



DEFENSE LOGISTICS AGENCY

AMERICA'S COMBAT LOGISTICS SUPPORT AGENCY



Center of Excellence for Pricing

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Agenda

- Center of Excellence for Pricing (COEP)
- Pricing Example One
- Truth in Negotiations Act (TINA)
- Data Other Than Certified Cost or Pricing Data
- Better Buying Power
- Cost Reduction / Efficiency Initiatives
- Pricing Example Two
- Conclusions
- Questions
- Parting Words
- Backup Information



COEP – Overview

- Mitigate Agency, Warfighter and Taxpayer Risk through:
 - Active, aggressive surveillance, detection and corrective actions
 - Management visibility of field pricing health
 - Improved corporate decisions
 - Enhanced pricing capability
 - Reduced acquisition costs
- Independent “expert” pricing professionals who provide oversight, fraud detection, pricing assistance and training
- Based at DLA Headquarters with team members at DLA Aviation in Richmond, DLA Land and Maritime in Columbus, and DLA Troop Support in Philadelphia

**Supports Defense Procurement and Acquisition Policy
Focus on Pricing**



COEP – Actions

- Provide independent, onsite reviews
- Conduct Tailored Logistics Support Contract pricing audits (e.g. Prime Vendor Contracts)
- Perform Pre-Award and Post-Award pricing reviews that include PACE, EMALL, and Hotline Issues
- Develop and provide tailored pricing rules, tools, and training
- Assist the DLA Training Center on the establishment of the DLA Pricing Academy
- Participate on Procurement Management Reviews
- Serve as a member on the Contract Pricing Advisory Group



Pricing Example One

- Bottom Dog Lever – Nothing too special just happens to be the first item I procured as a Government Contract Specialist!
- Received responsive offers of \$100, \$101, and \$102 per unit.
- Do we have adequate price competition?
- Which offer is the best value?



- What if offers are \$100, \$105, and \$125 per unit?
- Do we still have adequate price competition?
- How about offers of \$100 and \$300 per unit?
- Do we have adequate price competition now?



Pricing Example One Continued

- Received responsive offers of \$100, \$101, and \$102 per unit.
- Are we now getting a good price if DLA bought the same item 6 months ago at-
- \$50?
- \$100?
- \$150?
- What if \$50 per unit 6 months ago was for delivery in 9 months but requirement now is 48 hour delivery to Afghanistan?
- What if 6 months ago 3 manufacturers were in the marketplace when we bought the item for \$50, but now only 1 manufacturer remains with 2 dealers?
- What if \$50 per unit was the previous price but the Government now requires a special paint application that costs \$40/gallon?





Pricing Example One Continued

- Received responsive offers of \$100, \$101, and \$102 per unit.
- What if we are using Tradeoff in lieu of Lowest Price Technically Acceptable?
- Should we possibly pay more for a higher priced item?
- What if we need 10,000 units now but previous requirement was for 10 units at \$100? Are we getting a good deal?



- What if the low vendor is located in Hawaii and the other two vendors are on the East Coast and the requirement is shipped FOB Origin to a DLA facility in Richmond, Virginia?



TINA - Sources of Information

- 10 U.S.C. 2306a
- FAR Part 15.4
 - FAR definitions of cost or pricing data changed (FAR Case 2005-036) effective October 1, 2010
 - Now it is “certified cost or pricing data” or “data other than certified cost or pricing data”
- Contract Pricing Reference Guides, Volumes 3 and 4
 - Undergoing updates
 - New Link
<https://acc.dau.mil/cprg>
 - Old Link
http://www.acq.osd.mil/dpap/cpf/contract_pricing_reference_guides.html



TINA – What It Does

- Defines requirements for cost or pricing data
- Delineates exceptions to the requirement
- Provides right of Government to examine contractor records
- Governs rules for defective pricing
- ***Ultimate goal is a fair and reasonable price for both Government and Supplier***



TINA – Exceptions

- Certified cost or pricing data is NOT required if any of the following exceptions apply:
 - Adequate price competition exists
 - Prices are set by law or regulation
 - Commercial item is being obtained
 - Waiver has been granted (extremely rare!)



TINA – Requirements

- Certified cost or pricing data shall be required if the sum of the maximum dollar value for the base year and all option years and surge requirements exceeds \$700,000
- NOTE: The dollar value of all NSNs in a multi-NSN procurement must be considered together, not separately
- Contracting Officer must determine the adequacy of the submitted certified cost or pricing data



TINA – Certificate Requirements

- FAR 15.406-2
- Contractor must provide the certificate after the final negotiated price has been reached
- Certificate must be dated on the date the final price was negotiated
- Contractor must certify that data is current, accurate, and complete as of that date
- The certificate should not be included with the contractor's original offer



DCAA Information

- <http://www.dcaa.mil>
- “Publications” > “Information for Contractors”
- Chapter 3 - Guidance on Pricing Proposals



Data Other Than Certified Cost Or Pricing Data

- FAR 15.402(a)(2)(ii)
 - Also defined at FAR 2.101
 - Information that does not meet the definition of certified cost or pricing data found at FAR 2.101
- Government will request with the expectation the contractor will provide
- May be same data as certified cost or pricing data but it is NOT certified
- May require non-disclosure agreement
- Submission of data tailored to what is needed by the Contracting Officer to determine price reasonableness
- ***But what exactly is it?***



Data Other Than Certified Cost Or Pricing Data

- Do not require from the contractor any more data than absolutely necessary
- Data tailored to determine price reasonableness
- TINA does not apply
- Can obtain assistance from DCAA and DCMA to review
- No other means of determining prices fair and reasonable
- Requesting data is the last resort for the Government in an attempt to determine price reasonableness



Data Other Than Certified Cost Or Pricing Data

- Four Examples:
 - Price analysis using past buys determined fair and reasonable
 - Informal cost breakdown or other non-certified cost or pricing data
 - Commercial sales data– adequate, comparable
 - “Of a type” commercial sales data



Better Buying Power

- Public Website <https://acc.dau.mil/bbp>
- Finding efficiencies within \$400 billion of the \$700 billion budget
- Deliver the warfighting capabilities we need with the money available by getting better buying power for warfighters and taxpayers
- Provides a forum for the defense acquisition workforce to collaborate on 23 efficiency initiatives
- Five major areas -
 - Target Affordability
 - Incentivize Productivity
 - Promote Competition
 - Improve Tradecraft
 - Reduce Bureaucracy



Cost Reduction / Efficiency Initiatives

- Reverse Auctions
- Lowest Price Technically Acceptable (LPTA)
- Defense Procurement and Acquisition Policy (DPAP) Competition Memo
- Best Price Upfront
- Value Engineering Change Proposals (VECPs)
- DCMA and DCAA Interaction
- Commercial Catalog Pricing



Reverse Auctions

- Contractors bid against each other in a real-time auction
- Used as a technique during discussions to drive down prices
- Utilized in conjunction with the evaluation factors stated elsewhere in the solicitation (past performance, socioeconomic factors, etc.). Included in the DLA Automated Master Solicitation for manually evaluated solicitations.
- DLA policy guidance in December 2009 encouraged contracting activities to use reverse auctions
- Government can still hold discussions (either prior to reverse auctions or simultaneously) concerning technical issues or unbalanced pricing
- https://help.procuri.com/robo/projects/buyer_help_50_en/Demos/Demo_Center.htm



LPTA

- Appropriate when best value is expected from selection of a technically acceptable proposal with the lowest evaluated price
- Government would not realize any value from a proposal exceeding the minimum technical or performance requirements
- Usually for commercial or non-complex supplies or services that can be clearly defined and expected to be low risk
- Evaluation factors represent specific characteristics that are tied to significant requirements set forth in the solicitation
- Proposals are evaluated for acceptability but not ranked using non-cost/price factors (e.g. technical and past performance)
- Price analysis normally used to evaluate price but cost analysis may be used when necessary to determine the price fair and reasonable



DPAP Competition Memo April 2011

- “Improving Competition in Defense Procurements – Amplifying Guidance”
- All competitive procurements above the Simplified Acquisition Threshold with the exception of emergency acquisitions
 - Solicitations posted for less than 30 days and only one offer is received
 - Contracting Officer shall cancel and resolicit for an additional 30 days
 - Solicitations advertised for at least 30 days and only one offer is received
 - Contracting Officer shall use price or cost analysis in accordance with FAR 15.404-1 to make a fair and reasonable determination.
 - Negotiations to be conducted if Contracting Officer deems necessary
 - The negotiated price should not exceed the offered price



Best Price Upfront

- Contractors should not assume that discussions will take place
- As stated in FAR Clause 52.215-1(f)(4)
 - The Government intends to evaluate proposals and award a contract without discussions with offerors
 - The offeror's initial proposal should contain the offeror's best terms from a cost or price and technical standpoint
 - The Government reserves the right to conduct discussions if the Contracting Officer determines them to be necessary
- Benefits to receiving the Best Price Upfront
 - Acquisition lead time reductions
 - Government receives the lowest price first time around



VECPs

- For DLA, all contracts \$25,000 or more shall contain a Value Engineering (VE) Incentive clause
- FAR Clause 52.248-1 Value Engineering
- Per FAR Part 48, the contractor is encouraged to develop, prepare, and submit VECs voluntarily
- The contractor shall share in any net acquisition savings realized from accepted VECs
- Two primary conditions need to be met-
 - Must require a change to the contract under which it is submitted
 - Must provide an overall cost savings to the Government after being accepted and implemented
- Can be submitted any time under an active contract with a VE clause



DCMA and DCAA Interaction

- Critical functions performed by DCAA and DCMA have become blurred
- Action was taken to avoid unnecessary overlap and redundancy between the agencies
- Contracting officers now request audit assistance from DCAA for fixed price proposals exceeding \$10 million
- DCMA available for field pricing assistance for proposals equal to or less than \$10 million



Commercial Catalog Pricing

- Determination of an item to be commercial is a separate issue from the determination of the item to be fair and reasonable in price
- A listing in a commercial catalog does not guarantee that the price is fair and reasonable
- Price analysis techniques (such as, but not limited to, prior procurement price comparisons and prior catalog price comparisons) are used to evaluate the catalog prices
- Government can still hold discussions or request other than certified cost or pricing data, but only if other attempts to determine price reasonableness have not been successful



Pricing Example Two

- How much are you willing to pay for a 20 ounce bottle of water?

\$1.50?

\$0.75?



\$4.00?

- What if I told you I paid all of these prices recently and think all are reasonable?
- \$0.75 breaking a case from a discount warehouse
- \$1.50 at a convenience store
- \$4.00 at the movie theaters



Conclusions

- DLA takes contract pricing very seriously
- Conducting business as we have in the past is no longer a viable option
- Every pricing scenario is different
- The Government must obtain enough data from our suppliers to ensure we are purchasing at fair and reasonable prices
- The Government relies on its vendors to support us in our efforts to be good stewards of the taxpayers' dollars
- Please offer us the best price possible
- Let us know if efficiencies exist we can use
- Help us continue to reduce our costs while meeting our mission



COEP Breakout Session

Questions?



Parting Words

Whether You Are
Government Or Industry,
Treat Each Situation Like It Is
Using Your Own Money
Because It Is!



Backup Information

- TINA – Commercial item exemptions
- DCAA – Preparing for an audit
- DCAA – Lessons Learned
- Forward Pricing Rate Process



TINA – Commercial Item Exemptions

- Description of the item's use in the commercial or industrial sector and the specific users
- Description of the exact differences between the item and its commercial equivalent (with estimated cost differences, if available)
- **Determination of an item to be commercial is a separate issue from the determination of the item to be reasonable in price**



TINA – Commercial Item Exemptions

- Competitive Published Price List
 - Cover page from catalog along with page showing actual item
 - Reasonable belief that the item could be expected to be purchased by the general or industrial public at the offered price
- Invoices from commercial sales of the same/similar item
 - Quantities, Dates, and Prices
 - Any discounts from the price list (i.e., most preferred customer information)



DCAA – Preparing for an Audit

- Have personnel readily available who are familiar with the proposal
- Have an adequate accounting system
- Be a going concern
- Have detailed support schedules readily available
- Have detailed supporting documentation readily available that is related to the proposed costs
- Provide the proposal and supporting schedules in electronic format
- Have financial statements and cash forecasts of the company available



DCAA – Lessons Learned

- Cover sheet not in accordance with FAR 15.408, Table 15-2
 - Total proposal price not stated
 - Company POC(s), management signature, and period/place of performance not stated
- Failure to identify any individual subcontractor cost over \$700,000 threshold
- No evidence of subcontractor cost and pricing data where required
- No evidence of cost analysis of subcontractor costs where cost or pricing data is required per FAR 15.404-1(c)(2)(iv)



DCAA – Lessons Learned

- Lack of Consolidated Bill of Material
- Failure to adhere to solicitation specifications
- No evidence of price analysis where cost or pricing data is not required
- Unallowable cost included in proposal (FAR 31.205)
- Proposal not mathematically correct
- Summary proposal does not reconcile to supporting schedules
- Cross referencing not provided from summary schedules to detailed supporting schedules



DCAA – Lessons Learned

- Where FCCM is proposed, applicable form CASB-CMF is not provided
- Where competition is claimed for subcontractors above the cost or pricing data threshold, no evidence provided showing the degree of competition and the basis for establishing the source and reasonableness of the price
- Where commerciality is claimed for subcontractors above the cost or pricing data threshold, no evidence provided to support assertion



DCAA – Lessons Learned

- Unsupported labor, material, other direct costs, and indirect expenses. Contractor fails to provide:
 - Adequate explanatory notes that provide the basis of estimate for each proposed cost element
 - Rate calculations, cost pool, and allocation base descriptions; dated sources such as previous year's financial data; current budget; year-to-date actuals not provided for indirect cost
 - Data sources such as dated historical activity reports, payroll registers, invoices, and vendor quotes not provided for direct costs



Forward Pricing Rate Process

- Contractor issues a proposal
- DACO/ACO analyzes proposal to establish a FPRR
- DCAA issues audit
- DACO/ACO reviews and discusses significant concerns with DCAA
- DACO/ACO issues new FPRR based on audit from DCAA
- DACO/ACO develops Pre-Negotiation Objectives Memo (PNOM) supporting any deviations from audit
- PNOM goes through Board of Review process which includes DCAA representation
- After PNOM approval, DACO/ACO negotiates a FPRA and submits a negotiation memorandum for Board review
- When there are significant changes to rate assumptions, the FPR process starts over

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