Subpart 1415.4 - Contract Pricing

Parent topic: PART 1415 - CONTRACTING BY NEGOTIATION

1415.404 Proposal analysis.

1415.404-2 Information to support proposal analysis.

The CO shall initiate an audit by sending a completed form DI-1902, Request for Audit, to the Assistant Inspector General for Auditing, OIG (see 1453.215-70).

(a) The CO shall allow at least 30 working days in assigning a realistic deadline for receipt of the audit report. In exceptional circumstances 20 working days may be allowed but the circumstances shall be documented in the contract file.

(b) Upon receipt of a DI-1902, the OIG will conduct the audit or arrange for its conduct by the cognizant audit agency in accordance with 360 DM 3.7.

(c) Upon receipt of the audit report, the CO and the price analyst (if assigned), shall discuss any questions regarding the report's contents with the cognizant auditor. If a question cannot be resolved or agreement cannot be reached on a recommendation in the report, the CO shall prepare a written statement for the contract file documenting the decision on the matter. A copy of the statement shall be promptly forwarded to the Assistant Inspector General for Auditing for information.

1415.404-4 Profit.

(a) DOI's policy is to use a structured approach for determining the profit or fee prenegotiation objective in acquisition actions that require cost analysis based on the profit analysis factors in FAR 15.404-4, as implemented and supplemented in this section.

(b) In addition to the factors listed in FAR 15.404-4(d), one additional factor, “Other Costs,” will be used in evaluating and determining a weighted profit or fee. For further guidance also refer to the Armed Services Pricing Manual (ASPM No. 1). The “Other Costs” factor shall include the contribution of all other direct costs including travel, direct support and hiring of consultants for contract performance.

1415.406 Documentation.

1415.406-70 Department of the Interior price negotiation memorandum (PNM).

(a) *Policy.* In addition to the information required in FAR 15.406-3, the PNM prepared by the CO

shall include the information in paragraph (c) of this section to the extent such information is applicable to the negotiation.

(b) *Applicability.*

(1) The CO shall prepare a PNM documenting the negotiation of the initial contract award and any subsequent modifications affecting price, cost or fee, including revisions to the prices of contracts awarded through sealed bidding procedures. A PNM is not required for unilateral modifications such as exercising fixed price options or issuing change orders. The memorandum is required for concluding changes and settlements of claims and for issuing orders under Blanket Ordering Agreements, task orders and delivery orders that involve the negotiation of prices, estimated quantities or amounts.

(2) For simplified acquisitions conducted pursuant to FAR Part 13, the documentation requirements of 1413.106 and FAR 13.106 shall be followed.

(c) *Procedures.* When the CO prepares the memorandum prescribed in FAR 15.406-3, the following additional information shall be included to the extent it applies to the contract action. Information already contained in the contract file or in a previous PNM shall be referenced by location:

(1) A discussion of the reason(s) why sealed bidding is not appropriate as required by FAR 6.401 (or cross-reference the file location of the existing explanation);

(2) A memorandum identifying the type of contract used and why it was selected as required by FAR 16.103(d). The file location of any required determination and findings authorizing use of this type of contract (see Part 1416);

(3) A history of the contract action including: Whether the action was synopsized or the basis for exemption under FAR 5.202, and file location of the synopsis; consideration given to the use of set-asides and file location of DI-1886 (see Subpart 1419.2); solicitation issuance date, closing date for receipt of proposals and extensions; (iv) sources solicited (reference file location); late proposal or proposal modification information required by FAR 15.208; and the file location of "Justification for Other Than Full and Open Competition," if applicable.

(4) Evaluation of proposal(s), including: Evaluation factors used and weights (FAR 15.304); results of initial proposal evaluation (FAR 15.305); determination of competitive range (FAR 15.306); results of written or oral discussions conducted (FAR 15.306); discussion of final proposal revisions received (FAR 15.307) and results of final proposal evaluation; and basis for source selection. For formal source selection procedures (see 1415.303), information on the source selection plan, and the source selection decision including supporting documentation required by FAR 15.308.

(5) If cost or pricing data were not required, the cost or price analysis performed in accordance with FAR 15.404-1.

(6) If cost or pricing data were required, the cost analysis (FAR 15.404-1(c)) performed; and cost realism analysis (FAR 15.404-1(d)) and technical analysis (FAR 15.404-1(e)) performed, as applicable to the procurement.

(7) If an audit report was required (FAR 15.404-2), COs shall specifically describe actions taken in response to significant audit findings, including the monetary value and decisions made with regard to any of the audit's questioned costs; i.e., COs shall identify the value of the questioned costs, indicate whether they will allow or disallow them, and provide an explanation for their decisions. For purposes of this section, "significant audit finding" and "questioned cost" are defined as those

findings and/or costs cited or questioned in an external audit because of their relationship to unallowable costs claimed, a failure to comply with regulations or the terms of the contract, mathematical errors, and/or the duplication of costs. Questions and/or disagreements between the CO, price analyst (if assigned) and cognizant auditor as to an audit report's interpretation or recommendations regarding “significant audit finding” and/or “questioned costs” shall be clarified or resolved and appropriately documented. If a disagreement cannot be resolved or agreement cannot be reached, the CO shall prepare a written statement in the PNM that discusses the issue(s) in question and supports a final decision on the matter.

(8) The basis for determining profit or fee as prescribed in FAR Subpart 15.404-4 and form DI-1920 (or file location).

(d) *Approval.* The PNM shall be signed and dated by the contract specialist or contract negotiator who conducted the negotiation and approved by the CO.

(e) *Distribution.* Whenever field pricing support has been obtained, copies of related PNMs shall be forwarded to the Assistant Inspector General for Auditing, OIG, not later than 15 days after the execution of the resulting contract, modification or close-out action.