

# Defense Federal Acquisition Regulation Supplement

## Part 215—Contracting By Negotiation

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**SUBPART 215.3—SOURCE SELECTION**

*(Revised July 31, 2019)*

**215.300 Scope of subpart.**

Contracting officers shall follow the principles and procedures in Director, Defense Procurement and Acquisition Policy memorandum dated April 1, 2016, entitled “[Department of Defense Source Selection Procedures](#),” when conducting negotiated, competitive acquisitions utilizing FAR part 15 procedures. See [PGI 215.300](#).

**215.303 Responsibilities.**

(b)(2) For high-dollar value and other acquisitions, as prescribed by agency procedures, the source selection authority shall approve a source selection plan before the solicitation is issued. Follow the procedures at [PGI 215.303\(b\)\(2\)](#) for preparation of the source selection plan.

**215.304 Evaluation factors and significant subfactors.**

(c)(i) In acquisitions that require use of the clause at FAR 52.219-9, Small Business Subcontracting Plan, other than those based on the lowest price technically acceptable source selection process (see FAR 15.101-2), the extent of participation of small businesses to include service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns in performance of the contract shall be addressed in source selection. The contracting officer shall evaluate the extent to which offerors identify and commit to small business performance of the contract, whether as a joint venture, teaming arrangement, or subcontractor.

(A) See [PGI 215.304\(c\)\(i\)\(A\)](#) for examples of evaluation factors.

(B) Proposals addressing the extent of small business performance shall be separate from subcontracting plans submitted pursuant to the clause at FAR 52.219-9 and shall be structured to allow for consideration of offers from small businesses.

(C) When an evaluation assesses the extent that small businesses are specifically identified in proposals, the small businesses considered in the evaluation shall be listed in any subcontracting plan submitted pursuant to FAR 52.219-9 to facilitate compliance with [252.219-7003\(e\)](#).

(ii) In accordance with 10 U.S.C. 2436, consider the purchase of capital assets (including machine tools) manufactured in the United States, in source selections for all major defense acquisition programs as defined in 10 U.S.C. 2430.

(iii) See [247.573-2\(c\)](#) for additional evaluation factors required in solicitations for the direct purchase of ocean transportation services.

(iv) In accordance with section 812 of the National Defense Authorization Act for Fiscal Year 2011, consider the manufacturing readiness and manufacturing-readiness processes of potential contractors and subcontractors as a part of the source selection process for major defense acquisition programs.

(v) Include an evaluation factor regarding supply chain risk (see subpart [239.73](#)) when acquiring information technology, whether as a service or as a supply, that is a covered system, is a part of a covered system, or is in support of a covered system, as defined in 239.7301. For additional guidance see PGI 215.304(c)(v).

See DoD Class Deviation [2013-O0018](#), [Past Performance Evaluation Thresholds and Reporting Requirements, issued on September 24, 2013, which updates the DoD thresholds for evaluating a contractor's past performance in source selections for competitive acquisitions. This deviation is in effect until incorporated into the DFARS or otherwise rescinded.](#)

**215.305 Proposal evaluation.**

(a)(2) *Past performance evaluation.*

(A) When a past performance evaluation is required by FAR 15.304, and the solicitation includes the clause at FAR 52.219-8, Utilization of Small Business Concerns, the evaluation factors shall include the past performance of offerors in complying with requirements of that clause. When a past performance evaluation is required by FAR 15.304, and the solicitation includes the clause at FAR 52.219-9, Small Business Subcontracting Plan, the evaluation factors shall include the past performance of offerors in complying with requirements of that clause.

(B) Contracting officers shall consider an offeror's failure to make a good faith effort to comply with its comprehensive subcontracting plan under the Test Program described at [219.702-70](#) as part of the evaluation of the past performance.

**215.306 Exchanges with offerors after receipt of proposals.**

(c) *Competitive range.*

(1) For acquisitions with an estimated value of \$100 million or more, contracting officers should conduct discussions. Follow the procedures at FAR 15.306 (c) and (d).

**215.370 Evaluation factor for employing or subcontracting with members of the Selected Reserve.**

**215.370-1 Definition.**

“Selected Reserve,” as used in this section, is defined in the provision at [252.215-7005](#), Evaluation Factor for Employing or Subcontracting with Members of the Selected Reserve.

**215.370-2 Evaluation factor.**

In accordance with Section 819 of the National Defense Authorization Act for Fiscal Year 2006 (Pub. L. 109-163), the contracting officer may use an evaluation factor that considers whether an offeror intends to perform the contract using employees or individual subcontractors who are members of the Selected Reserve. See [PGI 215.370-2](#) for guidance on use of this evaluation factor.

**215.370-3 Solicitation provision and contract clause.**

(a) Use the provision at [252.215-7005](#), Evaluation Factor for Employing or Subcontracting with Members of the Selected Reserve, in solicitations that include an evaluation factor considering whether an offeror intends to perform the contract using employees or individual subcontractors who are members of the Selected Reserve.

(b) Use the clause at [252.215-7006](#), Use of Employees or Individual Subcontractors Who are Members of the Selected Reserve, in solicitations that include the provision at [252.215-7005](#). Include the clause in the resultant contract only if the contractor stated in its proposal that it intends to perform the contract using employees or individual subcontractors who are members of the Selected Reserve, and that statement was used as an evaluation factor in the award decision.

**215.371 Only one offer.**

**215.371-1 Policy.**

It is DoD policy, if only one offer is received in response to a competitive solicitation—

(a) To take the required actions to promote competition (see [215.371-2](#)); and

(b) To ensure that the price is fair and reasonable (see [215.371-3](#)) and to comply with the statutory requirement for certified cost or pricing data (see FAR 15.403-4).

**215.371-2 Promote competition.**

Except as provided in sections [215.371-4](#) and [215.371-5](#)—

(a) If only one offer is received when competitive procedures were used and the solicitation allowed fewer than 30 days for receipt of proposals, the contracting officer shall—

(1) Consult with the requiring activity as to whether the requirements document should be revised in order to promote more competition (see FAR 6.502(b) and 11.002); and

(2) Resolicit, allowing an additional period of at least 30 days for receipt of proposals; and

(b) For competitive solicitations in which more than one potential offeror expressed an interest in an acquisition, but only one offer was ultimately received, follow the procedures at [PGI 215.371-2](#).

**215.371-3 Fair and reasonable price and the requirement for additional cost or pricing data.**

For acquisitions that exceed the simplified acquisition threshold, if only one offer is received when competitive procedures were used and it is not necessary to resolicit in accordance with 215.371-2(a), then the contracting officer shall comply with the following:

(a) If no additional cost or pricing data are required to determine through cost or price analysis that the offered price is fair and reasonable, the contracting officer shall require that any cost or pricing data provided in the proposal be certified if the

acquisition exceeds the certified cost or pricing data threshold and an exception to the requirement for certified cost or pricing data at FAR 15.403-1(b)(2) through (5) does not apply.

(b) Otherwise, the contracting officer shall obtain additional cost or pricing data to determine a fair and reasonable price. If the acquisition exceeds the certified cost or pricing data threshold and an exception to the requirement for certified cost or pricing data at FAR 15.403-1(b)(2) through (5) does not apply, the cost or pricing data shall be certified.

(c) If the contracting officer is still unable to determine that the offered price is fair and reasonable, the contracting officer shall enter into negotiations with the offeror to establish a fair and reasonable price. The negotiated price should not exceed the offered price.

(d) If the contracting officer is unable to negotiate a fair and reasonable price, see FAR 15.405(d).

#### **215.371-4 Exceptions.**

(a) The requirements at sections [215.371-2](#) do not apply to—

(1) Acquisitions at or below the simplified acquisition threshold;

(2) Acquisitions, as determined by the head of the contracting activity, in support of contingency or humanitarian or peacekeeping operations; to facilitate defense against or recovery from cyber, nuclear, biological, chemical, or radiological attack; to facilitate the provision of international disaster assistance; or to support response to an emergency or major disaster;

(3) Small business set-asides under FAR subpart 19.5, set asides offered and accepted into the 8(a) Program under FAR subpart 19.8, or set-asides under the HUBZone Program (see FAR 19.1305(c)), the Service-Disabled Veteran-Owned Small Business Procurement Program (see FAR 19.1405(c)), or the Women-Owned Small Business Program (see FAR 19.1505(d));

(4) Acquisitions of science and technology, as specified in [235.016\(a\)](#); or

(5) Acquisitions of architect-engineer services (see FAR 36.601-2).

(b) The applicability of an exception in paragraph (a) of this section does not eliminate the need for the contracting officer to seek maximum practicable competition and to ensure that the price is fair and reasonable.

#### **215.371-5 Waiver.**

(a) The head of the contracting activity is authorized to waive the requirement at [215.371-2](#) to resolicit for an additional period of at least 30 days.

(b) This waiver authority cannot be delegated below one level above the contracting officer.

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#### **215.371-6 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](#).

**SUBPART 215.4—CONTRACT PRICING**

*(Revised July 31, 2019)*

**215.401 Definitions.**

As used in this subpart—

“Market prices” means current prices that are established in the course of ordinary trade between buyers and sellers free to bargain and that can be substantiated through competition or from sources independent of the offerors.

“Relevant sales data” means information on sales of the same or similar items that can be used to establish price reasonableness taking into consideration the age, volume, and nature of the transactions (including any related discounts, refunds, rebates, offsets or other adjustments).

**215.402 Pricing policy.**

(a)(i) Pursuant to section 831 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239)—

(A) The contracting officer is responsible for determining if the information provided by the offeror is sufficient to determine price reasonableness. This responsibility includes determining whether information on the prices at which the same or similar items have previously been sold is adequate for evaluating the reasonableness of price, and determining the extent of uncertified cost data that should be required in cases in which price information is not adequate;

(B) The contracting officer shall not limit the Government’s ability to obtain information that may be necessary to support a determination of fair and reasonable pricing by agreeing to contract terms that preclude obtaining necessary supporting information; and

(C) When obtaining uncertified cost data, the contracting officer shall require the offeror to provide the information in the form in which it is regularly maintained in the offeror’s business operations.

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

**215.403 Obtaining certified cost or pricing data.**

**215.403-1 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.*

(i) Follow the procedures at [PGI 215.403-1\(b\)](#).

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(ii) Submission of certified cost or pricing data shall not be required in the case of a contract, subcontract, or modification of a contract or subcontract to the extent such data relates to an indirect offset.

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

(1) *Adequate price competition.*

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

(1) 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

(2) Adequate price competition normally exists when—

(i) 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

(ii) 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 \$19.5 million 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.

(C) When applying the commercial item exception under FAR 15.403-1(b)(3), see [212.102\(a\)\(ii\)](#) regarding prior commercial item determinations.

(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—

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

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

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(3) 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 \$19.5 million 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\(c\)](#)).

(D) DoD has waived certified cost or pricing data requirements for nonprofit organizations (including educational institutions) on cost-reimbursement-no-fee contracts. The contracting officer shall require—

(1) Submission of data other than certified cost or pricing data to the extent necessary to determine price reasonableness and cost realism; and

(2) Certified cost or pricing data from subcontractors that are not nonprofit organizations when the subcontractor's proposal exceeds the certified cost or pricing data threshold at FAR 15.403-4(a)(1).

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

Follow the procedures at [PGI 215.403-3](#).

#### **215.403-5 Instructions for submission of certified cost or pricing data and data other than certified cost or pricing data.**

(b)(3) For contractors following the contract cost principles in FAR subpart 31.2, Contracts With Commercial Organizations, pursuant to the procedures in FAR 42.1701(b), the administrative contracting officer shall require contractors to comply with the submission items in Table 215.403-1 in order to ensure that their forward pricing rate proposal is submitted in an acceptable form in accordance with FAR 15.403-5(b)(3). The contracting officer should request that the proposal be submitted to the Government at least 90 days prior to the proposed effective date of the rates. To ensure the proposal is complete, the contracting officer shall request that the contractor complete the Contractor Forward Pricing Rate Proposal Adequacy Checklist at Table 215.403-1, and submit it with the forward pricing rate proposal.

#### **Table 215.403-1 – Contractor Forward Pricing Rate Proposal Adequacy Checklist**

Complete the following checklist, providing the location of requested information, or an explanation of why the requested information is not provided, and submit it with the forward pricing rate proposal.

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**Contractor Forward Pricing Rate Proposal Adequacy Checklist**

	<u><b>SUBMISSION ITEM</b></u>	<u><b>PROPOSAL PAGE No. (if applicable)</b></u>	<u><b>If not provided, EXPLAIN (may use continuation pages)</b></u>
<u><b>GENERAL INSTRUCTIONS</b></u>			
	<p>Is there a properly completed first page of the proposal as specified by the contracting officer? Initial proposal elements include:</p> <ol style="list-style-type: none"> <li>a. Name and address of contractor;</li> <li>b. Name and telephone number of point of contact;</li> <li>c. Period covered;</li> <li>d. The page of the proposal that addresses—               <ol style="list-style-type: none"> <li>1. Whether your organization is subject to cost accounting standards (CAS);</li> <li>2. Whether your organization has submitted a CAS Disclosure Statement, and whether it has been determined adequate;</li> <li>3. Whether you have been notified that you are or may be in noncompliance with your Disclosure Statement or CAS (other than a noncompliance that the cognizant Federal agency official had determined to have an immaterial cost impact), and if yes, an explanation;</li> <li>4. Whether any aspect of this proposal is inconsistent with your disclosed practices or applicable CAS, and, if so, an explanation; and whether the proposal is consistent with established estimating and accounting principles and procedures and FAR part 31, Cost Principles, and, if not, an explanation;</li> </ol> </li> <li>e. The following statement: “This forward pricing rate proposal reflects our estimates, as of the date of submission entered in (f) below and conforms with Table 215.403-1. By submitting this proposal, we grant the Contracting Officer and authorized representative(s) the right to examine those records, which include books,</li> </ol>	<p>Proposal Cover Page</p>	

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	<b><u>SUBMISSION ITEM</u></b>	<b><u>PROPOSAL PAGE No.</u> (if applicable)</b>	<b><u>If not provided, EXPLAIN</u> (may use continuation pages)</b>
<b><u>GENERAL INSTRUCTIONS</u></b>			
	documents, accounting procedures and practices, and other data, regardless of type and form or whether such supporting information is specifically referenced or included in the proposal as the basis for each estimate, that will permit an adequate evaluation of the proposed rates and factors.”; f. Date of submission; and g. Name, title, and signature of authorized representative.		
	Summary of proposed direct and indirect rates and factors, including the proposed pool and base costs for each proposed indirect rate and factor.	Immediately following the proposal cover page	
	Table of Contents or index. a. Does the proposal include a table of contents or index identifying and referencing all supporting data accompanying or identified in the proposal? b. For supporting documentation not provided with the proposal, does the basis of each estimate in the proposal include the location of the documentation and the point of contact (custodian) name, phone number, and email address?		
	Does the proposal disclose known or anticipated changes in business activities or processes that could materially impact the proposed rates (if not previously provided)? For example— a. Management initiatives to reduce costs; b. Changes in management objectives as a result of economic conditions and increased competitiveness;		

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	<b><u>SUBMISSION ITEM</u></b>	<b><u>PROPOSAL PAGE No. (if applicable)</u></b>	<b><u>If not provided, EXPLAIN (may use continuation pages)</u></b>
<b><u>GENERAL INSTRUCTIONS</u></b>			
	c. Changes in accounting policies, procedures, and practices including (i) reclassification of expenses from direct to indirect or vice versa; (ii) new methods of accumulating and allocating indirect costs and the related impact; and (iii) advance agreements; d. Company reorganizations (including acquisitions or divestitures); e. Shutdown of facilities; or f. Changes in business volume and/or contract mix/type.		
5.	Do proposed costs based on judgmental factors include an explanation of the estimating processes and methods used, including those used in projecting from known data?		
6.	Does the proposal show trends and budgetary data? Does the proposal provide an explanation of how the data, as well as any adjustments to the data, were used?		
7.	The proposal should reconcile to the supporting data referenced. If the proposal does not reconcile to the supporting data referenced, identify applicable page(s) and explain.		
8.	The proposal should be internally consistent. If the proposal is not internally consistent, identify applicable page(s) and explain.		
<b><u>Direct Labor</u></b>			
9.	Direct Labor Rates Methodology and Basis of Each Estimate. a. Does the proposal include an explanation of the methodology used to develop the direct labor rates and identify the basis of each estimate?		

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	<b><u>SUBMISSION ITEM</u></b>	<b><u>PROPOSAL PAGE No.</u> (if applicable)</b>	<b><u>If not provided, EXPLAIN</u> (may use continuation pages)</b>
<b><u>GENERAL INSTRUCTIONS</u></b>			
	b. Does the proposal include or identify the location of the supporting documents for the base-period labor rates (e.g., payroll records)?		
10.	Does the proposal identify escalation factors for the out-year labor rates, the costs to which escalation is applicable, and the basis of each factor used?		
11.	Does the proposal identify planned or anticipated changes in the composition of labor rates, labor categories, union agreements, headcounts, or other factors that could significantly impact the direct labor rates?		
<b><u>Indirect Rates (Fringe, Overhead, G&amp;A, etc.)</u></b>			
12.	Indirect Rates Methodology and Basis of Each Estimate. a. Does the proposal identify the basis of each estimate and provide an explanation of the methodology used to develop the indirect rates? b. Does the proposal include or identify the location of the supporting documents for the proposed rates?		
13.	Does the proposal identify indirect expenses by burden center, by cost element, by year (including any voluntary deletions, if applicable) in a format that is consistent with the accounting system used to accumulate actual expenses?		
14.	Does the proposal identify any contingencies?		
15.	Does the proposal identify planned or anticipated changes in the nature, type, or level of indirect costs, including fringe benefits?		

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	<b><u>SUBMISSION ITEM</u></b>	<b><u>PROPOSAL PAGE No. (if applicable)</u></b>	<b><u>If not provided, EXPLAIN (may use continuation pages)</u></b>
<b><u>GENERAL INSTRUCTIONS</u></b>			
16.	Does the proposal identify corporate, home office, shared services, or other incoming allocated costs and the source for those costs, including location and point of contact (custodian) name, phone number, and email address?		
17.	Does the proposal separately identify all intermediate cost pools and provide a reconciliation to show where the costs will be allocated?		
18.	Does the proposal identify the escalation factors used to escalate indirect costs for the out-years, the costs to which escalation is applicable, and the basis of each factor used?		
19.	Does the proposal provide details of the development of the allocation base?		
20.	Does the proposal include or reference the supporting data for the allocation base such as program budgets, negotiation memoranda, proposals, contract values, etc.?		
21.	Does the proposal identify how the proposed allocation bases reconcile with its long range plans, strategic plan, operating budgets, sales forecasts, program budgets, etc.?		
<b><u>Cost of Money (COM)</u></b>			
22.	Cost of Money. a. Are Cost of Money rates submitted on Form CASB-CMF, with the Treasury Rate used to compute COM identified and a summary of the net book value of assets, identified as distributed and non-distributed? b. Does the proposal identify the support for the Form CASB-CMF, for		

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	<b><u>SUBMISSION ITEM</u></b>	<b><u>PROPOSAL PAGE No.</u> (if applicable)</b>	<b><u>If not provided, EXPLAIN</u> (may use continuation pages)</b>
<b><u>GENERAL INSTRUCTIONS</u></b>			
	example, the underlying reports and records supporting the net book value of assets contained in the form?		
<b><u>OTHER</u></b>			
23.	Does the proposal include a comparison of prior forecasted costs to actual results in the same format as the proposal and an explanation/analysis of any differences?		
24.	If this is a revision to a previous rate proposal or a forward pricing rate agreement, does the new proposal provide a summary of the changes in the circumstances or the facts that the contractor asserts require the change to the rates?		

**215.404 Proposal analysis.**

**215.404-1 Proposal analysis techniques.**

(a) *General.*

(i) Follow the procedures at [PGI 215.404-1](#) for proposal analysis.

(ii) For spare parts or support equipment, perform an analysis of—

(A) Those line items where the proposed price exceeds by 25 percent or more the lowest price the Government has paid within the most recent 12-month period based on reasonably available data;

(B) Those line items where a comparison of the item description and the proposed price indicates a potential for overpricing;

(C) Significant high-dollar-value items. If there are no obvious high-dollar-value items, include an analysis of a random sample of items; and

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(D) A random sample of the remaining low-dollar value items. Sample size may be determined by subjective judgment, e.g., experience with the offeror and the reliability of its estimating and accounting systems.

(b) *Price analysis for commercial and noncommercial items.*

(i) In the absence of adequate price competition in response to the solicitation, pricing based on market prices is the preferred method to establish a fair and reasonable price (see [PGI 215.404-1\(b\)\(i\)](#)).

(ii) If the contracting officer determines that the information obtained through market research is insufficient to determine the reasonableness of price, the contracting officer shall consider information submitted by the offeror of recent purchase prices paid by the Government and commercial customers for the same or similar commercial items under comparable terms and conditions in establishing price reasonableness on a subsequent purchase if the contracting officer is satisfied that the prices previously paid remain a valid reference for comparison. The contracting officer shall consider the totality of other relevant factors such as the time elapsed since the prior purchase and any differences in the quantities purchased (section 853 of the National Defense Authorization Act for Fiscal Year 2016 (Pub. L. 114-92)).

(iii) If the contracting officer determines that the offeror cannot provide sufficient information as described in paragraph (b)(ii) of this section to determine the reasonableness of price, the contracting officer should request the offeror to submit information on—

(A) Prices paid for the same or similar items sold under different terms and conditions;

(B) Prices paid for similar levels of work or effort on related products or services;

(C) Prices paid for alternative solutions or approaches; and

(D) Other relevant information that can serve as the basis for determining the reasonableness of price.

(iv) If the contracting officer determines that the pricing information submitted is not sufficient to determine the reasonableness of price, the contracting officer shall request other relevant information, to include cost data. However, no cost data may be required in any case in which there are sufficient non-Government sales of the same item to establish reasonableness of price (section 831 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239)).

(v) When evaluating pricing data, the contracting officer shall consider materially differing terms and conditions, quantities, and market and economic factors. For similar items, the contracting officer shall also consider material differences between the similar item and the item being procured (see FAR 15.404-1(b)(2)(ii)(B) and [PGI 215.404-1\(b\)\(v\)](#)). Material differences are those that could reasonably be expected to influence the contracting officer's determination of price reasonableness. The contracting officer shall consider the following factors when evaluating the relevance of the information available:

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(A) *Market prices.*

(B) *Age of data.*

(1) Whether data is too old to be relevant depends on the industry (e.g., rapidly evolving technologies), product maturity (e.g., stable), economic factors (e.g., new sellers in the marketplace), and various other considerations.

(2) A pending sale may be relevant if, in the judgement of the contracting officer, it is probable at the anticipated price, and the sale could reasonably be expected to materially influence the contracting officer's determination of price reasonableness. The contracting officer may consult with the cognizant administrative contracting officers (ACOs) as they may have information about pending sales.

(C) *Volume and completeness of transaction data.* Data must include a sufficient number of transactions to represent the range of relevant sales to all types of customers. The data must also include key information, such as date, quantity sold, part number, part nomenclature, sales price, and customer. If the number of transactions is insufficient or the data is incomplete, the contracting officer shall request additional sales data to evaluate price reasonableness. If the contractor cannot provide sufficient sales data, the contracting officer shall request other relevant information.

(D) *Nature of transactions.* The nature of a sales transaction includes the information necessary to understand the transaction, such as terms and conditions, date, quantity sold, sale price, unique requirements, the type of customer (government, distributor, retail end-user, etc.), and related agreements. It also includes warranties, key product technical specifications, maintenance agreements, and preferred customer rewards.

(vi) The contracting officer shall consider catalog prices to be reliable when they are regularly maintained and supported by relevant sales data (including any related discounts, refunds, rebates, offsets, or other adjustments). The contracting officer may request that the offeror support differences between the proposed price(s), catalog price(s), and relevant sales data.

(vii) The contracting officer may consult with the DoD cadre of experts who are available to provide expert advice to the acquisition workforce in assisting with commercial item and price reasonableness determinations. The DoD cadre of experts is identified at [PGI 215.404-1\(b\)\(vii\)](#).

#### **215.404-2 Data to support proposal analysis.**

See [PGI 215.404-2](#) for guidance on obtaining field pricing or audit assistance.

#### **215.404-3 Subcontract pricing considerations.**

Follow the procedures at [PGI 215.404-3](#) when reviewing a subcontractor's proposal.

#### **215.404-4 Profit.**

(b) *Policy.*

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(1) Contracting officers shall use a structured approach for developing a prenegotiation profit or fee objective on any negotiated contract action when certified cost or pricing data is obtained, except for cost-plus-award-fee contracts (see [215.404-74](#), [216.405-2](#), and FAR 16.405-2) or contracts with Federally Funded Research and Development Centers (FFRDCs) (see [215.404-75](#)). There are three structured approaches—

- (A) The weighted guidelines method;
- (B) The modified weighted guidelines method; and
- (C) An alternate structured approach.

(c) *Contracting officer responsibilities.*

(1) Also, do not perform a profit analysis when assessing cost realism in competitive acquisitions.

(2) When using a structured approach, the contracting officer—

(A) Shall use the weighted guidelines method (see [215.404-71](#)), except as provided in paragraphs (c)(2)(B) and (c)(2)(C) of this subsection.

(B) Shall use the modified weighted guidelines method (see [215.404-72](#)) on contract actions with nonprofit organizations other than FFRDCs.

(C) May use an alternate structured approach (see [215.404-73](#)) when—

(1) The contract action is—

- (i) At or below the certified cost or pricing data threshold (see FAR 15.403-4(a)(1));
- (ii) For architect-engineer or construction work;
- (iii) Primarily for delivery of material from subcontractors; or
- (iv) A termination settlement; or

(2) The weighted guidelines method does not produce a reasonable overall profit objective and the head of the contracting activity approves use of the alternate approach in writing.

(D) Shall use the weighted guidelines method to establish a basic profit rate under a formula-type pricing agreement, and may then use the basic rate on all actions under the agreement, provided that conditions affecting profit do not change.

(E) Shall document the profit analysis in the contract file.

(5) Although specific agreement on the applied weights or values for individual profit factors shall not be attempted, the contracting officer may encourage the contractor to—

(A) Present the details of its proposed profit amounts in the weighted guidelines format or similar structured approach; and

(B) Use the weighted guidelines method in developing profit objectives for negotiated subcontracts.

(6) The contracting officer must also verify that relevant variables have not materially changed (e.g., performance risk, interest rates, progress payment rates, distribution of facilities capital).

(d) *Profit-analysis factors.*

(1) *Common factors.* The common factors are embodied in the DoD structured approaches and need not be further considered by the contracting officer.

**215.404-70 DD Form 1547, Record of Weighted Guidelines Method Application.**

Follow the procedures at [PGI 215.404-70](#) for use of DD Form 1547 whenever a structured approach to profit analysis is required.

**215.404-71 Weighted guidelines method.**

**215.404-71-1 General.**

(a) The weighted guidelines method focuses on four profit factors—

- (1) Performance risk;
- (2) Contract type risk;
- (3) Facilities capital employed; and
- (4) Cost efficiency.

(b) The contracting officer assigns values to each profit factor; the value multiplied by the base results in the profit objective for that factor. Except for the cost efficiency special factor, each profit factor has a normal value and a designated range of values. The normal value is representative of average conditions on the prospective contract when compared to all goods and services acquired by DoD. The designated range provides values based on above normal or below normal conditions. In the price negotiation documentation, the contracting officer need not explain assignment of the normal value, but should address conditions that justify assignment of other than the normal value. The cost efficiency special factor has no normal value. The contracting officer shall exercise sound business judgment in selecting a value when this special factor is used (see [215.404-71-5](#)).

**215.404-71-2 Performance risk.**

(a) *Description.* This profit factor addresses the contractor's degree of risk in fulfilling the contract requirements. The factor consists of two parts:

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- (1) Technical--the technical uncertainties of performance.
- (2) Management/cost control--the degree of management effort necessary—
  - (i) To ensure that contract requirements are met; and
  - (ii) To reduce and control costs.

(b) *Determination.* The following extract from the DD Form 1547 is annotated to describe the process.

Item	Contractor Risk Factors	Assigned Weighting	Assigned Value	Base (Item 20)	Profit Objective
21.	Technical	(1)	(2)	N/A	N/A
22.	Management/ Cost Control	(1)	(2)	N/A	N/A
23.	Performance Risk (Composite)	N/A	(3)	(4)	(5)

(1) Assign a weight (percentage) to each element according to its input to the total performance risk. The total of the two weights equals 100 percent.

(2) Select a value for each element from the list in paragraph (c) of this subsection using the evaluation criteria in paragraphs (d) and (e) of this subsection.

(3) Compute the composite as shown in the following example:

	Assigned Weighting	Assigned Value	Weighted Value
Technical	60%	5.0%	3.0%
Management/ Cost Control	40%	4.0%	1.6%
Composite Value	100%		4.6%

(4) Insert the amount from Block 20 of the DD Form 1547. Block 20 is total contract costs, excluding facilities capital cost of money.

(5) Multiply (3) by (4).

(c) *Values: Normal and designated ranges.*

	Normal Value	Designated Range
Standard	5%	3% to 7%
Technology Incentive	9%	7% to 11%

(1) *Standard.* The standard designated range should apply to most contracts.

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(2) *Technology incentive.* For the technical factor only, contracting officers may use the technology incentive range for acquisitions that include development, production, or application of innovative new technologies. The technology incentive range does not apply to efforts restricted to studies, analyses, or demonstrations that have a technical report as their primary deliverable.

(d) *Evaluation criteria for technical.*

(1) Review the contract requirements and focus on the critical performance elements in the statement of work or specifications. Factors to consider include—

- (i) Technology being applied or developed by the contractor;
- (ii) Technical complexity;
- (iii) Program maturity;
- (iv) Performance specifications and tolerances;
- (v) Delivery schedule; and
- (vi) Extent of a warranty or guarantee.

(2) *Above normal conditions.*

(i) The contracting officer may assign a higher than normal value in those cases where there is a substantial technical risk. Indicators are—

(A) Items are being manufactured using specifications with stringent tolerance limits;

(B) The efforts require highly skilled personnel or require the use of state-of-the-art machinery;

(C) The services and analytical efforts are extremely important to the Government and must be performed to exacting standards;

(D) The contractor's independent development and investment has reduced the Government's risk or cost;

(E) The contractor has accepted an accelerated delivery schedule to meet DoD requirements; or

(F) The contractor has assumed additional risk through warranty provisions.

(ii) Extremely complex, vital efforts to overcome difficult technical obstacles that require personnel with exceptional abilities, experience, and professional credentials may justify a value significantly above normal.

- (iii) The following may justify a maximum value—

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(A) Development or initial production of a new item, particularly if performance or quality specifications are tight; or

(B) A high degree of development or production concurrency.

(3) *Below normal conditions.*

(i) The contracting officer may assign a lower than normal value in those cases where the technical risk is low. Indicators are—

(A) Requirements are relatively simple;

(B) Technology is not complex;

(C) Efforts do not require highly skilled personnel;

(D) Efforts are routine;

(E) Programs are mature; or

(F) Acquisition is a follow-on effort or a repetitive type acquisition.

(ii) The contracting officer may assign a value significantly below normal for—

(A) Routine services;

(B) Production of simple items;

(C) Rote entry or routine integration of Government-furnished information; or

(D) Simple operations with Government-furnished property.

(4) *Technology incentive range.*

(i) The contracting officer may assign values within the technology incentive range when contract performance includes the introduction of new, significant technological innovation. Use the technology incentive range only for the most innovative contract efforts. Innovation may be in the form of--

(A) Development or application of new technology that fundamentally changes the characteristics of an existing product or system and that results in increased technical performance, improved reliability, or reduced costs; or

(B) New products or systems that contain significant technological advances over the products or systems they are replacing.

(ii) When selecting a value within the technology incentive range, the contracting officer should consider the relative value of the proposed innovation to the acquisition as a whole. When the innovation represents a minor benefit, the contracting officer should consider using values less than the norm. For innovative efforts that will

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have a major positive impact on the product or program, the contracting officer may use values above the norm.

(e) *Evaluation criteria for management/cost control.*

(1) The contracting officer should evaluate—

(i) The contractor's management and internal control systems using contracting office data, information and reviews made by field contract administration offices or other DoD field offices;

(ii) The management involvement expected on the prospective contract action;

(iii) The degree of cost mix as an indication of the types of resources applied and value added by the contractor;

(iv) The contractor's support of Federal socioeconomic programs;

(v) The expected reliability of the contractor's cost estimates (including the contractor's cost estimating system);

(vi) The adequacy of the contractor's management approach to controlling cost and schedule; and

(vii) Any other factors that affect the contractor's ability to meet the cost targets (e.g., foreign currency exchange rates and inflation rates).

(2) *Above normal conditions.*

(i) The contracting officer may assign a higher than normal value when there is a high degree of management effort. Indicators of this are—

(A) The contractor's value added is both considerable and reasonably difficult;

(B) The effort involves a high degree of integration or coordination;

(C) The contractor has a good record of past performance;

(D) The contractor has a substantial record of active participation in Federal socioeconomic programs;

(E) The contractor provides fully documented and reliable cost estimates;

(F) The contractor makes appropriate make-or-buy decisions; or

(G) The contractor has a proven record of cost tracking and control.

(ii) The contracting officer may justify a maximum value when the effort—

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- (A) Requires large scale integration of the most complex nature;
- (B) Involves major international activities with significant management coordination (e.g., offsets with foreign vendors); or
- (C) Has critically important milestones.

(iii) If the contractor demonstrates efficient management and cost control through the submittal of a timely, qualifying proposal (as defined in [217.7401\(c\)](#)) in furtherance of definitization of an undefinitized contract action, and the proposal demonstrates effective cost control from the time of award to the present, the contracting officer may add 1 percentage point to the value determined for management/cost control up to the maximum of 7 percent.

(3) *Below normal conditions.*

(i) The contracting officer may assign a lower than normal value when the management effort is minimal. Indicators of this are—

- (A) The program is mature and many end item deliveries have been made;
- (B) The contractor adds minimal value to an item;
- (C) The efforts are routine and require minimal supervision;
- (D) The contractor provides poor quality, untimely proposals;
- (E) The contractor fails to provide an adequate analysis of subcontractor costs;
- (F) The contractor does not cooperate in the evaluation and negotiation of the proposal;
- (G) The contractor's cost estimating system is marginal;
- (H) The contractor has made minimal effort to initiate cost reduction programs;
- (I) The contractor's cost proposal is inadequate;
- (J) The contractor has a record of cost overruns or another indication of unreliable cost estimates and lack of cost control; or
- (K) The contractor has a poor record of past performance.

(ii) The following may justify a value significantly below normal—

(A) Reviews performed by the field contract administration offices disclose unsatisfactory management and internal control systems (e.g., quality assurance, property control, safety, security); or

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(B) The effort requires an unusually low degree of management involvement.

**215.404-71-3 Contract type risk and working capital adjustment.**

(a) *Description.* The contract type risk factor focuses on the degree of cost risk accepted by the contractor under varying contract types. The working capital adjustment is an adjustment added to the profit objective for contract type risk. It only applies to fixed-price contracts that provide for progress payments. Though it uses a formula approach, it is not intended to be an exact calculation of the cost of working capital. Its purpose is to give general recognition to the contractor's cost of working capital under varying contract circumstances, financing policies, and the economic environment.

(b) *Determination.* The following extract from the DD 1547 is annotated to explain the process.

Item	Contractor Risk Factors	Assigned Value	Base	Profit Objective
24a	Contract Type Risk (based on incurred costs at the time of qualifying proposal submission)	(1)	(2)(i)	(3)
24b	Contract Type Risk (based on Government estimated cost to complete)	(1)	(2)(ii)	(3)
24c	Totals		(3)	(3)

Item	Contractor Risk Factors	Costs Financed	Length Factor	Interest Rate	Profit Objective
25	Working Capital (4)	(5)	(6)	(7)	(8)

(1) Select a value from the list of contract types in paragraph (c) of this section using the evaluation criteria in paragraph (d) of this section. See paragraph (d)(2) of this section.

(2)(i) Insert the amount of costs incurred as of the date the contractor submits a qualifying proposal, such as under an undefinitized contract action (excluding facilities capital cost of money) into the Block 24a column titled Base.

(ii) Insert the amount of Government estimated cost to complete (excluding facilities capital cost of money) into the Block 24b column titled Base.

(3) Multiply (1) by (2)(i) and (2)(ii), respectively for blocks 24a and 24b. Add Blocks 24a and 24b and insert the totals in Block 24c.

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(4) Only complete this block when the prospective contract is a fixed-price contract containing provisions for progress payments.

(5) Insert the amount computed per paragraph (e) of this subsection.

(6) Insert the appropriate figure from paragraph (f) of this subsection.

(7) Use the interest rate established by the Secretary of the Treasury (see [http://www.treasurydirect.gov/govt/rates/tcir/tcir\\_opdirsemi.htm](http://www.treasurydirect.gov/govt/rates/tcir/tcir_opdirsemi.htm)). Do not use any other interest rate.

(8) Multiply (5) by (6) by (7). This is the working capital adjustment. It shall not exceed 4 percent of the contract costs in Block 20.

(c) *Values: Normal and designated ranges.*

Contract Type	Notes	Normal Value (percent)	Designated Range (percent)
Firm-fixed-price, no financing	(1)	5	4 to 6.
Firm-fixed-price, with performance-based payments	(6)	4	2.5 to 5.5.
Firm-fixed-price, with progress payments	(2)	3	2 to 4.
Fixed-price incentive, no financing	(1)	3	2 to 4.
Fixed-price incentive, with performance-based payments	(6)	2	0.5 to 3.5.
Fixed-price with redetermination provision	(3)		
Fixed-price incentive, with progress payments	(2)	1	0 to 2.
Cost-plus-incentive-fee	(4)	1	0 to 2.
Cost-plus-fixed-fee	(4)	.5	0 to 1.
Time-and-materials (including overhaul contracts priced on time-and-materials basis)	(5)	.5	0 to 1.
Labor-hour	(5)	.5	0 to 1.
Firm-fixed-price, level-of-effort	(5)	.5	0 to 1.

(1) “No financing” means either that the contract does not provide progress payments or performance-based payments, or that the contract provides them only on a limited basis, such as financing of first articles. Do not compute a working capital adjustment.

(2) When the contract contains provisions for progress payments, compute a working capital adjustment (Block 25).

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(3) For the purposes of assigning profit values, treat a fixed-price contract with redetermination provisions as if it were a fixed-price incentive contract with below normal conditions.

(4) Cost-plus contracts shall not receive the working capital adjustment.

(5) These types of contracts are considered cost-plus-fixed-fee contracts for the purposes of assigning profit values. They shall not receive the working capital adjustment in Block 25. However, they may receive higher than normal values within the designated range to the extent that portions of cost are fixed.

(6) When the contract contains provisions for performance-based payments, do not compute a working capital adjustment.

(d) *Evaluation criteria.*

(1) *General.* The contracting officer should consider elements that affect contract type risk such as—

(i) Length of contract;

(ii) Adequacy of cost data for projections;

(iii) Economic environment;

(iv) Nature and extent of subcontracted activity;

(v) Protection provided to the contractor under contract provisions (e.g., economic price adjustment clauses);

(vi) The ceilings and share lines contained in incentive provisions;

(vii) Risks associated with contracts for foreign military sales (FMS) that are not funded by U.S. appropriations; and

(viii) When the contract contains provisions for performance-based payments—

(A) The frequency of payments;

(B) The total amount of payments compared to the maximum allowable amount specified at FAR 32.1004(b)(2); and

(C) The risk of the payment schedule to the contractor.

(2) *Mandatory.*

(i) The contracting officer shall assess the extent to which costs have been incurred prior to definitization of the contract action (also see [217.7404-6\(a\)](#) and [243.204-70-6](#)). When costs have been incurred prior to definitization, generally regard the contract type risk to be in the low end of the designated range. If a substantial portion of the costs have been incurred prior to definitization, the contracting officer

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may assign a value as low as 0 percent, regardless of contract type.

(ii) Contracting officers shall document in the price negotiation memorandum the reason for assigning a specific contract type risk value, to include the extent to which any reduced cost risk during the undefinitized period of performance was considered, in determining the negotiation objective.

(3) *Above normal conditions.* The contracting officer may assign a higher than normal value when there is substantial contract type risk. Indicators of this are—

(i) Efforts where there is minimal cost history;

(ii) Long-term contracts without provisions protecting the contractor, particularly when there is considerable economic uncertainty;

(iii) Incentive provisions (e.g., cost and performance incentives) that place a high degree of risk on the contractor;

(iv) FMS sales (other than those under DoD cooperative logistics support arrangements or those made from U.S. Government inventories or stocks) where the contractor can demonstrate that there are substantial risks above those normally present in DoD contracts for similar items; or

(v) An aggressive performance-based payment schedule that increases risk.

(4) *Below normal conditions.* The contracting officer may assign a lower than normal value when the contract type risk is low. Indicators of this are—

(i) Very mature product line with extensive cost history;

(ii) Relatively short-term contracts;

(iii) Contractual provisions that substantially reduce the contractor's risk;

(iv) Incentive provisions that place a low degree of risk on the contractor;

(v) Performance-based payments totaling the maximum allowable amount(s) specified at FAR 32.1004(b)(2); or

(vi) A performance-based payment schedule that is routine with minimal risk.

(e) *Costs financed.*

(1) Costs financed equal total costs multiplied by the portion (percent) of costs financed by the contractor.

(2) Total costs equal Block 20 (i.e., all allowable costs excluding facilities capital cost of money), reduced as appropriate when—

(i) The contractor has little cash investment (e.g., subcontractor progress payments liquidated late in period of performance);

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(ii) Some costs are covered by special financing provisions, such as advance payments; or

(iii) The contract is multiyear and there are special funding arrangements.

(3) The portion that the contractor finances is generally the portion not covered by progress payments, i.e., 100 percent minus the customary progress payment rate (see FAR 32.501). For example, if a contractor receives progress payments at 80 percent, the portion that the contractor finances is 20 percent. On contracts that provide progress payments to small businesses, use the customary progress payment rate for large businesses.

(f) *Contract length factor.*

(1) This is the period of time that the contractor has a working capital investment in the contract. It—

(i) Is based on the time necessary for the contractor to complete the substantive portion of the work;

(ii) Is not necessarily the period of time between contract award and final delivery (or final payment), as periods of minimal effort should be excluded;

(iii) Should not include periods of performance contained in option provisions; and

(iv) Should not, for multiyear contracts, include periods of performance beyond that required to complete the initial program year's requirements.

(2) The contracting officer—

(i) Should use the following table to select the contract length factor;

(ii) Should develop a weighted average contract length when the contract has multiple deliveries; and

(iii) May use sampling techniques provided they produce a representative result.

TABLE	
Period to Perform Substantive Portion (in months)	Contract Length Factor
21 or less	.40
22 to 27	.65
28 to 33	.90
34 to 39	1.15
40 to 45	1.40
46 to 51	1.65
52 to 57	1.90
58 to 63	2.15
64 to 69	2.40
70 to 75	2.65
76 or more	2.90

(3) Example: A prospective contract has a performance period of 40 months with end items being delivered in the 34th, 36th, 38th, and 40th months of the contract. The average period is 37 months and the contract length factor is 1.15.

**215.404-71-4 Facilities capital employed.**

(a) *Description.* This factor focuses on encouraging and rewarding capital investment in facilities that benefit DoD. It recognizes both the facilities capital that the contractor will employ in contract performance and the contractor's commitment to improving productivity.

(b) *Contract facilities capital estimates.* The contracting officer shall estimate the facilities capital cost of money and capital employed using—

(1) An analysis of the appropriate Forms CASB-CMF and cost of money factors (48 CFR 9904.414 and FAR 31.205-10); and

(2) DD Form 1861, Contract Facilities Capital Cost of Money.

(c) *Use of DD Form 1861.* See [PGI 215.404-71-4\(c\)](#) for obtaining field pricing support for preparing DD Form 1861.

(1) *Purpose.* The DD Form 1861 provides a means of linking the Form CASB-CMF and DD Form 1547, Record of Weighted Guidelines Application. It—

(i) Enables the contracting officer to differentiate profit objectives for various types of assets (land, buildings, equipment). The procedure is similar to applying overhead rates to appropriate overhead allocation bases to determine contract overhead costs.

(ii) Is designed to record and compute the contract facilities capital cost of money and capital employed which is carried forward to DD Form 1547.

(2) *Completion instructions.* Complete a DD Form 1861 only after evaluating the contractor's cost proposal, establishing cost of money factors, and establishing a prenegotiation objective on cost. Complete the form as follows:

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(i) List overhead pools and direct-charging service centers (if used) in the same structure as they appear on the contractor's cost proposal and Form CASB-CMF. The structure and allocation base units-of-measure must be compatible on all three displays.

(ii) Extract appropriate contract overhead allocation base data, by year, from the evaluated cost breakdown or prenegotiation cost objective and list against each overhead pool and direct-charging service center.

(iii) Multiply each allocation base by its corresponding cost of money factor to get the facilities capital cost of money estimated to be incurred each year. The sum of these products represents the estimated contract facilities capital cost of money for the year's effort.

(iv) Total contract facilities cost of money is the sum of the yearly amounts.

(v) Since the facilities capital cost of money factors reflect the applicable cost of money rate in Column 1 of Form CASB-CMF, divide the contract cost of money by that same rate to determine the contract facilities capital employed.

(d) *Preaward facilities capital applications.* To establish cost and price objectives, apply the facilities capital cost of money and capital employed as follows:

(1) *Cost of Money.*

(i) *Cost Objective.* Use the imputed facilities capital cost of money, with normal, booked costs, to establish a cost objective or the target cost when structuring an incentive type contract. Do not adjust target costs established at the outset even though actual cost of money rates become available during the period of contract performance.

(ii) *Profit Objective.* When measuring the contractor's effort for the purpose of establishing a prenegotiation profit objective, restrict the cost base to normal, booked costs. Do not include cost of money as part of the cost base.

(2) *Facilities Capital Employed.* Assess and weight the profit objective for risk associated with facilities capital employed in accordance with the profit guidelines at 215.404-71-4.

(e) *Determination.* The following extract from the DD Form 1547 has been annotated to explain the process.

Item	Contractor Facilities Capital Employed	Assigned Value	Amount Employed	Profit Objective
26.	Land	N/A	(2)	N/A
27.	Buildings	N/A	(2)	N/A
28.	Equipment	(1)	(2)	(3)

(1) Select a value from the list in paragraph (f) of this subsection using the evaluation criteria in paragraph (g) of this subsection.

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(2) Use the allocated facilities capital attributable to land, buildings, and equipment, as derived in DD Form 1861, Contract Facilities Capital Cost of Money.

(i) In addition to the net book value of facilities capital employed, consider facilities capital that is part of a formal investment plan if the contractor submits reasonable evidence that—

(A) Achievable benefits to DoD will result from the investment; and

(B) The benefits of the investment are included in the forward pricing structure.

(ii) If the value of intracompany transfers has been included in Block 20 at cost (i.e., excluding general and administrative (G&A) expenses and profit), add to the contractor's allocated facilities capital, the allocated facilities capital attributable to the buildings and equipment of those corporate divisions supplying the intracompany transfers. Do not make this addition if the value of intracompany transfers has been included in Block 20 at price (i.e., including G&A expenses and profit).

(3) Multiply (1) by (2).

(f) *Values: Normal and designated ranges.*

Asset Type	Normal Value	Designated Range
Land	0%	N/A
Buildings	0%	N/A
Equipment	17.5%	10% to 25%

(g) *Evaluation criteria.*

(1) In evaluating facilities capital employed, the contracting officer—

(i) Should relate the usefulness of the facilities capital to the goods or services being acquired under the prospective contract;

(ii) Should analyze the productivity improvements and other anticipated industrial base enhancing benefits resulting from the facilities capital investment, including—

(A) The economic value of the facilities capital, such as physical age, undepreciated value, idleness, and expected contribution to future defense needs; and

(B) The contractor's level of investment in defense related facilities as compared with the portion of the contractor's total business that is derived from DoD; and

(iii) Should consider any contractual provisions that reduce the contractor's risk of investment recovery, such as termination protection clauses and capital investment indemnification.

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#### (2) *Above normal conditions.*

(i) The contracting officer may assign a higher than normal value if the facilities capital investment has direct, identifiable, and exceptional benefits. Indicators are—

(A) New investments in state-of-the-art technology that reduce acquisition cost or yield other tangible benefits such as improved product quality or accelerated deliveries; or

(B) Investments in new equipment for research and development applications.

(ii) The contracting officer may assign a value significantly above normal when there are direct and measurable benefits in efficiency and significantly reduced acquisition costs on the effort being priced. Maximum values apply only to those cases where the benefits of the facilities capital investment are substantially above normal.

#### (3) *Below normal conditions.*

(i) The contracting officer may assign a lower than normal value if the facilities capital investment has little benefit to DoD. Indicators are—

(A) Allocations of capital apply predominantly to commercial item lines;

(B) Investments are for such things as furniture and fixtures, home or group level administrative offices, corporate aircraft and hangars, gymnasiums; or

(C) Facilities are old or extensively idle.

(ii) The contracting officer may assign a value significantly below normal when a significant portion of defense manufacturing is done in an environment characterized by outdated, inefficient, and labor-intensive capital equipment.

#### **215.404-71-5 Cost efficiency factor.**

(a) This special factor provides an incentive for contractors to reduce costs. To the extent that the contractor can demonstrate cost reduction efforts that benefit the pending contract, the contracting officer may increase the prenegotiation profit objective by an amount not to exceed 4 percent of total objective cost (Block 20 of the DD Form 1547) to recognize these efforts (Block 29).

(b) To determine if using this factor is appropriate, the contracting officer shall consider criteria, such as the following, to evaluate the benefit the contractor's cost reduction efforts will have on the pending contract:

(1) The contractor's participation in Single Process Initiative improvements;

(2) Actual cost reductions achieved on prior contracts;

(3) Reduction or elimination of excess or idle facilities;

(4) The contractor's cost reduction initiatives (e.g., competition advocacy programs, technical insertion programs, obsolete parts control programs, spare parts pricing reform, value engineering, outsourcing of functions such as information technology). Metrics developed by the contractor such as fully loaded labor hours (i.e., cost per labor hour, including all direct and indirect costs) or other productivity measures may provide the basis for assessing the effectiveness of the contractor's cost reduction initiatives over time;

(5) The contractor's adoption of process improvements to reduce costs;

(6) Subcontractor cost reduction efforts;

(7) The contractor's effective incorporation of commercial items and processes;  
or

(8) The contractor's investment in new facilities when such investments contribute to better asset utilization or improved productivity.

(c) When selecting the percentage to use for this special factor, the contracting officer has maximum flexibility in determining the best way to evaluate the benefit the contractor's cost reduction efforts will have on the pending contract. However, the contracting officer shall consider the impact that quantity differences, learning, changes in scope, and economic factors such as inflation and deflation will have on cost reduction.

**215.404-72 Modified weighted guidelines method for nonprofit organizations other than FFRDCs.**

(a) *Definition.* As used in this subpart, a nonprofit organization is a business entity—

(1) That operates exclusively for charitable, scientific, or educational purposes;

(2) Whose earnings do not benefit any private shareholder or individual;

(3) Whose activities do not involve influencing legislation or political campaigning for any candidate for public office; and

(4) That is exempted from Federal income taxation under section 501 of the Internal Revenue Code.

(b) For nonprofit organizations that are entities that have been identified by the Secretary of Defense or a Secretary of a Department as receiving sustaining support on a cost-plus-fixed-fee basis from a particular DoD department or agency, compute a fee objective for covered actions using the weighted guidelines method in [215.404-71](#), with the following modifications:

(1) *Modifications to performance risk (Blocks 21-23 of the DD Form 1547).*

(i) If the contracting officer assigns a value from the standard designated range (see [215.404-71-2\(c\)](#)), reduce the fee objective by an amount equal to 1 percent of

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the costs in Block 20 of the DD Form 1547. Show the net (reduced) amount on the DD Form 1547.

(ii) Do not assign a value from the technology incentive designated range.

(2) *Modifications to contract type risk (Block 24 of the DD Form 1547).* Use a designated range of -1 percent to 0 percent instead of the values in [215.404-71-3](#). There is no normal value.

(c) For all other nonprofit organizations except FFRDCs, compute a fee objective for covered actions using the weighted guidelines method in [215.404-71](#), modified as described in paragraph (b)(1) of this subsection.

#### **215.404-73 Alternate structured approaches.**

(a) The contracting officer may use an alternate structured approach under [215.404-4\(c\)](#).

(b) The contracting officer may design the structure of the alternate, but it shall include—

(1) Consideration of the three basic components of profit--performance risk, contract type risk (including working capital), and facilities capital employed. However, the contracting officer is not required to complete Blocks 21 through 30 of the DD Form 1547.

(2) Offset for facilities capital cost of money.

(i) The contracting officer shall reduce the overall prenegotiation profit objective by the amount of facilities capital cost of money under Cost Accounting Standard (CAS) 414, Cost of Money as an Element of the Cost of Facilities Capital (48 CFR 9904.414). Cost of money under CAS 417, Cost of Money as an Element of the Cost of Capital Assets Under Construction (48 CFR 9904.417), should not be used to reduce the overall prenegotiation profit objective. The profit amount in the negotiation summary of the DD Form 1547 must be net of the offset.

(ii) This adjustment is needed for the following reason: The values of the profit factors used in the weighted guidelines method were adjusted to recognize the shift in facilities capital cost of money from an element of profit to an element of contract cost (see FAR 31.205-10) and reductions were made directly to the profit factors for performance risk. In order to ensure that this policy is applied to all DoD contracts that allow facilities capital cost of money, similar adjustments shall be made to contracts that use alternate structured approaches.

#### **215.404-74 Fee requirements for cost-plus-award-fee contracts.**

In developing a fee objective for cost-plus-award-fee contracts, the contracting officer shall—

(a) Follow the guidance in FAR 16.405-2 and [216.405-2](#);

(b) Not use the weighted guidelines method or alternate structured approach;

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(c) Apply the offset policy in [215.404-73\(b\)\(2\)](#) for facilities capital cost of money, i.e., reduce the base fee by the amount of facilities capital cost of money; and

(d) Not complete a DD Form 1547.

**215.404-75 Fee requirements for FFRDCs.**

For nonprofit organizations that are FFRDCs, the contracting officer—

(a) Should consider whether any fee is appropriate. Considerations shall include the FFRDC's—

(1) Proportion of retained earnings (as established under generally accepted accounting methods) that relates to DoD contracted effort;

(2) Facilities capital acquisition plans;

(3) Working capital funding as assessed on operating cycle cash needs; and

(4) Provision for funding unreimbursed costs deemed ordinary and necessary to the FFRDC.

(b) Shall, when a fee is considered appropriate, establish the fee objective in accordance with FFRDC fee policies in the DoD FFRDC Management Plan.

(c) Shall not use the weighted guidelines method or an alternate structured approach.

**215.406-1 Prenegotiation objectives.**

Follow the procedures at [PGI 215.406-1](#) for establishing prenegotiation objectives.

**215.406-3 Documenting the negotiation.**

Follow the procedures at [PGI 215.406-3](#) for documenting the negotiation.

**215.407 Special cost or pricing areas.**

**215.407-1 Defective certified cost or pricing data.**

(c)(i) When a contractor voluntarily discloses defective pricing after contract award, the contracting officer shall discuss the disclosure with the Defense Contract Audit Agency (DCAA). This discussion will assist in the contracting officer determining the involvement of DCAA, which could be a limited-scope audit (e.g., limited to the affected cost elements of the defective pricing disclosure), a full-scope audit, or technical assistance as appropriate for the circumstances (e.g., nature or dollar amount of the defective pricing disclosure). At a minimum, the contracting officer shall discuss with DCAA the following:

(A) Completeness of the contractor's voluntary disclosure on the affected contract.

(B) Accuracy of the contractor's cost impact calculation for the affected contract.

(C) Potential impact on existing contracts, task or deliver orders, or other proposals the contractor has submitted to the Government.

(ii) Voluntary disclosure of defective pricing is not a voluntary refund as defined in 242.7100 and does not waive the Government entitlement to the recovery of any overpayment plus interest on the overpayments in accordance with FAR 15.407-1(b)(7).

(iii) Voluntary disclosure of defective pricing does not waive the Government's rights to pursue defective pricing claims on the affected contract or any other Government contract.

**215.407-2 Make-or-buy programs.**

(a) *General.* See PGI for guidance on factors to consider when deciding whether to request a make-or-buy plan and for factors to consider when evaluating make-or-buy plan submissions.

(e) *Program requirements.*

(1) *Items and work included.* The minimum dollar amount is \$1.5 million.

**215.407-3 Forward pricing rate agreements.**

(b)(i) Use forward pricing rate agreement (FPRA) rates when such rates are available, unless waived on a case-by-case basis by the head of the contracting activity.

(ii) Advise the ACO of each case waived.

(iii) Contact the ACO for questions on FPRAs or recommended rates.

**215.407-4 Should-cost review.**

See [PGI 215.407-4](#) for guidance on determining whether to perform a program or overhead should-cost review.

**215.407-5 Estimating systems.**

**215.407-5-70 Disclosure, maintenance, and review requirements.**

(a) *Definitions.*

(1) “Acceptable estimating system” is defined in the clause at [252.215-7002](#), Cost Estimating System Requirements.

(2) “Contractor” means a business unit as defined in FAR 2.101.

(3) “Estimating system” is as defined in the clause at [252.215-7002](#), Cost Estimating System Requirements.

(4) “Significant deficiency” is defined in the clause at [252.215-7002](#), Cost Estimating System Requirements.

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#### (b) *Applicability.*

(1) DoD policy is that all contractors have acceptable estimating systems that consistently produce well-supported proposals that are acceptable as a basis for negotiation of fair and reasonable prices.

(2) A large business contractor is subject to estimating system disclosure, maintenance, and review requirements if—

(i) In its preceding fiscal year, the contractor received DoD prime contracts or subcontracts totaling \$50 million or more for which certified cost or pricing were required; or

(ii) In its preceding fiscal year, the contractor received DoD prime contracts or subcontracts totaling \$10 million or more (but less than \$50 million) for which certified cost or pricing data were required and the contracting officer, with concurrence or at the request of the ACO, determines it to be in the best interest of the Government (e.g., significant estimating problems are believed to exist or the contractor's sales are predominantly Government).

#### (c) *Policy.*

(1) The contracting officer shall—

(i) Through use of the clause at [252.215-7002](#), Cost Estimating System Requirements, apply the disclosure, maintenance, and review requirements to large business contractors meeting the criteria in paragraph (b)(2)(i) of this section;

(ii) Consider whether to apply the disclosure, maintenance, and review requirements to large business contractors under paragraph (b)(2)(ii) of this section; and

(iii) Not apply the disclosure, maintenance, and review requirements to other than large business contractors.

(2) The cognizant contracting officer, in consultation with the auditor, for contractors subject to paragraph (b)(2) of this section, shall—

(i) Determine the acceptability of the disclosure and approve or disapprove the system; and

(ii) Pursue correction of any deficiencies.

(3) The auditor conducts estimating system reviews.

(4) An acceptable system shall provide for the use of appropriate source data, utilize sound estimating techniques and good judgment, maintain a consistent approach, and adhere to established policies and procedures.

(5) In evaluating the acceptability of a contractor's estimating system, the contracting officer, in consultation with the auditor, shall determine whether the contractor's estimating system complies with the system criteria for an acceptable

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estimating system as prescribed in the clause at [252.215-7002](#), Cost Estimating System Requirements.

(d) *Disposition of findings*—

(1) *Reporting of findings.* The auditor shall document findings and recommendations in a report to the contracting officer. If the auditor identifies any significant estimating system deficiencies, the report shall describe the deficiencies in sufficient detail to allow the contracting officer to understand the deficiencies.

(2) *Initial determination.* (i) The contracting officer shall review all findings and recommendations and, if there are no significant deficiencies, shall promptly notify the contractor, in writing, that the contractor's estimating system is acceptable and approved; or

(ii) If the contracting officer finds that there are one or more significant deficiencies (as defined in the clause at [252.215-7002](#), Cost Estimating System Requirements) due to the contractor's failure to meet one or more of the estimating system criteria in the clause at [252.215-7002](#), the contracting officer shall—

(A) Promptly make an initial written determination on any significant deficiencies and notify the contractor, in writing, providing a description of each significant deficiency in sufficient detail to allow the contractor to understand the deficiency;

(B) Request the contractor to respond, in writing, to the initial determination within 30 days; and

(C) Promptly evaluate the contractor's responses to the initial determination, in consultation with the auditor or functional specialist, and make a final determination.

(3) *Final determination.* (i) The contracting officer shall make a final determination and notify the contractor, in writing, that—

(A) The contractor's estimating system is acceptable and approved, and no significant deficiencies remain, or

(B) Significant deficiencies remain. The notice shall identify any remaining significant deficiencies, and indicate the adequacy of any proposed or completed corrective action. The contracting officer shall—

(1) Request that the contractor, within 45 days of receipt of the final determination, either correct the deficiencies or submit an acceptable corrective action plan showing milestones and actions to eliminate the deficiencies;

(2) Disapprove the system in accordance with the clause at [252.215-7002](#), Cost Estimating System Requirements; and

(3) Withhold payments in accordance with the clause at [252.242-7005](#), Contractor Business Systems, if the clause is included in the contract.

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(ii) Follow the procedures relating to monitoring a contractor's corrective action and the correction of significant deficiencies in [PGI 215.407-5-70\(e\)](#).

(e) *System approval.* The contracting officer shall promptly approve a previously disapproved estimating system and notify the contractor when the contracting officer determines that there are no remaining significant deficiencies.

(f) *Contracting officer notifications.* The cognizant contracting officer shall promptly distribute copies of a determination to approve a system, disapprove a system and withhold payments, or approve a previously disapproved system and release withheld payments, to the auditor; payment office; affected contracting officers at the buying activities; and cognizant contracting officers in contract administration activities.

#### **215.408 Solicitation provisions and contract clauses.**

(1) Use the clause at [252.215-7002](#), Cost Estimating System Requirements, in all solicitations and contracts to be awarded on the basis of certified cost or pricing data.

(2) When contracting with the Canadian Commercial Corporation—

(i)(A) Use the provision at [252.215-7003](#), Requirement for Submission of Data Other Than Certified Cost or Pricing Data—Canadian Commercial Corporation—

(1) In lieu of DFARS [252.215-7010](#), Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data, in a solicitation, including solicitations using FAR part 12 procedures for the acquisition of commercial items, for a sole source acquisition from the Canadian Commercial Corporation that is—

(i) Cost-reimbursement, if the contract value is expected to exceed \$700,000; or

(ii) Fixed-price, if the contract value is expected to exceed \$500 million; or

(2) In lieu of DFARS [252.215-7010](#), in a solicitation, including solicitations using FAR part 12 procedures for the acquisition of commercial items, for a sole source acquisition from the Canadian Commercial Corporation that does not meet the thresholds specified in paragraph (2)(i)(A)(1), if approval is obtained as required at [225.870-4\(c\)\(2\)\(ii\)](#); and

(B) Do not use [252.225-7003](#) in lieu of DFARS [252.215-7010](#) in competitive acquisitions; and

(ii)(A) Use the clause at [252.215-7004](#), Requirement for Submission of Data Other Than Certified Cost or Pricing Data—Modifications—Canadian Commercial Corporation—

(1) In a solicitation, including solicitations using FAR part 12 procedures for the acquisition of commercial items, for a sole source acquisition, from the Canadian Commercial Corporation and resultant contract that is—

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(i) Cost-reimbursement, if the contract value is expected to exceed \$700,000; or

(ii) Fixed-price, if the contract value is expected to exceed \$500 million;

(2) In a solicitation, including solicitations using FAR part 12 procedures for the acquisition of commercial items, for a sole source acquisition from the Canadian Commercial Corporation and resultant contract that does not meet the thresholds specified in paragraph (2)(ii)(A)(I), if approval is obtained as required at [225.870-4\(c\)\(2\)\(ii\)](#); or

(3)(i) In a solicitation, including solicitations using FAR part 12 procedures for the acquisition of commercial items, for a competitive acquisition that includes FAR 52.215-21, Requirement for Data Other Than Certified Cost or Pricing Data—Modifications, or that meets the thresholds specified in paragraph (2)(ii)(A) (I).

(ii) The contracting officer shall then select the appropriate clause to include in the contract (52.215-21 only if award is not to the Canadian Commercial Corporation; or [252.215-7004](#) if award is to the Canadian Commercial Corporation and necessary approval is obtained in accordance with [225.870-4\(c\)\(2\)\(ii\)](#)); and

(B) The contracting officer may specify a higher threshold in paragraph (b) of the clause [252.215-7004](#).

(3) Use the provision at [252.215-7008](#), Only One Offer, in competitive solicitations that exceed the simplified acquisition threshold, including solicitations using FAR part 12 procedures for the acquisition of commercial items.

(4) When the solicitation requires the submission of certified cost or pricing data, the contracting officer should include [252.215-7009](#), Proposal Adequacy Checklist, in the solicitation to facilitate submission of a thorough, accurate, and complete proposal.

(5) When reasonably certain that the submission of certified cost or pricing data or data other than certified cost or pricing data will be required or when using the provision at [252.215-7008](#)—

(i) Use the basic or alternate of the provision at [252.215-7010](#), Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data, in lieu of the provision at FAR 52.215-20, Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data, in solicitations, including solicitations using FAR part 12 procedures for the acquisition of commercial items.

(A) Use the basic provision when submission of certified cost or pricing data is required to be in the FAR Table 15-2 format, or if it is anticipated, at the time of solicitation, that the submission of certified cost or pricing data may not be required.

(B) Use the alternate I provision to specify a format for certified cost or pricing data other than the format required by FAR Table 15-2;

(ii) Use the provision at [252.215-7011](#), Requirements for Submission of Proposals to the Administrative Contracting Officer and Contract Auditor, when using

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the basic or alternate of the provision at [252.215-7010](#) and copies of the proposal are to be sent to the ACO and contract auditor; and

(iii) Use the provision at [252.215-7012](#), Requirements for Submission of Proposals via Electronic Media, when using the basic or alternate of the provision at [252.215-7010](#) and submission via electronic media is required.

(6) Use the provision at [252.215-7013](#), Supplies and Services Provided by Nontraditional Defense Contractors, in all solicitations.

(7) Use the clause at [252.215-7014](#), Exception from Certified Cost or Pricing Data Requirements for Foreign Military Sales Indirect Offsets, in solicitations and contracts that contain the provision at [252.215-7010](#), Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data, when it is reasonably certain that—

(i) The contract is expected to include costs associated with an indirect offset; and

(ii) The submission of certified cost or pricing data or data other than certified cost or pricing data will be required.

#### **215.470 Estimated data prices.**

(a) DoD requires estimates of the prices of data in order to evaluate the cost to the Government of data items in terms of their management, product, or engineering value.

(b) When data are required to be delivered under a contract, include DD Form 1423, Contract Data Requirements List, in the solicitation. See [PGI 215.470\(b\)](#) for guidance on the use of DD Form 1423.

(c) The contracting officer shall ensure that the contract does not include a requirement for data that the contractor has delivered or is obligated to deliver to the Government under another contract or subcontract, and that the successful offeror identifies any such data required by the solicitation. However, where duplicate data are desired, the contract price shall include the costs of duplication, but not of preparation, of such data.

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(Revised July 31, 2019)

**252.215-7000 Reserved.**

**252.215-7001 Reserved.**

**252.215-7002 Cost Estimating System Requirements.**

As prescribed in [215.408](#)(1), use the following clause:

**COST ESTIMATING SYSTEM REQUIREMENTS (DEC 2012)**

(a) *Definitions.*

“Acceptable estimating system” means an estimating system that complies with the system criteria in paragraph (d) of this clause, and provides for a system that—

- (1) Is maintained, reliable, and consistently applied;
- (2) Produces verifiable, supportable, documented, and timely cost estimates that are an acceptable basis for negotiation of fair and reasonable prices;
- (3) Is consistent with and integrated with the Contractor’s related management systems; and
- (4) Is subject to applicable financial control systems.

“Estimating system” means the Contractor's policies, procedures, and practices for budgeting and planning controls, and generating estimates of costs and other data included in proposals submitted to customers in the expectation of receiving contract awards. Estimating system includes the Contractor's—

- (1) Organizational structure;
- (2) Established lines of authority, duties, and responsibilities;
- (3) Internal controls and managerial reviews;
- (4) Flow of work, coordination, and communication; and
- (5) Budgeting, planning, estimating methods, techniques, accumulation of historical costs, and other analyses used to generate cost estimates.

“Significant deficiency” means a shortcoming in the system that materially affects the ability of officials of the Department of Defense to rely upon data and information produced by the system that is needed for management purposes.

(b) *General.* The Contractor shall establish, maintain, and comply with an acceptable estimating system.

(c) *Applicability.* Paragraphs (d) and (e) of this clause apply if the Contractor is a large business and either—

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(1) In its fiscal year preceding award of this contract, received Department of Defense (DoD) prime contracts or subcontracts, totaling \$50 million or more for which certified cost or pricing data were required; or

(2) In its fiscal year preceding award of this contract—

(i) Received DoD prime contracts or subcontracts totaling \$10 million or more (but less than \$50 million) for which certified cost or pricing data were required; and

(ii) Was notified, in writing, by the Contracting Officer that paragraphs (d) and (e) of this clause apply.

(d) *System requirements.*

(1) The Contractor shall disclose its estimating system to the Administrative Contracting Officer (ACO), in writing. If the Contractor wishes the Government to protect the data and information as privileged or confidential, the Contractor must mark the documents with the appropriate legends before submission.

(2) An estimating system disclosure is acceptable when the Contractor has provided the ACO with documentation that—

(i) Accurately describes those policies, procedures, and practices that the Contractor currently uses in preparing cost proposals; and

(ii) Provides sufficient detail for the Government to reasonably make an informed judgment regarding the acceptability of the Contractor's estimating practices.

(3) The Contractor shall—

(i) Comply with its disclosed estimating system; and

(ii) Disclose significant changes to the cost estimating system to the ACO on a timely basis.

(4) The Contractor's estimating system shall provide for the use of appropriate source data, utilize sound estimating techniques and good judgment, maintain a consistent approach, and adhere to established policies and procedures. An acceptable estimating system shall accomplish the following functions:

(i) Establish clear responsibility for preparation, review, and approval of cost estimates and budgets.

(ii) Provide a written description of the organization and duties of the personnel responsible for preparing, reviewing, and approving cost estimates and budgets.

(iii) Ensure that relevant personnel have sufficient training, experience, and guidance to perform estimating and budgeting tasks in accordance with the Contractor's established procedures.

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(iv) Identify and document the sources of data and the estimating methods and rationale used in developing cost estimates and budgets.

(v) Provide for adequate supervision throughout the estimating and budgeting process.

(vi) Provide for consistent application of estimating and budgeting techniques.

(vii) Provide for detection and timely correction of errors.

(viii) Protect against cost duplication and omissions.

(ix) Provide for the use of historical experience, including historical vendor pricing data, where appropriate.

(x) Require use of appropriate analytical methods.

(xi) Integrate data and information available from other management systems.

(xii) Require management review, including verification of compliance with the company's estimating and budgeting policies, procedures, and practices.

(xiii) Provide for internal review of, and accountability for, the acceptability of the estimating system, including the budgetary data supporting indirect cost estimates and comparisons of projected results to actual results, and an analysis of any differences.

(xiv) Provide procedures to update cost estimates and notify the Contracting Officer in a timely manner throughout the negotiation process.

(xv) Provide procedures that ensure subcontract prices are reasonable based on a documented review and analysis provided with the prime proposal, when practicable.

(xvi) Provide estimating and budgeting practices that consistently generate sound proposals that are compliant with the provisions of the solicitation and are adequate to serve as a basis to reach a fair and reasonable price.

(xvii) Have an adequate system description, including policies, procedures, and estimating and budgeting practices, that comply with the Federal Acquisition Regulation and Defense Federal Acquisition Regulation Supplement.

(e) *Significant deficiencies.*

(1) The Contracting Officer will provide an initial determination to the Contractor, in writing, of any significant deficiencies. The initial determination will describe the deficiency in sufficient detail to allow the Contractor to understand the deficiency.

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(2) The Contractor shall respond within 30 days to a written initial determination from the Contracting Officer that identifies significant deficiencies in the Contractor's estimating system. If the Contractor disagrees with the initial determination, the Contractor shall state, in writing, its rationale for disagreeing.

(3) The Contracting Officer will evaluate the Contractor's response and notify the Contractor, in writing, of the Contracting Officer's final determination concerning—

(i) Remaining significant deficiencies;

(ii) The adequacy of any proposed or completed corrective action; and

(iii) System disapproval, if the Contracting Officer determines that one or more significant deficiencies remain.

(f) If the Contractor receives the Contracting Officer's final determination of significant deficiencies, the Contractor shall, within 45 days of receipt of the final determination, either correct the significant deficiencies or submit an acceptable corrective action plan showing milestones and actions to eliminate the significant deficiencies.

(g) *Withholding payments.* If the Contracting Officer makes a final determination to disapprove the Contractor's estimating system, and the contract includes the clause at [252.242-7005](#), Contractor Business Systems, the Contracting Officer will withhold payments in accordance with that clause.

(End of clause)

#### **252.215-7003 Requirement for Submission of Data Other Than Certified Cost or Pricing Data—Canadian Commercial Corporation.**

As prescribed at [215.408\(2\)\(i\)](#), use the following provision:

##### REQUIREMENT FOR SUBMISSION OF DATA OTHER THAN CERTIFIED COST OR PRICING DATA—CANADIAN COMMERCIAL CORPORATION (JUL 2012)

(a) Submission of certified cost or pricing data is not required.

(b) Canadian Commercial Corporation shall obtain and provide the following:

(i) Profit rate or fee (as applicable).

(ii) Analysis provided by Public Works and Government Services Canada to the Canadian Commercial Corporation to determine a fair and reasonable price (comparable to the analysis required at FAR 15.404-1).

(iii) Data other than certified cost or pricing data necessary to permit a determination by the U.S. Contracting Officer that the proposed price is fair and reasonable [*U.S. Contracting Officer to insert description of the data required in accordance with FAR 15.403-3(a)(1)*].

(c) As specified in FAR 15.403-3(a)(4), an offeror who does not comply with a requirement to submit data that the U.S. Contracting Officer has deemed necessary to

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determine price reasonableness or cost realism is ineligible for award unless the head of the contracting activity determines that it is in the best interest of the Government to make the award to that offeror.

(End of provision)

#### **252.215-7004 Requirement for Submission of Data Other Than Certified Cost or Pricing Data—Modifications—Canadian Commercial Corporation.**

As prescribed at [215.408\(2\)\(ii\)](#), use the following clause:

#### REQUIREMENT FOR SUBMISSION OF DATA OTHER THAN CERTIFIED COST OR PRICING DATA—MODIFICATIONS—CANADIAN COMMERCIAL CORPORATION (OCT 2013)

This clause , in lieu of FAR 52.215-21, applies only if award is to the Canadian Commercial Corporation.

(a) Submission of certified cost or pricing data is not required.

(b) Canadian Commercial Corporation shall obtain and provide the following for modifications that exceed the \$150,000 [*or higher dollar value specified by the U.S. Contracting Officer in the solicitation*].

(i) Profit rate or fee (as applicable).

(ii) Analysis provided by Public Works and Government Services Canada to the Canadian Commercial Corporation to determine a fair and reasonable price (comparable to the analysis required at FAR 15.404-1).

(iii) Data other than certified cost or pricing data necessary to permit a determination by the U.S. Contracting Officer that the proposed price is fair and reasonable [*U.S. Contracting Officer to insert description of the data required in accordance with FAR 15.403-3(a)(1)*].

(End of clause)

#### **252.215-7005 Evaluation Factor for Employing or Subcontracting with Members of the Selected Reserve.**

As prescribed in [215.370-3\(a\)](#), use the following provision:

#### EVALUATION FACTOR FOR EMPLOYING OR SUBCONTRACTING WITH MEMBERS OF THE SELECTED RESERVE (OCT 2008)

(a) *Definition.* “Selected Reserve,” as used in this provision, has the meaning given that term in 10 U.S.C. 10143. Selected Reserve members normally attend regular drills throughout the year and are the group of Reserves most readily available to the President.

(b) This solicitation includes an evaluation factor that considers the offeror’s intended use of employees, or individual subcontractors, who are members of the Selected Reserve.

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(c) If the offeror, in the performance of any contract resulting from this solicitation, intends to use employees or individual subcontractors who are members of the Selected Reserve, the offeror's proposal shall include documentation to support this intent. Such documentation may include, but is not limited to—

(1) Existing company documentation, such as payroll or personnel records, indicating the names of the Selected Reserve members who are currently employed by the company; or

(2) A statement that one or more positions will be set aside to be filled by new hires of Selected Reserve members, along with verifying documentation.

(End of provision)

#### **252.215-7006 Use of Employees or Individual Subcontractors Who are Members of the Selected Reserve.**

As prescribed in [215.370-3\(b\)](#), use the following clause:

##### USE OF EMPLOYEES OR INDIVIDUAL SUBCONTRACTORS WHO ARE MEMBERS OF THE SELECTED RESERVE (OCT 2008)

(a) *Definition.* “Selected Reserve,” as used in this clause, has the meaning given that term in 10 U.S.C. 10143. Selected Reserve members normally attend regular drills throughout the year and are the group of Reserves most readily available to the President.

(b) If the Contractor stated in its offer that it intends to use members of the Selected Reserve in the performance of this contract—

(1) The Contractor shall use employees, or individual subcontractors, who are members of the Selected Reserve in the performance of the contract to the fullest extent consistent with efficient contract performance; and

(2) The Government has the right to terminate the contract for default if the Contractor willfully or intentionally fails to use members of the Selected Reserve, as employees or individual subcontractors, in the performance of the contract.

(End of clause)

#### **252.215-7007 Notice of Intent to Resolicit.**

As prescribed at [215.371-6](#), use the following provision:

##### NOTICE OF INTENT TO RESOLICIT (JUN 2012)

This solicitation provides offerors fewer than 30 days to submit proposals. In the event that only one offer is received in response to this solicitation, the Contracting Officer may cancel the solicitation and resolicit for an additional period of at least 30 days in accordance with [215.371-2](#).

(End of provision)

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#### **252.215-7008 Only One Offer.**

As prescribed at [215.408\(3\)](#), use the following provision:

#### ONLY ONE OFFER (JUL 2019)

(a) *Cost or pricing data requirements.* After initial submission of offers, if the Contracting Officer notifies the Offeror that only one offer was received, the Offeror agrees to—

(1) Submit any additional cost or pricing data that is required in order to determine whether the price is fair and reasonable or to comply with the statutory requirement for certified cost or pricing data (10 U.S.C. 2306a and FAR 15.403-3); and

(2) Except as provided in paragraph (b) of this provision, if the acquisition exceeds the certified cost or pricing data threshold and an exception to the requirement for certified cost or pricing data at FAR 15.403-1(b)(2) through (5) does not apply, certify all cost or pricing data in accordance with paragraph (c) of DFARS provision [252.215-7010](#), Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data, of this solicitation.

(b) *Canadian Commercial Corporation.* If the Offeror is the Canadian Commercial Corporation, certified cost or pricing data are not required. If the Contracting Officer notifies the Canadian Commercial Corporation that additional data other than certified cost or pricing data are required in accordance with DFARS [225.870-4\(c\)](#), the Canadian Commercial Corporation shall obtain and provide the following:

(1) Profit rate or fee (as applicable).

(2) Analysis provided by Public Works and Government Services Canada to the Canadian Commercial Corporation to determine a fair and reasonable price (comparable to the analysis required at FAR 15.404-1).

(3) Data other than certified cost or pricing data necessary to permit a determination by the U.S. Contracting Officer that the proposed price is fair and reasonable [*U.S. Contracting Officer to provide description of the data required in accordance with FAR 15.403-3(a)(1) with the notification*].

(4) As specified in FAR 15.403-3(a)(4), an offeror who does not comply with a requirement to submit data that the U.S. Contracting Officer has deemed necessary to determine price reasonableness or cost realism is ineligible for award unless the head of the contracting activity determines that it is in the best interest of the Government to make the award to that offeror.

(c) *Subcontracts.* Unless the Offeror is the Canadian Commercial Corporation, the Offeror shall insert the substance of this provision, including this paragraph (c), in all subcontracts exceeding the simplified acquisition threshold defined in FAR part 2.

(End of provision)

#### **252.215-7009 Proposal Adequacy Checklist.**

As prescribed in [215.408\(4\)](#), use the following provision:

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**PROPOSAL ADEQUACY CHECKLIST (JAN 2014)**

The offeror shall complete the following checklist, providing location of requested information, or an explanation of why the requested information is not provided. In preparation of the offeror’s checklist, offerors may elect to have their prospective subcontractors use the same or similar checklist as appropriate.

**PROPOSAL ADEQUACY CHECKLIST**

	<u>REFERENCES</u>	<u>SUBMISSION ITEM</u>	<u>PROPOSAL PAGE No.</u>	<u>If not provided EXPLAIN (may use continuation pages)</u>
<u>GENERAL INSTRUCTIONS</u>				
1.	FAR 15.408, Table 15-2, Section I Paragraph A	Is there a properly completed first page of the proposal per FAR 15.408 Table 15-2 I.A or as specified in the solicitation?		
2.	FAR 15.408, Table 15-2, Section I Paragraph A(7)	Does the proposal identify the need for Government-furnished material/tooling/test equipment? Include the accountable contract number and contracting officer contact information if known.		
3.	FAR 15.408, Table 15-2, Section I Paragraph A(8)	Does the proposal identify and explain notifications of noncompliance with Cost Accounting Standards Board or Cost Accounting Standards (CAS); any proposal inconsistencies with your disclosed practices or applicable CAS; and inconsistencies with your established estimating and accounting principles and procedures?		
4.	FAR 15.408, Table 15-2, Section I, Paragraph C(1)  FAR 2.101, “Cost or pricing data”	Does the proposal disclose any other known activity that could materially impact the costs?- This may include, but is not limited to, such factors as— (1) Vendor quotations; (2) Nonrecurring costs;		

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	<u>REFERENCES</u>	<u>SUBMISSION ITEM</u>	<u>PROPOSAL PAGE No.</u>	<u>If not provided EXPLAIN (may use continuation pages)</u>
		(3) Information on changes in production methods and in production or purchasing volume; (4) Data supporting projections of business prospects and objectives and related operations costs; (5) Unit-cost trends such as those associated with labor efficiency; (6) Make-or-buy decisions; (7) Estimated resources to attain business goals; and (8) Information on management decisions that could have a significant bearing on costs.		
5.	FAR 15.408, Table 15-2, Section I Paragraph B	Is an Index of all certified cost or pricing data and information accompanying or identified in the proposal provided and appropriately referenced?		
6.	FAR 15.403-1(b)	Are there any exceptions to submission of certified cost or pricing data pursuant to FAR 15.403-1(b)? If so, is supporting documentation included in the proposal? (Note questions 18-20.)		
7.	FAR 15.408, Table 15-2, Section I Paragraph C(2)(i)	Does the proposal disclose the judgmental factors applied and the mathematical or other methods used in the estimate, including those used in projecting from known data?		
8.	FAR 15.408, Table 15-2, Section I Paragraph C(2)(ii)	Does the proposal disclose the nature and amount of any contingencies included in the proposed price?		

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	<u>REFERENCES</u>	<u>SUBMISSION ITEM</u>	<u>PROPOSAL PAGE No.</u>	<u>If not provided EXPLAIN (may use continuation pages)</u>
9.	FAR 15.408 Table 15-2, Section II, Paragraph A or B	Does the proposal explain the basis of all cost estimating relationships (labor hours or material) proposed on other than a discrete basis?		
10.	FAR 15.408, Table 15-2, Section I Paragraphs D and E	Is there a summary of total cost by element of cost and are the elements of cost cross-referenced to the supporting cost or pricing data? (Breakdowns for each cost element must be consistent with your cost accounting system, including breakdown by year.)		
11.	FAR 15.408, Table 15-2, Section I Paragraphs D and E	If more than one Contract Line Item Number (CLIN) or sub Contract Line Item Number (sub-CLIN) is proposed as required by the RFP, are there summary total amounts covering all line items for each element of cost and is it cross-referenced to the supporting cost or pricing data?		
12.	FAR 15.408, Table 15-2, Section I Paragraph F	Does the proposal identify any incurred costs for work performed before the submission of the proposal?		
13.	FAR 15.408, Table 15-2, Section I Paragraph G	Is there a Government forward pricing rate agreement (FPRA)? If so, the offeror shall identify the official submittal of such rate and factor data. If not, does the proposal include all rates and factors by year that are utilized in the development of the proposal and the basis for those rates and factors?		
<u>COST ELEMENTS</u>				

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	<u>REFERENCES</u>	<u>SUBMISSION ITEM</u>	<u>PROPOSAL PAGE No.</u>	<u>If not provided EXPLAIN (may use continuation pages)</u>
<b>MATERIALS AND SERVICES</b>				
14.	FAR 15.408, Table 15-2, Section II Paragraph A	Does the proposal include a consolidated summary of individual material and services, frequently referred to as a Consolidated Bill of Material (CBOM), to include the basis for pricing? The offeror's consolidated summary shall include raw materials, parts, components, assemblies, subcontracts and services to be produced or performed by others, identifying as a minimum the item, source, quantity, and price.		
<b>SUBCONTRACTS (Purchased materials or services)</b>				
15.	DFARS 215.404-3	Has the offeror identified in the proposal those subcontractor proposals, for which the contracting officer has initiated or may need to request field pricing analysis?		
16.	FAR 15.404-3(c)  FAR 52.244-2	Per the thresholds of FAR 15.404-3(c), Subcontract Pricing Considerations, does the proposal include a copy of the applicable subcontractor's certified cost or pricing data?		
17.	FAR 15.408, Table 15-2, Note 1; Section II Paragraph A	Is there a price/cost analysis establishing the reasonableness of each of the proposed subcontracts included with the proposal? If the offeror's price/cost analyses are not provided with the proposal, does the proposal include a matrix identifying dates for receipt of subcontractor proposal, completion of fact finding for		

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		purposes of price/cost analysis, and submission of the price/cost analysis?		
<u>EXCEPTIONS TO CERTIFIED COST OR PRICING DATA</u>				
18.	FAR 52.215-20  FAR 2.101, “commercial item”	<p>Has the offeror submitted an exception to the submission of certified cost or pricing data for commercial items proposed either at the prime or subcontractor level, in accordance with provision 52.215-20?</p> <p>a. Has the offeror specifically identified the type of commercial item claim (FAR 2.101 commercial item definition, paragraphs (1) through (8)), and the basis on which the item meets the definition?</p> <p>b. For modified commercial items (FAR 2.101 commercial item definition paragraph (3)); did the offeror classify the modification(s) as either—</p> <p>i. A modification of a type customarily available in the commercial marketplace (paragraph (3)(i)); or</p> <p>ii. A minor modification (paragraph (3)(ii)) of a type not customarily available in the commercial marketplace made to meet Federal Government requirements not exceeding the thresholds in FAR 15.403-1(c)(3)(iii)(B)?</p> <p>c. For proposed commercial items “of a type”, or “evolved” or modified (FAR 2.101</p>		

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	<u>REFERENCES</u>	<u>SUBMISSION ITEM</u>	<u>PROPOSAL PAGE No.</u>	<u>If not provided EXPLAIN (may use continuation pages)</u>
		commercial item definition paragraphs (1) through (3)), did the contractor provide a technical description of the differences between the proposed item and the comparison item(s)?		
19.		[Reserved]		
20.	FAR 15.408, Table 15-2, Section II Paragraph A(1)	Does the proposal support the degree of competition and the basis for establishing the source and reasonableness of price for each subcontract or purchase order priced on a competitive basis exceeding the threshold for certified cost or pricing data?		
<b>INTERORGANIZATIONAL TRANSFERS</b>				
21.	FAR 15.408, Table 15-2, Section II Paragraph A.(2)	For inter-organizational transfers proposed at cost, does the proposal include a complete cost proposal in compliance with Table 15-2?		
22.	FAR 15.408, Table 15-2, Section II Paragraph A(1)	For inter-organizational transfers proposed at price in accordance with FAR 31.205-26(e), does the proposal provide an analysis by the prime that supports the exception from certified cost or pricing data in accordance with FAR 15.403-1?		
<b>DIRECT LABOR</b>				
23.	FAR 15.408, Table 15-2, Section II Paragraph B	Does the proposal include a time phased (i.e.; monthly, quarterly) breakdown of labor hours, rates and costs by category or skill level? If labor is the allocation base for indirect costs, the labor cost must be summarized in order		

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	<u>REFERENCES</u>	<u>SUBMISSION ITEM</u>	<u>PROPOSAL PAGE No.</u>	<u>If not provided EXPLAIN (may use continuation pages)</u>
		that the applicable overhead rate can be applied.		
24.	FAR 15.408, Table 15-2, Section II Paragraph B	For labor Basis of Estimates (BOEs), does the proposal include labor categories, labor hours, and task descriptions; (e.g.; Statement of Work reference, applicable CLIN, Work Breakdown Structure, rationale for estimate, applicable history, and time-phasing)?		
25.	FAR subpart 22.10	If covered by the Service Contract Labor Standards statute (41 U.S.C. chapter 67), are the rates in the proposal in compliance with the minimum rates specified in the statute?		
<u>INDIRECT COSTS</u>				
26.	FAR 15.408, Table 15-2, Section II Paragraph C	Does the proposal indicate the basis of estimate for proposed indirect costs and how they are applied? (Support for the indirect rates could consist of cost breakdowns, trends, and budgetary data.)		
<u>OTHER COSTS</u>				
27.	FAR 15.408, Table 15-2, Section II Paragraph D	Does the proposal include other direct costs and the basis for pricing? If travel is included does the proposal include number of trips, number of people, number of days per trip, locations, and rates (e.g. airfare, per diem, hotel, car rental, etc)?		
28.	FAR 15.408, Table 15-2, Section II Paragraph E	If royalties exceed \$1,500 does the proposal provide the information/data identified by Table 15-2?		

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29.	FAR 15.408, Table 15-2, Section II Paragraph F	When facilities capital cost of money is proposed, does the proposal include submission of Form CASB-CMF or reference to an FPRA/FPRP and show the calculation of the proposed amount?		
<b>FORMATS FOR SUBMISSION OF LINE ITEM SUMMARIES</b>				
30.	FAR 15.408, Table 15-2, Section III	Are all cost element breakdowns provided using the applicable format prescribed in FAR 15.408, Table 15-2 III? (or alternative format if specified in the request for proposal)		
31.	FAR 15.408, Table 15-2, Section III Paragraph B	If the proposal is for a modification or change order, have cost of work deleted (credits) and cost of work added (debits) been provided in the format described in FAR 15.408, Table 15-2.III.B?		
32.	FAR 15.408, Table 15-2, Section III Paragraph C	For price revisions/redeterminations, does the proposal follow the format in FAR 15.408, Table 15-2.III.C?		
<b><u>OTHER</u></b>				
33.	FAR 16.4	If an incentive contract type, does the proposal include offeror proposed target cost, target profit or fee, share ratio, and, when applicable, minimum/maximum fee, ceiling price?		
34.	FAR 16.203-4 and FAR 15.408 Table 15-2, Section II, Paragraphs A, B, C, and D	If Economic Price Adjustments are being proposed, does the proposal show the rationale and application for the economic price adjustment?		

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	<u>REFERENCES</u>	<u>SUBMISSION ITEM</u>	<u>PROPOSAL PAGE No.</u>	<u>If not provided EXPLAIN (may use continuation pages)</u>
35.	FAR 52.232-28	If the offeror is proposing Performance-Based Payments—did the offeror comply with FAR 52.232-28?		
36.	FAR 15.408(n) FAR 52.215-22 FAR 52.215-23	Excessive Pass-through Charges— Identification of Subcontract Effort: If the offeror intends to subcontract more than 70% of the total cost of work to be performed, does the proposal identify: (i) the amount of the offeror’s indirect costs and profit applicable to the work to be performed by the proposed subcontractor(s); and (ii) a description of the added value provided by the offeror as related to the work to be performed by the proposed subcontractor(s)?		

(End of provision)

**252.215-7010 Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data.**

*Basic.* As prescribed in [215.408\(5\)\(i\)](#) and (5)(i)(A), use the following provision:

**REQUIREMENTS FOR CERTIFIED COST OR PRICING DATA AND DATA OTHER THAN CERTIFIED COST OR PRICING DATA—BASIC (JUL 2019)**

(a) *Definitions.* As used in this provision—

“Market prices” means current prices that are established in the course of ordinary trade between buyers and sellers free to bargain and that can be substantiated through competition or from sources independent of the offerors.

“Non-Government sales” means sales of the supplies or services to non-Governmental entities for purposes other than governmental purposes.

“Relevant sales data” means information provided by an offeror on sales of the same or similar items that can be used to establish price reasonableness taking into consideration the age, volume, and nature of the transactions (including any related discounts, refunds, rebates, offsets, or other adjustments).

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“Sufficient non-Government sales” means relevant sales data that reflects market pricing and contains enough information to make adjustments covered by FAR 15.404-1(b)(2)(ii)(B).

“Uncertified cost data” means the subset of “data other than certified cost or pricing data” (see FAR 2.101) that relates to cost.

(b) *Exceptions from certified cost or pricing data.*

(1) In lieu of submitting certified cost or pricing data, the Offeror may submit a written request for exception by submitting the information described in paragraphs (b)(1)(i) and (ii) of this provision. The Contracting Officer may require additional supporting information, but only to the extent necessary to determine whether an exception should be granted and whether the price is fair and reasonable.

(i) *Exception for prices set by law or regulation - Identification of the law or regulation establishing the prices offered.* If the prices are controlled under law by periodic rulings, reviews, or similar actions of a governmental body, attach a copy of the controlling document, unless it was previously submitted to the contracting office.

(ii) *Commercial item exception.* For a commercial item exception, the Offeror shall submit, at a minimum, information that is adequate for evaluating the reasonableness of the price for this acquisition, including prices at which the same item or similar items have been sold in the commercial market. Such information shall include—

(A) For items previously determined to be commercial, the contract number and military department, defense agency, or other DoD component that rendered such determination, and if available, a Government point of contact;

(B) For items priced based on a catalog—

(1) A copy of or identification of the Offeror’s current catalog showing the price for that item; and

(2) If the catalog pricing provided with this proposal is not consistent with all relevant sales data, a detailed description of differences or inconsistencies between or among the relevant sales data, the proposed price, and the catalog price (including any related discounts, refunds, rebates, offsets, or other adjustments);

(C) For items priced based on market pricing, a description of the nature of the commercial market, the methodology used to establish a market price, and all relevant sales data. The description shall be adequate to permit DoD to verify the accuracy of the description;

(D) For items included on an active Federal Supply Service Multiple Award Schedule contract, proof that an exception has been granted for the schedule item; or

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(E) For items provided by nontraditional defense contractors, a statement that the entity is not currently performing and has not performed, for at least the 1-year period preceding the solicitation of sources by DoD for the procurement or transaction, any contract or subcontract for DoD that is subject to full coverage under the cost accounting standards prescribed pursuant to 41 U.S.C. 1502 and the regulations implementing such section.

(2) The Offeror grants the Contracting Officer or an authorized representative the right to examine, at any time before award, books, records, documents, or other directly pertinent records to verify any request for an exception under this provision, and to determine the reasonableness of price.

(c) *Requirements for certified cost or pricing data.* If the Offeror is not granted an exception from the requirement to submit certified cost or pricing data, the following applies:

(1) The Offeror shall prepare and submit certified cost or pricing data and supporting attachments in accordance with the instructions contained in Table 15-2 of FAR 15.408, which is incorporated by reference with the same force and effect as though it were inserted here in full text. The instructions in Table 15-2 are incorporated as a mandatory format to be used in any resultant contract, unless the Contracting Officer and the Offeror agree to a different format and change this provision to use Alternate I.

(2) As soon as practicable after agreement on price, but before contract award (except for unpriced actions such as letter contracts), the Offeror shall submit a Certificate of Current Cost or Pricing Data, as prescribed by FAR 15.406-2.

(3) The Offeror is responsible for determining whether a subcontractor qualifies for an exception from the requirement for submission of certified cost or pricing data on the basis of adequate price competition, i.e., two or more responsible offerors, competing independently, submit priced offers that satisfy the Government's expressed requirement in accordance with FAR 15.403-1(c)(1)(ii).

(d) *Requirements for data other than certified cost or pricing data.*

(1) Data other than certified cost or pricing data submitted in accordance with this provision shall include the minimum information necessary to permit a determination that the proposed price is fair and reasonable, to include the requirements in DFARS [215.402\(a\)\(i\)](#) and [215.404-1\(b\)](#).

(2) In cases in which uncertified cost data is required, the information shall be provided in the form in which it is regularly maintained by the Offeror or prospective subcontractor in its business operations.

(3) Within 10 days of a written request from the Contracting Officer for additional information to permit an adequate evaluation of the proposed price in accordance with FAR 15.403-3, the Offeror shall provide either the requested information, or a written explanation for the inability to fully comply.

(4) *Subcontract price evaluation.*

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(i) Offerors shall obtain from subcontractors the minimum information necessary to support a determination of price reasonableness, as described in FAR part 15 and DFARS part 215.

(ii) No cost data may be required from a prospective subcontractor in any case in which there are sufficient non-Government sales of the same item to establish reasonableness of price.

(iii) If the Offeror relies on relevant sales data for similar items to determine the price is reasonable, the Offeror shall obtain only that technical information necessary—

(A) To support the conclusion that items are technically similar; and

(B) To explain any technical differences that account for variances between the proposed prices and the sales data presented.

(e) *Subcontracts.* The Offeror shall insert the substance of this provision, including this paragraph (e), in subcontracts exceeding the simplified acquisition threshold defined in FAR part 2. The Offeror shall require prospective subcontractors to adhere to the requirements of—

(1) Paragraphs (c) and (d) of this provision for subcontracts above the threshold for submission of certified cost or pricing data in FAR 15.403-4; and

(2) Paragraph (d) of this provision for subcontracts exceeding the simplified acquisition threshold defined in FAR part 2.

(End of provision)

Alternate I. As prescribed in [215.408\(5\)\(i\)](#) and [\(5\)\(i\)\(B\)](#), use the following provision, which includes different paragraphs (c)(1) and (d)(3) than the basic clause.

#### REQUIREMENTS FOR CERTIFIED COST OR PRICING DATA AND DATA OTHER THAN CERTIFIED COST OR PRICING DATA—ALTERNATE I (JUL 2019)

(a) *Definitions.* As used in this provision—

“Market prices” means current prices that are established in the course of ordinary trade between buyers and sellers free to bargain and that can be substantiated through competition or from sources independent of the offerors.

“Non-Government sales” means sales of the supplies or services to non-Governmental entities for purposes other than governmental purposes.

“Relevant sales data” means information provided by an offeror on sales of the same or similar items that can be used to establish price reasonableness taking into consideration the age, volume, and nature of the transactions (including any related discounts, refunds, rebates, offsets, or other adjustments).

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“Sufficient non-Government sales” means relevant sales data that reflects market pricing and contains enough information to make adjustments covered by FAR 15.404-1(b)(2)(ii)(B).

“Uncertified cost data” means the subset of “data other than certified cost or pricing data” (see FAR 2.101) that relates to cost.

(b) *Exceptions from certified cost or pricing data.*

(1) In lieu of submitting certified cost or pricing data, the Offeror may submit a written request for exception by submitting the information described in paragraphs (b)(1)(i) and (ii) of this provision. The Contracting Officer may require additional supporting information, but only to the extent necessary to determine whether an exception should be granted and whether the price is fair and reasonable.

(i) *Exception for price set by law or regulation - Identification of the law or regulation establishing the price offered.* If the price is controlled under law by periodic rulings, reviews, or similar actions of a governmental body, attach a copy of the controlling document, unless it was previously submitted to the contracting office.

(ii) *Commercial item exception.* For a commercial item exception, the Offeror shall submit, at a minimum, information that is adequate for evaluating the reasonableness of the price for this acquisition, including prices at which the same item or similar items have been sold in the commercial market. Such information shall include—

(A) For items previously determined to be commercial, the contract number and military department, defense agency, or other DoD component that rendered such determination, and if available, a Government point of contact;

(B) For items priced based on a catalog—

(1) A copy of or identification of the Offeror’s current catalog showing the price for that item; and

(2) If the catalog pricing provided with this proposal is not consistent with all relevant sales data, a detailed description of differences or inconsistencies between or among the relevant sales data, the proposed price, and the catalog price (including any related discounts, refunds, rebates, offsets, or other adjustments);

(C) For items priced based on market pricing, a description of the nature of the commercial market, the methodology used to establish a market price, and all relevant sales data. The description shall be adequate to permit DoD to verify the accuracy of the description;

(D) For items included on an active Federal Supply Service Multiple Award Schedule contract, proof that an exception has been granted for the schedule item; or

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(E) For items provided by nontraditional defense contractors, a statement that the entity is not currently performing and has not performed, for at least the 1-year period preceding the solicitation of sources by DoD for the procurement or transaction, any contract or subcontract for DoD that is subject to full coverage under the cost accounting standards prescribed pursuant to 41 U.S.C. 1502 and the regulations implementing such section.

(2) The Offeror grants the Contracting Officer or an authorized representative the right to examine, at any time before award, books, records, documents, or other directly pertinent records to verify any request for an exception under this provision, and to determine the reasonableness of price.

(c) *Requirements for certified cost or pricing data.* If the Offeror is not granted an exception from the requirement to submit certified cost or pricing data, the following applies:

(1) The Offeror shall submit certified cost or pricing data and supporting attachments in the following format: *[Insert description of the data and format that are required, and include access to records necessary to permit an adequate evaluation of the proposed price in accordance with FAR 15.408, Table 15-2, Note 2. The Contracting Officer shall insert the description at the time of issuing the solicitation or specify that the format regularly maintained by the offeror or prospective subcontractor in its business operations will be acceptable. The Contracting Officer may amend the description as the result of negotiations.]*

(2) As soon as practicable after agreement on price, but before contract award (except for unpriced actions such as letter contracts), the Offeror shall submit a Certificate of Current Cost or Pricing Data, as prescribed by FAR 15.406-2.

(3) The Offeror is responsible for determining whether a subcontractor qualifies for an exception from the requirement for submission of certified cost or pricing data on the basis of adequate price competition, i.e., two or more responsible offerors, competing independently, submit priced offers that satisfy the Government's expressed requirement in accordance with FAR 15.403-1(c)(1)(ii).

(d) *Requirements for data other than certified cost or pricing data.*

(1) Data other than certified cost or pricing data submitted in accordance with this provision shall include all data necessary to permit a determination that the proposed price is fair and reasonable, to include the requirements in DFARS [215.402\(a\)\(i\)](#) and [215.404-1\(b\)](#).

(2) In cases in which uncertified cost data is required, the information shall be provided in the form in which it is regularly maintained by the Offeror or prospective subcontractor in its business operations.

(3) The Offeror shall provide information described as follows: *[Insert description of the data and the format that are required, including access to records necessary to permit an adequate evaluation of the proposed price in accordance with FAR 15.403-3].*

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(4) Within 10 days of a written request from the Contracting Officer for additional information to support proposal analysis, the Offeror shall provide either the requested information, or a written explanation for the inability to fully comply.

(5) *Subcontract price evaluation.*

(i) Offerors shall obtain from subcontractors the information necessary to support a determination of price reasonableness, as described in FAR part 15 and DFARS part 215.

(ii) No cost information may be required from a prospective subcontractor in any case in which there are sufficient non-Government sales of the same item to establish reasonableness of price.

(iii) If the Offeror relies on relevant sales data for similar items to determine the price is reasonable, the Offeror shall obtain only that technical information necessary—

(A) To support the conclusion that items are technically similar; and

(B) To explain any technical differences that account for variances between the proposed prices and the sales data presented.

(e) *Subcontracts.* The Offeror shall insert the substance of this provision, including this paragraph (e), in all subcontracts exceeding the simplified acquisition threshold defined in FAR part 2. The Offeror shall require prospective subcontractors to adhere to the requirements of—

(1) Paragraph (c) and (d) of this provision for subcontracts above the threshold for submission of certified cost or pricing data in FAR 15.403-4; and

(2) Paragraph (d) of this provision for subcontracts exceeding the simplified acquisition threshold defined in FAR part 2.

(End of provision)

#### **252.215-7011 Requirements for Submission of Proposals to the Administrative Contracting Officer and Contract Auditor.**

As prescribed in [215.408\(5\)\(ii\)](#), use the following provision:

#### REQUIREMENTS FOR SUBMISSION OF PROPOSALS TO THE ADMINISTRATIVE CONTRACTING OFFICER AND CONTRACT AUDITOR (JAN 2018)

When the proposal is submitted, the Offeror shall also submit one copy each to—

(a) The Administrative Contracting Officer; and

(b) The Contract Auditor.

(End of provision)

**252.215-7012 Requirements for Submission of Proposals via Electronic Media.**

As prescribed in [215.408](#)(5)(iii), use the following provision:

REQUIREMENTS FOR SUBMISSION OF PROPOSALS VIA ELECTRONIC  
MEDIA (JAN 2018)

The Offeror shall submit the cost portion of the proposal via the following electronic media: *[Insert media format, e.g., electronic spreadsheet format, electronic mail, etc.]*

(End of provision)

**252.215-7013 Supplies and Services Provided by Nontraditional Defense Contractors.**

As prescribed in [215.408](#)(6), use the following provision:

SUPPLES AND SERVICES PROVIDED BY NONTRADITIONAL DEFENSE  
CONTRACTORS (JAN 2018)

Offerors are advised that in accordance with 10 U.S.C. 2380a, supplies and services provided by a nontraditional defense contractor, as defined in DFARS [212.001](#), may be treated as commercial items. The decision to apply commercial item procedures to the procurement of supplies and services from a nontraditional defense contractor does not require a commercial item determination and does not mean the supplies or services are commercial.

(End of provision)

**252.215-7014 Exception from Certified Cost or Pricing Data Requirements for Foreign Military Sales Indirect Offsets.**

As prescribed in [215.408](#)(8), use the following clause:

EXCEPTION FROM CERTIFIED COST OR PRICING DATA REQUIREMENTS FOR  
FOREIGN MILITARY SALES INDIRECT OFFSETS (JUN 2018)

(a) *Definition.* As used in this clause—

“Offset” means a benefit or obligation agreed to by a contractor and a foreign government or international organization as an inducement or condition to purchase supplies or services pursuant to a foreign military sale (FMS). There are two types of offsets: direct offsets and indirect offsets.

(1) A direct offset involves benefits or obligations, including supplies or services that are directly related to the item being purchased and are integral to the deliverable of the FMS contract. For example, as a condition of a foreign military sale, the contractor may require or agree to permit the customer to produce in its country certain components or subsystems of the item being sold. Generally, direct offsets must be performed within a specified period, because they are integral to the deliverable of the FMS contract.

(2) An indirect offset involves benefits or obligations, including supplies or services that are not directly related to the specific item(s) being purchased and are not

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integral to the deliverable of the FMS contract. For example, as a condition of a foreign military sale, the contractor may agree to purchase certain manufactured products, agricultural commodities, raw materials, or services, or make an equity investment or grant of equipment required by the FMS customer, or may agree to build a school, road or other facility. Indirect offsets would also include projects that are related to the FMS contract but not purchased under said contract (e.g., a project to develop or advance a capability, technology transfer, or know-how in a foreign company). Indirect offsets may be accomplished without a clearly defined period of performance.

(b) *Exceptions from certified cost or pricing data requirements.* Notwithstanding the requirements of Federal Acquisition Regulation (FAR) 52.215-20, Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data, in the case of this contract or a subcontract, and FAR 52.215-21, Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data—Modifications, in the case of modification of this contract or a subcontract, submission of certified cost or pricing data shall not be required to the extent such data relates to an indirect offset (10 U.S.C. 2306a(b)(1)).

(End of clause)