Truth in Negotiations Act (TINA) Public Law 87-653 (codified by 10 USC §2306a) was originally enacted in 1962.
- ▶ Purpose of the Act is to put the Government on equal footing with contractors/subcontractors during negotiated contract *actions*.
- ▶ Defines requirements for obtaining certified cost or pricing data.
- ▶ Requires certification that data are accurate, complete and current.
- ▶ Stipulates exceptions to the requirement.
- ▶ Provides the Government with the right to examine contractor records for defective pricing.
- ▶ Provides rules governing defective pricing.
 - ▶ Downward contract price adjustment and recovery of overpayments & interest (as of 1985).
- ▶ TINA has been amended several times providing for modification of terms and definitions and process for defective pricing adjustments.
- ▶ Subcontractors are also subject to the same guidelines under TINA. Therefore, the subcontractor's C&PD must be accurate, current, and complete.

Data Other Than Certified Cost or Pricing Data

- “Data other than certified cost or pricing data” means pricing or cost data and judgmental information necessary for the contracting officer to determine a fair and reasonable price or to determine cost realism.
- It can be data that is identical types of data as certified cost or pricing data – but without the certification.
- May include:
 - Sales Data;
 - Information required to explain estimating process;
 - Judgmental factors applied and mathematical or other methods employed to make price estimates; or
 - Nature and amount of any contingencies included in a proposal.

Requirement for Certified Cost or Pricing Data

- Applicable to a negotiated contract or subcontract exceeding \$750,000 (Oct 1, 2015).
- Applicable to negotiated modification of a contract where aggregate pricing action is above the threshold – even if the original contract was completed.
- When certified cost or pricing data are required, offeror must submit:
 - The certified cost or pricing data and any data other than certified cost or pricing data required by CO to make fair and reasonable and realism determinations.
 - A Certificate of Current Cost or Pricing Data.

Exceptions to the Requirement for Certified Cost or Pricing Data

- Adequate price competition.
- Prices set by law or regulation.
- Commercial item acquisition per definition at FAR 2.101.
- Written waiver has been granted by Head of Contracting Activity.
- When modifying a contract for a commercial item.
- Other circumstances not requiring certified cost or pricing data
 - The exercise of an option at the price established at contract award or initial negotiation does not require submission of certified cost or pricing data.
 - Proposals used solely for overrun funding or interim billing price adjustments.

Certificate of Current Cost or Pricing Data

- ▶ Required by law
- ▶ Purpose: Certify that data are "current, accurate and complete" as of the date on which the parties agreed upon a price.
- ▶ FAR Table 15-2 states contractor must submit certification as soon as practicable after price agreement.
- ▶ Certification does not apply to accuracy of judgment, but applies to data upon which judgment is based.
- ▶ If information was reasonably available, at the time of price agreement, that the negotiated price was not based on accurate, complete or current data the certifier's responsibility is not negated by lack of personal knowledge.
- ▶ Try to reach prior agreement on criteria for cut-off dates.
- ▶ The Government's possession of a certification is not a substitute for Government examining/analyzing the proposal.

Certificate of Current Cost or Pricing Data

- ▶ This is to certify that, to the best of my knowledge and belief, the cost or pricing data (as defined in section [2.101](#) of the Federal Acquisition Regulation (FAR) and required under FAR subsection [15.403-4](#)) submitted, either actually or by specific identification in writing, to the Contracting Officer or to the Contracting Officer's representative in support of ____* are accurate, complete, and current as of ____**. This certification includes the cost or pricing data supporting any advance agreements and forward pricing rate agreements between the offeror and the Government that are part of the proposal.

▶ Firm _____

Signature _____

Name _____

Title _____

Date of execution*** _____

- ▶ * Identify the proposal, request for price adjustment, or other submission involved, giving the appropriate identifying number (e.g., RFP No.).
- ▶ ** Insert the day, month, and year when price negotiations were concluded and price agreement was reached or, if applicable, an earlier date agreed upon between the parties that is as close as practicable to the date of agreement on price.
- ▶ *** Insert the day, month, and year of signing, which should be as close as practicable to the date when the price negotiations were concluded and the contract price was agreed to.
- ▶ (End of certificate)

Timing of Disclosure vs. Timing of Certification

- ▶ “Shake hands” date - All significant facts existing as of the date of agreement on price, the “shake hands” date, are certified cost or pricing data.
- ▶ After the “shake hands” date - Facts coming into existence after the “shake hands” technically are not cost or pricing data.
- ▶ Data that exists but may not be known at the time of price agreement are subject to certification.
- ▶ “Another date agreed upon” - Parties may agree to an effective certification date other than “shake hands” date.
- ▶ The alternate date should be as close as practicable to the “shake hands” date.

Recent Issues – C&PD

- ▶ Cost and Pricing Data (C&PD) does not contain judgment, but based on facts such as:
 - ▶ Supplier/Vendor quotations
 - ▶ Non-recurring costs
 - ▶ Information on changes in production methods and in production or purchasing volume
 - ▶ Data supporting projections of business forecasts and related operations costs
 - ▶ Unit-cost trends such as those associated with labor efficiency
 - ▶ Make-or-Buy decisions
 - ▶ Estimated resources to attain business goals
 - ▶ Information on management decisions that could have a significant bearing on costs
 - ▶ Key issue is to complete cost & price analysis of supplier proposals in a timely manner (prior to prime negotiations), so that the Government customer can consider these analyses in the evaluation of the company material cost
 - ▶ Issue for prime contractors is denial by their suppliers access to their rates & factors, and subsequent delay from DCAA

Overview - Proposal Techniques

- ▶ **FAR 15.404-1 Proposal analysis techniques.**
 - ▶ (a) *General.* The objective of proposal analysis is to ensure that the final agreed-to price is fair and reasonable.
 - ▶ (1) The contracting officer is responsible for evaluating the reasonableness of the offered prices. The analytical techniques and procedures described in this subsection may be used, singly or in combination with others, to ensure that the final price is fair and reasonable. The complexity and circumstances of each acquisition should determine the level of detail of the analysis required.
 - ▶ (2) Price analysis shall be used when certified cost or pricing data are not required (see paragraph (b) of this subsection and [15.404-3](#)).
 - ▶ (3) 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.

Overview – Subcontract Considerations

- ▶ **FAR 15.404-3 Subcontract pricing considerations.**
 - ▶ (a) The contracting officer is responsible for the determination of a fair and reasonable price for the prime contract, including subcontracting costs. The contracting officer should consider whether a contractor or subcontractor has an approved purchasing system, has performed cost or price analysis of proposed subcontractor prices, or has negotiated the subcontract prices before negotiation of the prime contract, in determining the reasonableness of the prime contract price. This does not relieve the contracting officer from the responsibility to analyze the contractor's submission, including subcontractor's certified cost or pricing data.

Cost Analysis



Cost Analysis Techniques

- ▶ When evaluating certified cost or pricing data:
 - ▶ Reasonableness of proposed costs
 - ▶ Projection of trends
 - ▶ Reasonableness of parametric models
 - ▶ Application of audited or negotiated rates
 - ▶ Includes all cost elements
 - ▶ Labor
 - ▶ Material
 - ▶ Overhead
 - ▶ General and Administrative (G&A)
 - ▶ Other (commissions, material burden, etc.)
 - ▶ Evaluate profit using weighted guidelines method (DFARS 215.404-71)

Cost Analysis Techniques

- ▶ Comparison of costs proposed by the offeror for individual cost elements with
 - ▶ Actual costs previously incurred by the same offeror
 - ▶ Previous cost estimates from the offeror or from other offerors for the same or similar items
 - ▶ Other cost estimates received in response to the USG's request
 - ▶ Forecasts of planned expenditures
- ▶ Verify unallowable costs are not included
- ▶ Analyze to result of make-or-buy decisions

Cost Analysis Techniques

- ▶ FAR 15-404-1(c) Cost analysis.
- ▶ (1) Cost analysis is the review and evaluation of any 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.
- ▶ (2) The Government may use various cost analysis techniques and procedures to ensure a fair and reasonable price, given the circumstances of the acquisition. Such techniques and procedures include the following:
 - ▶ (i) 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.
 - ▶ (ii) 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.

Cost Analysis Techniques

- ▶ FAR 15-404-1(c)(2) Cost analysis. (continued)
- ▶ (iii) 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.
- ▶ (iv) 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 ([Appendix](#) to the FAR loose-leaf edition), Cost Accounting Standards.
- ▶ (v) 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.
- ▶ (vi) Analysis of the results of any make-or-buy program reviews, in evaluating subcontract costs (see [15.407-2](#)).

Cost Analysis Techniques

- ▶ FAR 15-404-1(e) Technical analysis.
- ▶ (1) The contracting officer should request that personnel having specialized knowledge, skills, experience, or capability in engineering, science, or management perform a technical analysis of the proposed types and quantities of materials, labor, processes, special tooling, equipment or real property, the reasonableness of scrap and spoilage, and other associated factors set forth in the proposal(s) in order to determine the need for and reasonableness of the proposed resources, assuming reasonable economy and efficiency.
- ▶ (2) At a minimum, the technical analysis should examine the types and quantities of material proposed and the need for the types and quantities of labor hours and the labor mix. Any other data that may be pertinent to an assessment of the offeror's ability to accomplish the technical requirements or to the cost or price analysis of the service or product being proposed should also be included in the analysis.
- ▶ (3) The contracting officer should request technical assistance in evaluating pricing related to items that are "similar to" items being purchased, 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.

Assist Audits

- ▶ **Similar to a contracting officer being able to request assistance in the event the C&PD is not sufficient, a prime contractor may also request assistance:**
- ▶ **15.404-2 Data to support proposal analysis.**
 - ▶ (a) Field pricing assistance.
 - ▶ (1) The contracting officer should request field pricing assistance when the information available at the buying activity is inadequate to determine a fair and reasonable price. The contracting officer shall tailor requests to reflect the minimum essential supplementary information needed to conduct a technical or cost or pricing analysis.
 - ▶ (2) The contracting officer shall tailor the type of information and level of detail requested in accordance with the specialized resources available at the buying activity and the magnitude and complexity of the required analysis. Field pricing assistance is generally available to provide—
 - ▶ (i) Technical, audit, and special reports associated with the cost elements of a proposal, including subcontracts;
 - ▶ (ii) Information on related pricing practices and history;
 - ▶ (iii) Information to help contracting officers determine commerciality and a fair and reasonable price.

Cost Analysis - Techniques

- ▶ Brief Overview and example of analysis for
 - ▶ Labor
 - ▶ Hours
 - ▶ Rates
 - ▶ Materials
 - ▶ Overhead, G&A, etc.
 - ▶ Other Direct Costs (ODC), Non-Recurring Engineering (NRE), etc.
 - ▶ Profit

Cost Analysis Techniques – Labor

- ▶ The labor element of cost will include labor hours multiplied by the labor rates applicable to those hours
- ▶ The labor hours generally will include a breakdown by task or part number and further breakdown into number of hours required by employee or labor category
- ▶ Labor rates, which is the actual cost of paying the employees should be provided for each corresponding labor hour
 - ▶ Rates may include average rates if the exact employees that are going to be working a task are not known. The average must include a grouping of specific employees that may perform that function

Cost Analysis Techniques – Labor Hours

- ▶ Labor hours will be assessed by a technical evaluator pursuant to FAR 15-404-1(e)
- ▶ Labor hours must have a Basis of Estimate (BOE) that may include historical actuals, engineering estimates, etc.
- ▶ Example – a prime contractor is buying two parts from a particular subcontractor and the following labor hours are proposed:

Labor Category	Labor Hours		Total Hours
	Part 1	Part 2	
Engineering	10	4	14
Cabling	25	10	35
Assembly	40	18	58
Integration	30	14	44
Testing	12	4	16
Program Management	8	2	10
Total Hours	125	52	177

Cost Analysis Techniques – Labor Rates

- ▶ Labor rates must be deemed fair and reasonable and researched further if rates for a particular labor category appear to be outside of industry/function norms
- ▶ Example – Using the same labor hours from the example in the labor hours section. Labor rates would be provided and should be supported by average rates and/or specific employees that will be working each labor category. Hours are multiplied times rates to determine the total labor cost:

Labor Category	Labor Hours		Total Hours	Labor Rates	Labor Cost
	Part 1	Part 2			
Engineering	10	4	14	\$ 63.25	\$ 885.50
Cabling	25	10	35	\$ 15.75	\$ 551.25
Assembly	40	18	58	\$ 18.45	\$ 1,070.10
Integration	30	14	44	\$ 17.75	\$ 781.00
Testing	12	4	16	\$ 25.95	\$ 415.20
Program Management	8	2	10	\$ 75.50	\$ 755.00
Total Hours	125	52	177		\$ 4,458.05

Cost Analysis Techniques – Material

- ▶ Materials are contained in the Bill of Material (BOM)
- ▶ The supplier/subcontractor must provide Consolidated BOM (CBOM) and should support a minimum of 80% with recent quotes or historical purchase orders (PO) that can be escalated for inflation for more accurate current pricing
 - ▶ A quote is a document the supplier/subcontractor received from its supplier stating an intent to sell product at a specified price
 - ▶ Historical PO is a purchase order from the supplier/subcontractor issues to its supplier for the same product at an earlier point in time. A historical invoice received by the sub/supplier from its supplier is also valid
- ▶ Example first line of CBOM:

Consolidated Bill of Material (CBOM)				
Part Number	Vendor	Quantity	Unit Price	Extended Price
1	ABC Co.	100	10.95	1095

Cost Analysis Techniques – Material

- ▶ All parts or components on the CBOM must be compared to quotes or purchase orders to ensure validity.
 - ▶ Quote should be for the correct part and for a recent date
 - ▶ If the quoted quantity does not match the CBOM quantity for a particular part consideration should be given to curving the price of that part for quantity. This means that the quote may not have taken into account a quantity discount available
 - ▶ A check to for Non Recurring Engineering (NRE) on each quote should be done. An example of NRE would be a setup charge for a production of a certain part
- ▶ Additional factors such as yield or scrap may be included on the CBOM or material section and should be explained by the supplier and analyzed for reasonableness

Cost Analysis Techniques – Overhead and G&A

- ▶ Overhead or G&A is a pool of indirect expenses divided by a base of applicable direct expenses to derive a rate to be applied to the direct dollars
- ▶ Overheads might include, labor overhead, manufacturing overhead, material burden, G&A, fringe rate, etc.
- ▶ Analysis must include a reasonable, but not full audit, of costs included in the overhead pool to ensure only allowable costs are included

Cost Analysis Techniques – Overhead and G&A

- ▶ Review will involve examining P&L statements and corresponding G/L data along with an explanation from the supplier on how they calculate and apply overhead
- ▶ Contractors generally use an overhead and G&A pool but there is no specific requirements and many small companies do this differently

Cost Analysis Techniques – Overhead and G&A

- ▶ Examples of different overhead issues encountered:
 - ▶ Labor overhead calculated by compiling direct labor and fringe benefits into a pool and dividing in half. Half proposed as direct labor and 100% labor overhead rate. Must obtain enough data to separate and recommend actual direct labor on its on and overhead pool divided by that labor
 - ▶ General ledger supporting the P&L and rates includes accounts/entries with no names. Recommend disallowing unknown dollars from overhead pool and lowering rate
 - ▶ G&A only applied to only labor resulting in a very high rate. A company might have a good reason for this, which should be better understood and evaluated for reasonableness. If applied to both material and labor it might result in a lower rate and same dollars or could result in a reduction to dollars

Cost Analysis Techniques – Other Direct Costs (ODC)

- ▶ Other Direct Costs include travel, tooling, etc.
- ▶ Each element of cost will need unique analysis
- ▶ For example: travel
 - ▶ Travel must have a BOE that states the requirement/necessity for the travel, which must be assessed by technical evaluator
 - ▶ Costs need to be supported by logistics such as number of days multiplied times GSA per diem rates for lodging/meal in the location of travel

Cost Analysis Techniques – Profit

▶ **15.404-4 Profit.**

- ▶ (a) *General.* This subsection prescribes policies for establishing the profit or fee portion of the Government prenegotiation objective in price negotiations based on cost analysis.
- ▶ (1) Profit or fee prenegotiation objectives do not necessarily represent net income to contractors. Rather, they represent that element of the potential total remuneration that contractors may receive for contract performance over and above allowable costs. This potential remuneration element and the Government's estimate of allowable costs to be incurred in contract performance together equal the Government's total prenegotiation objective. Just as actual costs may vary from estimated costs, the contractor's actual realized profit or fee may vary from negotiated profit or fee, because of such factors as efficiency of performance, incurrence of costs the Government does not recognize as allowable, and the contract type.
 - ▶ (2) It is in the Government's interest to offer contractors opportunities for financial rewards sufficient to stimulate efficient contract performance, attract the best capabilities of qualified large and small business concerns to Government contracts, and maintain a viable industrial base.
 - ▶ (3) Both the Government and contractors should be concerned with profit as a motivator of efficient and effective contract performance. Negotiations aimed merely at reducing prices by reducing profit, without proper recognition of the function of profit, are not in the Government's interest. Negotiation of extremely low profits, use of historical averages, or automatic application of predetermined percentages to total estimated costs do not provide proper motivation for optimum contract performance.

Cost Analysis Techniques – Profit

- ▶ DFARs 215.404-4 dictates that there are three structured approaches to calculating profit
 - ▶ The weighted guideline method
 - ▶ The modified weighted guideline; and
 - ▶ An alternate structure approach.
- ▶ This guide will only discuss the weighted guideline method, consult FAR Part 15.404 and DFARs 215.404 for alternative options

Cost Analysis Techniques – Profit

- ▶ **Weighted Guidelines Method - DFARs 215.404-71**
- ▶ **215.404-71-1 General.**
 - ▶ (a) The weighted guidelines method focuses on four profit factors—
 - ▶ (1) Performance risk; 215.404-71-2
 - ▶ (2) Contract type risk; 215.404-71-3
 - ▶ (3) Facilities capital employed; and 215.404-71-4
 - ▶ (4) Cost efficiency. 215.404-71-5
- ▶ Each of the factors above has an assigned ranges and has qualitative descriptions in the DFARs to assist the contracting officer in making a determination.

Price Analysis



FAR Part 15.401-1(b): Price Analysis

- ▶ Process of examining and evaluating a prospective price without evaluating of the separate cost elements and profit.
- ▶ Price analysis is used to determine the reasonableness of price, but the process is subjective: for a given set of information, different buyers might reach different conclusions about price reasonableness.
- ▶ Price analysis can sometimes not be performed prior to awarding the contract.
- ▶ Price analysis always involves some form of comparison with other prices:
 - ▶ - submitted price quotes
 - ▶ - prior offers and negotiated contracts for same/similar items
 - ▶ - published price lists/market prices
 - ▶ - independent estimates
 - ▶ - market research

FAR Part 15.404-1(b): Price Analysis Methods

- ▶ Comparison of proposed prices received in response to the solicitation
- ▶ Comparison of prior proposed prices and contract prices with current proposed prices for the same or similar items
- ▶ Comparison with competitive published price lists, published market prices of commodities, similar indexes, and discount or rebate commitments
- ▶ Comparison with independent government estimates
- ▶ Comparison with prices obtained through market research for the same or similar items
- ▶ Analysis of pricing information provided by the offeror

Price Analysis Techniques

- ▶ Compare proposed prices for each offer received
 - ▶ Competition determine reasonableness
- ▶ Compare to previous prices
 - ▶ Historical cost
- ▶ Compute parametric estimating methods
 - ▶ Example \$/lb. or \$/horse power
- ▶ Compare with competitive published price lists
- ▶ Compare to Independent Government Cost Estimate (IGCE)
- ▶ Compare to prices obtained through market research for same or similar items
- ▶ Review analysis of pricing information provided by the offeror

Price Analysis Techniques: Published Data

- ▶ Manufacturer and dealer catalogs
- ▶ Product brochures and promotional material
- ▶ Trade journals
- ▶ Government or independent testing
- ▶ Source identification publications
- ▶ Federal supply schedules (FSS)
- ▶ Government economic data
- ▶ Non-government economic data

Price Analysis Techniques: Other Data Sources

- ▶ Other buyers and experts
- ▶ Prospective offerors: pre-solicitation conferences, draft RFP, one-on-ones
- ▶ Trade and professional associations
- ▶ Chamber of Commerce/Better Business Bureau
- ▶ State and local watchdog agencies
- ▶ Internet sources

Commercial Item Determination



Commercial Item FAR Part 2.101

- ▶ “Commercial item” means --
- ▶ (1) Any item, other than real property, that is of a type customarily used by the general public or by non-governmental entities for purposes other than governmental purposes, and--
 - ▶ (i) Has been sold, leased, or licensed to the general public; or,
 - ▶ (ii) Has been offered for sale, lease, or license to the general public;
- ▶ (2) Any item that evolved from an item described in paragraph (1) of this definition through advances in technology or performance and that is not yet available in the commercial marketplace, but will be available in the commercial marketplace in time to satisfy the delivery requirements under a Government solicitation;
- ▶ (3) Any item that would satisfy a criterion expressed in paragraphs (1) or (2) of this definition, but for --
 - ▶ (i) Modifications of a type customarily available in the commercial marketplace; or
 - ▶ (ii) Minor modifications of a type not customarily available in the commercial marketplace made to meet Federal Government requirements. Minor modifications means modifications that do not significantly alter the nongovernmental function or essential physical characteristics of an item or component, or change the purpose of a process. Factors to be considered in determining whether a modification is minor include the value and size of the modification and the comparative value and size of the final product. Dollar values and percentages may be used as guideposts, but are not conclusive evidence that a modification is minor;

Commercial Item FAR Part 2.101 (continued)

- ▶ (4) Any combination of items meeting the requirements of paragraphs (1), (2), (3), or (5) of this definition that are of a type customarily combined and sold in combination to the general public;
- ▶ (5) Installation services, maintenance services, repair services, training services, and other services if--
 - ▶ (i) Such services are procured for support of an item referred to in paragraph (1), (2), (3), or (4) of this definition, regardless of whether such services are provided by the same source or at the same time as the item; and
 - ▶ (ii) The source of such services provides similar services contemporaneously to the general public under terms and conditions similar to those offered to the Federal Government;
- ▶ (6) Services of a type offered and sold competitively in substantial quantities in the commercial marketplace based on established catalog or market prices for specific tasks performed or specific outcomes to be achieved and under standard commercial terms and conditions. For purposes of these services—

Commercial Item FAR Part 2.101 (continued)

- ▶ (i) “Catalog price” means a price included in a catalog, price list, schedule, or other form that is regularly maintained by the manufacturer or vendor, is either published or otherwise available for inspection by customers, and states prices at which sales are currently, or were last, made to a significant number of buyers constituting the general public; and
- ▶ (ii) “Market prices” means current prices that are established in the course of ordinary trade between buyers and sellers free to bargain and that can be substantiated through competition or from sources independent of the offerors.
- ▶ (7) Any item, combination of items, or service referred to in paragraphs (1) through (6) of this definition, notwithstanding the fact that the item, combination of items, or service is transferred between or among separate divisions, subsidiaries, or affiliates of a contractor; or
- ▶ (8) A nondevelopmental item, if the procuring agency determines the item was developed exclusively at private expense and sold in substantial quantities, on a competitive basis, to multiple State and local governments.

Commercial Item Determinations (CID)

- ▶ DFARS PGI 212.102- Contracting officers shall ensure that contract files fully and adequately document the market research and rationale supporting a conclusion that the commercial item definition in FAR 2.101 has been satisfied. Particular care must be taken to document determinations involving “modifications of a type customarily available in the marketplace,” and items only “offered for sale, lease, or license to the general public,” but not yet actually sold, leased, or licensed. In these situations, the documentation must clearly detail the particulars of the modifications and sales offers. When such items lack sufficient market pricing histories, additional diligence must be given to determinations that prices are fair and reasonable as required by FAR Subpart 15.4.

Commercial Item Determinations (CID)

- ▶ Market Research should be accomplished continuously to monitor the commercial marketplace
- ▶ Fair & Reasonable price still needs to be determined (price analysis)
- ▶ Certified Cost or Pricing Data may be required for minor modifications (when exceeds the greater of \$700,000 or 5% of total price of contract)

DFARS proposed rule (DFARS 2013-D034)

Evaluating price reasonableness for commercial items

- ▶ Intended to amend DFARS to implement Section 831 of the 2013 NDAA:
 - ▶ Adds new definitions and terms to the DFARS
 - ▶ *market-based pricing* – where preponderance (50%+) is to ‘nongovernmental buyers’
 - ▶ *uncertified cost data* - subset of ‘data other than certified cost or pricing data’ related to costs
 - ▶ *nongovernment sales* – sales of to nongovernmental entities for other than governmental purposes
 - ▶ *relevant sales data* – subset of sales data that could reasonably influence price reasonableness determinations
 - ▶ *sufficient nongovernment sales to establish reasonableness of price* – when relevant sales data reflects market-based price with information to make appropriate adjustments
 - ▶ Proposed rule adds guidance and solicitation provisions for
 - ▶ determination of price reasonableness
 - ▶ obtaining data other than certified cost or pricing data
 - ▶ submission of certified cost or pricing data and data other than certified cost or pricing data
 - ▶ proposal analysis techniques
- Source: DFARS Case 2013-D034, 80 FR 45918, August 3, 2015

Appendix



Recent Issues – Long Term Agreements (LTA)

- ▶ Material Pricing Requirements
 - ▶ No LTAs identified on the bill of material (BoM)
 - ▶ The LTA expiration date is not displayed, or has already expired
 - ▶ Improperly converting LTA unit price to reflect contractor's FY pricing
 - ▶ Not monitoring, tracking, and reporting its LTAs
 - ▶ Not consolidated with total quantities
 - ▶ Different unit prices for same part number
 - ▶ Different supplier/vendors for the same part number
 - ▶ Errors on calculating escalation

Common Deficiencies

- Inadequate cost or pricing data
- Lack of/inadequate budgetary data
- Failure to perform subcontract analysis

Price Analysis Example

- ▶ History:
 - ▶ Electronic power unit
 - ▶ Quantity – 22 units (100 prior units ordered over 6 years)
 - ▶ Unit Price - \$24,500/unit
 - ▶ Period of Performance (PoP) – October 1, 2013 – May 31, 2016 (1st delivery 21 months After Receipt of Order – June 1, 2015)
 - ▶ Global Insight Escalation Factors to use –
 - ▶ Labor, 60% – AHE, Aerospace Product and Parts Manufacturing, CEU3133640008
 - ▶ Material, 40% – PPI, Aircraft Parts & Equipment Not Elsewhere Classified, PPI336413
- ▶ Supplier Proposal:
 - ▶ Quantity 25 units
 - ▶ Unit Price - \$26,800/unit (total = \$670,000)
 - ▶ PoP – October 1, 2014 – May 31, 2017

Price Analysis Results

- ▶ Supplier Proposal:
 - ▶ Quantity 25 units
 - ▶ Unit Price - \$26,800/unit
 - ▶ PoP – October 1, 2014 – May 31, 2017

- ▶ Price Analysis
 - ▶ First, consider adjusting for quantity on a learning curve (recent history = units 101 – 122, proposal units 123 – 147) or on a price/quantity curve (recent history = 1 – 22, proposal = 1 – 25). For this product we will use a 90% Unit Theory learning curve (other products may use different %'s).
Results on next page
 - ▶ Second, apply escalation using 4th Quarter 2015 history and 4th Quarter 2016 for proposal (may use annual or quarterly indices)
 - ▶ Labor – History Index = 36.488, Proposal = 37.438
 - ▶ Material – History Index = 177.931, Proposal = 179.945

Price Analysis Results – Learning Curve

Reference Lot:

Percent Slope (min: 0)	90
Improvement slope coefficient	-0.152003
Number of units preceding the lot (min: 0)	100
Last unit in lot (min: 0)	122
Number of units in lot	22
Average unit value in lot (min: 0)	24500
Computed value (a) of first unit	50,145.79

Projected Lot:

Number of units preceding the lot (min: 0)	122
Last unit in lot (min: 0)	147
Number of units in lot	25
Computed lot midpoint	134.78
Projected lot average unit value	23,797.21
Projected lot total value	594,930.32

Price Analysis Results – Price/Quantity Curve

Reference Lot:

Percent Slope (min: 0)	90
Improvement slope coefficient	-0.152003
Number of units preceding the lot (min: 0)	0
Last unit in lot (min: 0)	22
Number of units in lot	22
Average unit value in lot (min: 0)	24500
Computed value (a) of first unit	33,979.75

Projected Lot:

Number of units preceding the lot (min: 0)	0
Last unit in lot (min: 0)	25
Number of units in lot	25
Computed lot midpoint	9.65
Projected lot average unit value	24,075.64
Projected lot total value	601,891.08

Price Analysis Results

- ▶ Escalation = $60\% \times (1 - 37.438/36.488) + 40\% \times (1 - 179.945/177.931) = 0.6 \times 0.026 + 0.4 \times 0.011 = 0.0156 + 0.0044 = 0.02$, or 2.0%

Option 1 – Learning curve

- ▶ $\$23,797 \times 1.02 = \$24,273$

Option 2 – Price/Quantity curve

- ▶ $\$24,076 \times 1.02 = \$24,558$

Supplier quote = \$26,800

- ▶ Variance is between \$2,527, or 9.4% to \$2,242, or 8.4%

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