PGI 215.403-3 Requiring data other than certified cost or pricing data.

To the extent that certified cost or pricing data are not required by FAR 15.403-4 and there is no other means for the contracting officer to determine that prices are fair and reasonable, the offeror is required to submit “data other than certified cost or pricing data” (see definition at FAR 2.101). In accordance with FAR 15.403-3(a), the offeror must provide appropriate data on the prices at which the same or similar items have previously been sold, adequate for determining the reasonableness of the price. The following clarifies these requirements:

(1) *Data other than certified cost or pricing data*. When certified cost or pricing data are not required, the contracting officer must obtain whatever data is necessary in order to determine the reasonableness of the price. The FAR defines this as “data other than certified cost or pricing data.” When TINA does not apply and there is no other means of determining that prices are fair and reasonable, the contracting officer must obtain appropriate data on the prices at which the same or similar items have been sold previously, adequate for evaluating the reasonableness of the price. Sales data must be comparable to the quantities, capabilities, specifications, etc., of the product or service proposed. Sufficient steps must be taken to verify the integrity of the sales data, to include assistance from the Defense Contract Management Agency, the Defense Contract Audit Agency, and/or other agencies if required. See PGI 215.404-1 (DFARS/PGI view) for more detailed procedures for obtaining data from offerors to determine price reasonableness.

(2) Previously been sold. Contracting officers shall request offerors to provide data related to prior sales (or “offered for sale”) in support of price reasonableness determinations.

(3) Adequacy of sales data for pricing. The contracting officer must determine if the prior sales data is sufficient for determining that prices are fair and reasonable. If the sales data is not sufficient, additional data shall be obtained, including cost data if necessary. See PGI 215.404-1 (DFARS/PGI view) for more detailed procedures for obtaining whatever data is needed to determine fair and reasonable prices.

(4) *Analysis of historical prices paid by the Government*.

(i) The contracting officer shall consider prices paid by the Government and commercial customers. The contracting officer shall not rely solely on a prior price paid by the Government, without further analysis (see FAR 15.404).

(A) The contracting officer shall verify and document that sufficient analysis was performed to determine that the prior price was fair and reasonable. Sometimes, due to exigent situations, supplies or services are purchased even though an adequate price or cost analysis could not be performed. The problem is exacerbated when other contracting officers assume these prices were adequately analyzed and determined to be fair and reasonable.

(B) The contracting officer also shall investigate and document the following considerations:

(*1*) verify that the quantities were similar for pricing purposes, making adjustments as necessary to ensure comparability with the current quantity requirement;

(*2*) Consider whether the historical purchases were recent enough to be relevant for the purpose of

establishing price reasonableness of the current acquisition, and escalate or deflate the historical prices as appropriate to facilitate comparison to the current proposed price; and

(*3*) Validate that the terms and conditions associated with the historical purchases were comparable to the current terms and conditions, or adjust the historical prices in a manner that accounts for the materially differing terms and conditions .

(ii) Not verifying that a previous analysis was performed, or the consistencies in quantities, has been a recurring issue on sole source commercial products and commercial services reported by oversight organizations. Sole source commercial products and commercial services require extra attention to verify that previous prices paid on Government contracts were sufficiently analyzed and determined to be fair and reasonable.

(iii) At a minimum, a contracting officer reviewing price history shall discuss the basis of previous prices paid with the contracting organization that previously bought the item. These discussions shall be documented in the contract file.

(5) *Canadian Commercial Corporation.* All contracts with the Canadian Commercial Corporation (CCC) are placed in accordance with the practices, policies and procedures of the Government of Canada covering procurement for defense purposes (See PGI 225.870). Contracting Officers may rely on the confirmation and endorsement of the offer from the Canadian Commercial Corporation at 225.870-3(a) as an endorsement of the cost/price as no more than would be charged to the Canadian government.

(i) When 252.215-7003 or 252.215-7004 are included in a solicitation with the Canadian Commercial Corporation, the data required by paragraph (b)(i) and (ii), in concert with the confirmation and endorsement of the offer, is intended to meet the requirements of FAR 15.404-1 for documentation of fair and reasonable pricing.

(ii) Use of 252.215-7003 or 252.215-7004 in sole source acquisitions not meeting the threshold at 215.408(2)(i)(A) or (ii)(A)*(1)* or competitive acquisitions at any dollar value shall be supported by a determination and finding justifying the anticipated need for data other than certified cost or pricing data to determine a fair and reasonable price.

(iii) When the contracting officer anticipates the need for additional data to establish a fair and reasonable price, specific data should be requested at time of solicitation as detailed in DFARS 252.215-7003.

(iv) Examples of clause use:

Scenario	Requirement
Sole source to CCC, fixed price, with estimated value of $600 million.	Include provision and clause in accordance with 215.408(2)(i)(A)*(2)*and (ii)(A(*1*)*(ii)*, respectively, because estimated value exceeds $500 million.
Sole source to CCC, cost reimbursement, with estimated value of $800,000.	Include provision and clause in accordance with 215.408(2)(i)(A)*(1)*and (ii)(A(*1*)*(i)*, respectively, because estimated value exceeds $750,000.

Sole source to CCC, cost-reimbursement, with estimated value of $500,000.	Do not include provision and clause, unless D&F is approved in accordance with 215.408(2)(i)(B)and (ii)(A)(*2*)), respectively, because estimated value does not exceed $750.000.
Sole source to CCC, fixed price, with estimated value of $800,000	Do not include provision and clause, unless D&F is approved in accordance with 215.408(2)(i)(B)and (ii)(A)(*2*)), respectively, because estimated value does not exceed $500 million.
Modifications to contracts that include the clause 252.215-7004.	If 252.215-7004 is included in the contract, then data are required for modifications valued above the simplified acquisition threshold, or a higher threshold specified in the solicitation by the contracting officer, in accordance with 252.215-7004(b).

(6) *Reporting requirements*.

(i) All contracting officers are required to document, collect, and provide a report in the standard digital format (see paragraph (ii) of this section to the (HCA) of all denials of contracting officer requests to offerors/contractors for data other than certified cost or pricing data that are not resolved through the elevation process at PGI 215.404-1 (a)(i)(A) and, therefore, require a determination by the (HCA) in accordance with FAR 15.403-3(a)(4).

(ii) The (HCA) shall consolidate and validate this information for all impacted contracts and modifications regardless of dollar value and submit the information in the standard digital format available at https://www.acq.osd.mil/dpap/dars/pgi/docs/Denials_Template_1-24-21. A completed report or note of no findings is required to the Principal Director, Defense Pricing, Contracting, and Acquisition Policy (DPCAP). Reports are due to DPCAP 30 days after the end of each quarterly reporting period. Transmit reports electronically to DPCAP at osd.pentagon.ousd-a-s.mbx.dpc-pcf@mail.mil.

(7) *Delegation.* The HCA may delegate, no lower than one level above the contracting officer, the authority to determine whether it is in the best interest of the Government to issue an award in accordance with DFARS 215.403-3(a)(4). This designee may be the individual responsible for approval of the prenegotiation objective (see DFARS 215.406-1), unless that individual is the contacting officer.

Parent topic: PGI 215.403 Obtaining certified cost or pricing data.