Pricing Matters: Pricing for Commercial Items
By Ronald Marta, University of Houston PTAC

The Federal Government has three principal contracting methods: Acquisition of Commercial Items, Sealed Bids, and Contracting by Negotiation. These methods are the subject of Federal Acquisition Regulation (FAR) Parts, 12, 14, and 15, respectively. This article will consider the pricing for the first of these methods – Commercial Items.

By definition, “Commercial item means any item, other than real property, that is of a type customarily used by the general public or by non-governmental entities for purposes other than governmental purposes.” Commercial items can include services related to the commercial item, for example, installation, maintenance, and repair services (FAR 2.101).

Before making a government contract award, the contracting officer must determine that the proposed price is “fair and reasonable” (FAR 13.106-3). “Fair” means a price based on reasonable costs under normal competitive conditions (FAR 19.001). “Reasonable” means that a cost does not exceed that which would be incurred by a prudent person in the conduct of competitive business (FAR 31.201-3).

Whenever possible, price reasonableness is to be based on competitive quotations or offers (FAR 13.106-3).

When pricing commercial items, the contracting officer is to be aware of customary commercial terms and conditions. For example, the prices of commercial items can be affected by factors that include speed of delivery, length and extent of warranty, limitations of seller’s liability, quantities ordered, length of the performance period, and specific performance requirements (FAR 12.209).

Commercial items are exempt from the requirement for certified cost or pricing data (FAR 15.403-1). For acquisitions that do not require certified cost or pricing data, the contracting officer must do the following (FAR 15.403-1):

1. Obtain whatever data are available from Government or other secondary sources.
2. Require submission of data other than certified cost or pricing data (for example, pricing, sales, or cost information) from sources other than the offeror, or if these are not available, from the offeror.
3. Consider whether cost data are necessary when there is not adequate price competition.
4. Require that the data submitted by the offeror include appropriate data on the prices at which the same item or similar items have previously been sold.
5. Consider the guidance in the Contract Pricing Reference Guide (Volume I, Chapter 3, Section 3) regarding allowability, specifically cost reasonableness.
Sources of pricing information:

- Electronic Internet search engines.
- Readily available market research data, for example, comparative information regarding competitors and the competitive environment.
- Comparison with competitive published price lists, catalogs, published market prices of commodities, similar indexes, and discount or rebate arrangements.
- Comparison of proposed prices received in response to a solicitation.
- Comparison of proposed prices to historical prices paid.
- Use of parametric estimating methods/application of rough yardsticks, for example dollars per pound or per horsepower, or other units, to highlight significant inconsistencies that warrant additional pricing inquiry.
- Comparison of proposed prices with independent Government cost estimates.
- Government electronic malls.
- Advice from Government pricing and audit personnel.
- Company historical records.
- Industry association databases.

The Federal Supply Schedule, under the General Services Administration (GSA), provides government buyers with a simplified process for the acquisition of commercial items and services. The items and services, as well as the pricing which has already been negotiated, are listed by vendor on the GSA website under the GSA Advantage link.

Finally, it is to be noted that agencies must use firm-fixed-price contracts or fixed-price contracts with economic price adjustment for the acquisition of commercial items (FAR 12.207).

As always, I invite your questions and comments. I can be contacted by telephone at 713-752-8450 or by e-mail at rmarta@uh.edu.