Solicitation provision.

Use the provision at 252.215–7007, Notice of Intent to Resolicit, in competitive solicitations, including solicitations using FAR part 12 procedures for the acquisition of commercial items, that will be solicited for fewer than 30 days, unless an exception at 215.371–4 applies or the requirement is waived in accordance with 215.371–5.

[78 FR 65216, Oct. 31, 2013]

Subpart 215.4—Contract Pricing

Pricing policy.

Follow the procedures at PGI 215.402 when conducting cost or price analysis, particularly with regard to acquisitions for sole source commercial items.

[72 FR 30278, May 31, 2007]

Obtaining certified cost or pricing data.

(a) Prohibition on obtaining certified cost or pricing data (10 U.S.C. 2306a and 41 U.S.C. chapter 35).

(b) Exceptions to certified cost or pricing data requirements Follow the procedures at PGI 215.403–1(b).

(c) Standards for exceptions from certified cost or pricing data requirements—

(1) Adequate price competition.

(A) For acquisitions under dual or multiple source programs—

(i) The determination of adequate price competition must be made on a case-by-case basis. Even when adequate price competition exists, in certain cases it may be appropriate to obtain additional data to assist in price analysis; and

(ii) Adequate price competition normally exists when—

(A) Prices are solicited across a full range of step quantities, normally including a 0–100 percent split, from at least two offerors that are individually capable of producing the full quantity; and

(B) The reasonableness of all prices awarded is clearly established on the basis of price analysis (see FAR 15.404–1(b)).

(B) If only one offer is received in response to a competitive solicitation, see 215.371–3.

(3) Commercial items. (A) Follow the procedures at PGI 215.403–1(c)(3)(A) for pricing commercial items.

(B) By November 30th of each year, departments and agencies shall provide a report to the Director, Defense Procurement and Acquisition Policy (DPAP), ATTN: DPAP/CPIC, of all contracting officer determinations that commercial item exceptions apply under FAR 15.403–1(b)(3), during the previous fiscal year, for any contract, subcontract, or modification expected to have a value of $15,000,000 or more. See PGI 215.403–1(c)(3)(B) for the format and guidance for the report. The Director, DPAP, will submit a consolidated report to the congressional defense committees.

(4) Waivers. (A) The head of the contracting activity may, without power of delegation, apply the exceptional circumstances authority when a determination is made that—

(i) The property or services cannot reasonably be obtained under the contract, subcontract, or modification, without the granting of the waiver;

(ii) The price can be determined to be fair and reasonable without the submission of certified cost or pricing data; and

(iii) There are demonstrated benefits to granting the waiver. Follow the procedures at PGI 215.403–1(c)(4)(A) for determining when an exceptional case waiver is appropriate, for approval of such waivers, for partial waivers, and for waivers applicable to unpriced supplies or services.

(B) By November 30th of each year, departments and agencies shall provide a report to the Director, DPAP, ATTN: DPAP/CPIC, of all waivers granted under FAR 15.403–1(b)(4), during the previous fiscal year, for any contract, subcontract, or modification expected to have a value of $15,000,000 or more. See PGI 215.403–1(c)(4)(B) for the format and guidance for the report. The Director, DPAP, will submit a consolidated report to the congressional defense committees.

(C) DoD has waived the requirement for submission of certified cost or pricing data for the Canadian Commercial Corporation and its subcontractors (but see 215.408(3) and 225.870–4(c)).