

management procedures used for other defense acquisitions.

(c) Follow the additional procedures at PGI 225.7301(c) for preparation of solicitations and contracts that include FMS requirements.

(d) See 229.170 for policy on contracts financed under U.S. assistance programs that involve payment of foreign country value added taxes or customs duties.

[70 FR 73155, Dec. 9, 2005]

225.7302 Guidance.

For guidance on the role of the contracting officer in FMS programs that will require an acquisition, see PGI 225.7302.

[70 FR 73155, Dec. 9, 2005]

225.7303 Pricing acquisitions for FMS.

(a) Price FMS contracts using the same principles used in pricing other defense contracts. However, application of the pricing principles in FAR parts 15 and 31 to an FMS contract may result in prices that differ from other defense contract prices for the same item due to the considerations in this section.

(b) If the foreign government has conducted a competition resulting in adequate price competition (see FAR 15.403-1(b)(1)), the contracting officer shall not require the submission of cost or pricing data. The contracting officer should consult with the foreign government through security assistance personnel to determine if adequate price competition has occurred.

[64 FR 49683, Sept. 14, 1999, as amended at 68 FR 15632, Mar. 31, 2003]

225.7303-1 Contractor sales to other foreign customers.

If the contractor has made sales of the item required for the foreign military sale to foreign customers under comparable conditions, including quantity and delivery, price the FMS contract in accordance with FAR part 15.

225.7303-2 Cost of doing business with a foreign government or an international organization.

(a) In pricing FMS contracts where non-U.S. Government prices as described in 225.7303-1 do not exist, except

as provided in 225.7303-5, recognize the reasonable and allocable costs of doing business with a foreign government or international organization, even though such costs might not be recognized in the same amounts in pricing other defense contracts. Examples of such costs include, but are not limited to, the following:

(1) Selling expenses (not otherwise limited by FAR Part 31), such as—

(i) Maintaining international sales and service organizations;

(ii) Sales commissions and fees in accordance with FAR Subpart 3.4;

(iii) Sales promotions, demonstrations, and related travel for sales to foreign governments. Section 126.8 of the International Traffic in Arms Regulations (22 CFR 126.8) may require Government approval for these costs to be allowable, in which case the appropriate Government approval shall be obtained; and

(iv) Configuration studies and related technical services undertaken as a direct selling effort to a foreign country.

(2) Product support and post-delivery service expenses, such as—

(i) Operations or maintenance training, training or tactics films, manuals, or other related data; and

(ii) Technical field services provided in a foreign country related to accident investigations, weapon system problems, or operations/tactics enhancement, and related travel to foreign countries.

(3) Offset costs (also see 225.7306).

(i) A U.S. defense contractor may recover all costs incurred for offset agreements with a foreign government or international organization if the LOA is financed wholly with customer cash or repayable foreign military finance credits.

(ii) The U.S. Government assumes no obligation to satisfy or administer the offset requirement or to bear any of the associated costs.

(4) Costs that are the subject of advance agreement under the appropriate provisions of FAR part 31; or where the advance understanding places a limit on the amounts of cost that will be recognized as allowable in defense contract pricing, and the agreement contemplated that it will apply only to