



# Bid & Proposal/Contract Pricing 2012 Cobham Compliance Conference

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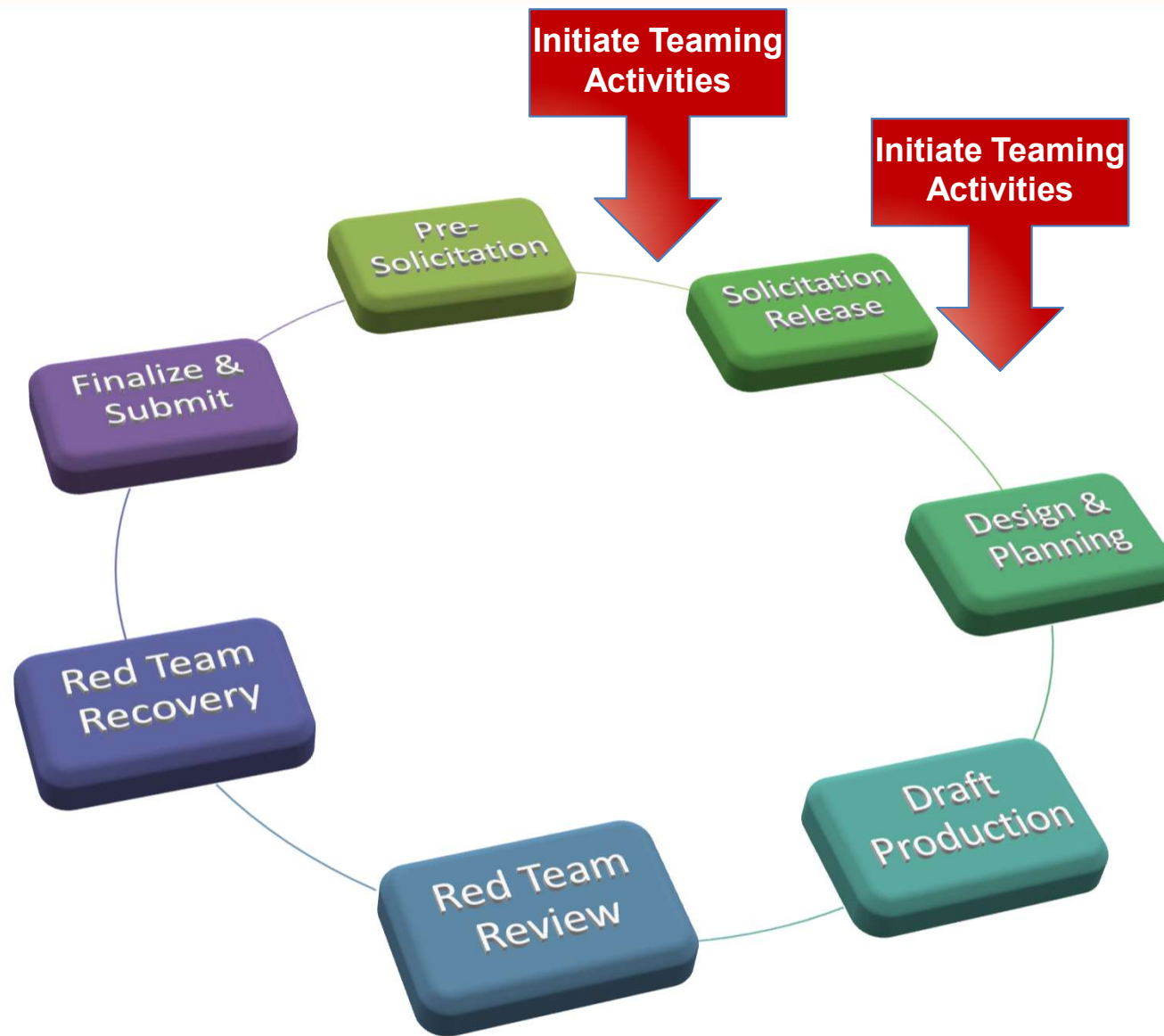
# Agenda

- Key Pricing Regulations
- Introduction to the Bid & Proposal Lifecycle
  - Planning Considerations
  - General Workflow
- Truth In Negotiations Act
- Cost/Price Analysis

# Key Pricing Regulations

- FAR Part 12 – Acquisition of Commercial Items
- FAR Part 13 – Simplified Acquisition Process
- FAR Part 14 – Sealed Bidding
- FAR Part 15 – Contracting by Negotiation
- FAR Part 16 – Types of Contracts
- FAR Part 30 – Cost Accounting Standards Administration
- FAR Part 31 – Contract Cost Principles and Procedures
- FAR Part 44 – Subcontracting Policies and Procedures
- 10 USC § 2306a - Truth In Negotiations Act (TINA)

# Proposal Preparation Cycle





# Bid & Proposal Planning Considerations

- RFP evaluation occurs after release
  - Bid/No Bid decision made
- After decision to bid, some key planning factors to consider in proposal preparation:
  - What are the unique regulatory requirements, if any?
  - What are roles and responsibilities?
  - What must be done to prepare an adequate proposal?
  - What tasks must be assigned?
  - When are assigned tasks due?
  - What will the quality management process be prior to proposal submission?
- Prepare a proposal compliance matrix to ensure adequacy in meeting proposal volume requirements including:
  - Technical
  - Pricing
  - Past performance
  - Regulatory requirements

# Bid & Proposal General Workflow

- The technical requirements within a proposal are usually evaluated first
  - What is needed to address the RFP requirements?
- Once technical requirements have been identified, items/processes/etc. which are needed can be priced
  - Will subcontractors be needed?
  - What are appropriate basis of estimates?
- RFPs usually contain several other volumes/proposal sections, such as representations and certifications, past performance, etc.
  - These sections are usually not dependent on technical or pricing data and can be completed at any time

# Bid & Proposal General Workflow

- After initial proposal volume/section preparation, best practice is to gap against RFP requirements
  - Any gaps should be remediated
  - Evaluate impact of gap to pricing volume
    - Adjust pricing volume as necessary
- After gaps are remediated, a review should be conducted to ensure that the cost and/or pricing data (whichever is applicable) is current accurate and complete as of the date of submission
  - Risk of Defective Pricing

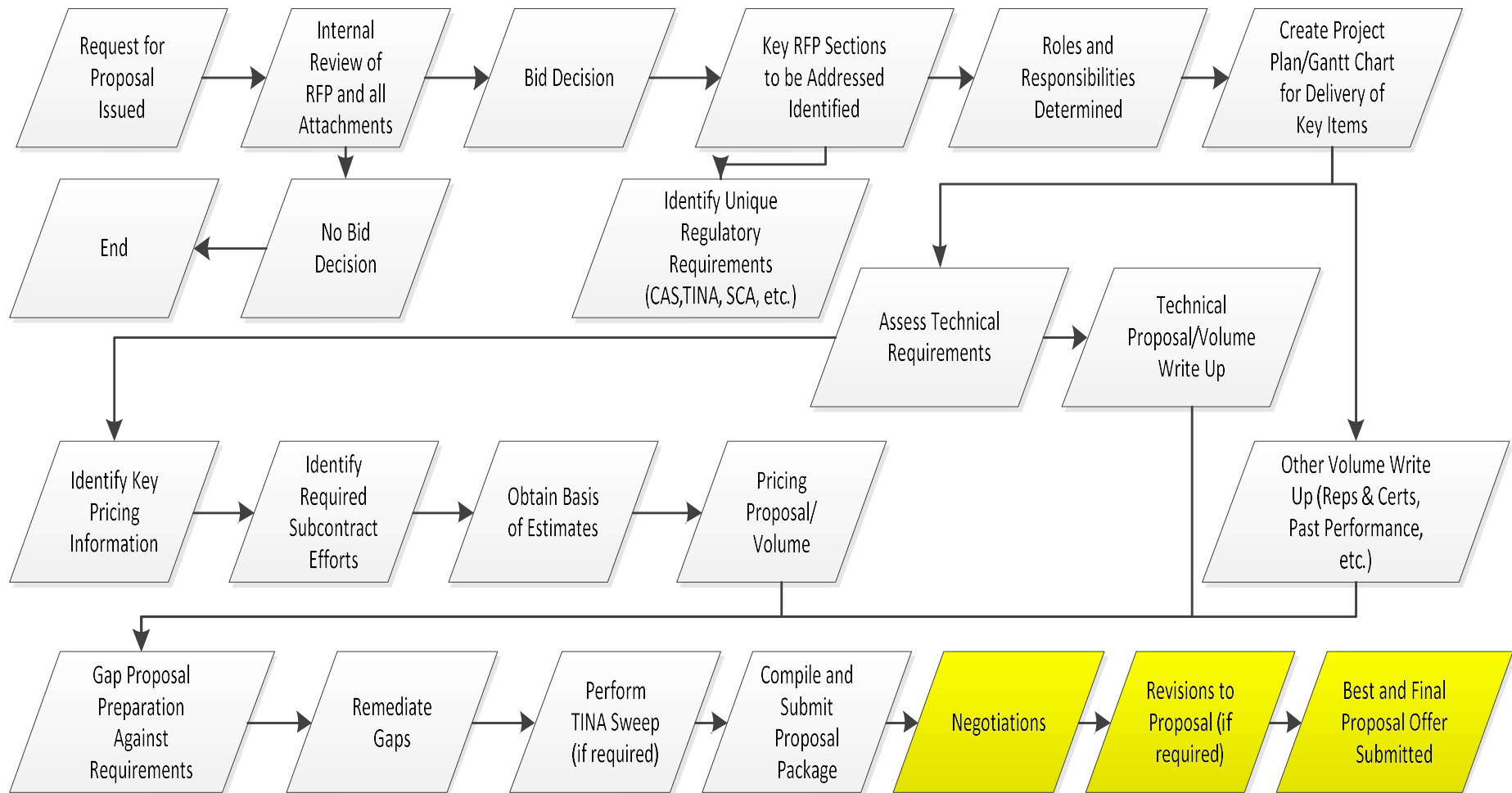


# Bid & Proposal General Workflow

- Proposal volumes/sections should be compiled and submitted
  - RFPs usually contain strict parameters for submission (font size, confinements on page numbers, etc.)
  - Noncompliance with these parameters can be grounds for proposal disqualification
- If a contractor is in the competitive range, negotiations begin (for competitive bids)
- Negotiations may dictate the need for proposal revisions and submission of a best and final offer (BAFO)
  - Always consider impact of revisions to pricing volume



# Bid & Proposal Lifecycle



Items highlighted yellow are specific to competitive negotiations

- Promulgated under 10 USC § 2306a
- Requires contractors to submit current, accurate, and complete cost or pricing data as of date of submission
- Contractors must **certify** that cost or pricing data is current, accurate, and complete
- Applies to all government contracts and subcontracts (and modifications) over \$700k, unless an exception applies
- **Exceptions:**
  - Adequate price competition exists
  - The price is set by law or regulation
  - The acquisition is for commercial items (Part 12)
  - The head of the procuring activity, without delegation, determines that the requirements of this section may be waived and justifies in writing the reasons for such determination

# TINA – Additional Information

- Noncompliance can result in civil and criminal penalties, suspension, and/or debarment



- Defective cost or pricing data can result in contract price reductions



- Invoices submitted under a defectively priced contract are considered False Claims
  - False Claims can produce criminal and civil exposure, both at a corporate and individual level
  - Treble



# Cost/Price Analysis

- The government's objective of proposal analysis is to ensure that the final agreed to price is fair and reasonable (FAR 15.404-1(a))
  - While this is a government objective, leveraging similar practices internally promotes efficiency and effectiveness throughout the acquisition process while simultaneously mitigating and/or reducing risk
- Two primary methods used to evaluate "fair and reasonable"
  - Price analysis
  - Cost analysis





# Cost/Price Analysis

## Price Analysis

We examine and evaluate the proposed price to determine if the overall price and subcomponent pricing is fair and reasonable, without evaluating its separate cost elements and proposed profit/fee.

## Cost Analysis

CB&H will review and evaluate the separate cost elements and profit/fee in the cost proposal and the application of judgment to determine how well the proposed costs represent what the cost of the contract should be, assuming reasonable economy and efficiency.

## Cost Realism Analysis

For cost realism, CB&H independently evaluates specific, detailed elements of the cost estimate to ensure the proposed cost is free of errors, market competitive, and the cost is reasonable for the proposed scope of work.

# Technique Comparison

	Price Analysis	Cost Analysis	Cost Realism Analysis	Profit/Fee Analysis
What is it?	<p>Examination and evaluation of proposed price (determine if fair and reasonable) without evaluation of separate cost elements and proposed profit/fee.</p> <p>Price analysis always involves some sort of comparison with other prices;</p> <ul style="list-style-type: none"> <li>- Ex, comparing price with the proposed prices of competing or previous offers and offerors</li> </ul>	<p>Review and evaluation of the separate cost elements and profit/fee in an offeror's proposal</p> <p>Application of judgment to determine how well the proposed costs represent what the cost of the contract should be, assuming reasonable economy and efficiency.</p>	<p>Independent evaluation of specific elements of each offeror's cost estimate to determine whether the estimated cost elements are:</p> <p>The most probable cost estimate is a product of a cost realism analysis.</p>	<p>The process of examining the proposed profit or fee to determine if it is reasonable in light of the associated risks.</p>
When is it performed?	<p>When cost and pricing data <b><u>is not required</u></b> to determine if the overall price is fair and reasonable.</p> <p>Price realism may be performed to determine that the price offered is consistent with the effort proposed.</p>	<p>When cost or pricing data is required.</p> <p>Also may be used to evaluate information other than cost or pricing data to determine cost reasonableness or cost realism.</p>	<p>When cost reimbursement contracts are anticipated.</p> <p>Also may be used on FP incentive contracts.</p>	<p>When cost analysis is performed.</p>

# Pricing Overview

- What does price tell us?



- It is a reflection of a customer or potential customer's willingness to pay for a good or service
  - Different product/service lines may require management to design different prices/margins
- Price is often publically available information
    - Knowing previous prices for products or services can be **GOOD** and **BAD**
  - When pricing, understand why and when winning isn't everything.....
    - Try not to get caught up in winning a contract for a price that is detrimental to your performance or bottom line
  - Mistakes are often made by both the Government and the contractor
  - The test many agencies employ when evaluating price is whether or not your price is fair and reasonable

# 10 Common Pricing Mistakes

1. Calculating Price
2. Estimating Cost
3. Underpricing
4. Attention to Detail
5. Assessing Risk
6. Planning
7. Value
8. Past Performance
9. Unrecoverable Costs
10. Pricing Practices





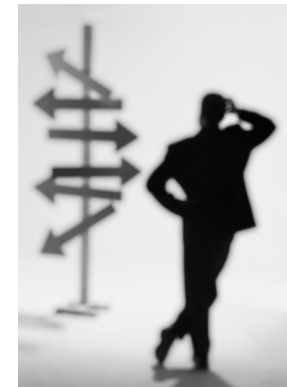
# Price Analysis

- Price analysis is the process of examining and evaluating a proposed price without evaluating its separate cost elements and proposed profit (FAR 15.404-1(b)(1))
- Price is defined as cost plus any profit or fee applicable to a contract type (FAR 15.401)
  - Profit or fee represent the potential total remuneration that contractors may receive for contract performance over and above allowable costs (FAR 15.404-4(a)(1))



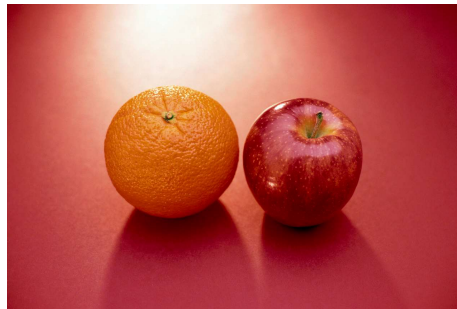
# Price Analysis

- The government will perform price analysis when certified cost or pricing data are not required (FAR 15.404-1(a)(2))
- Process is subjective – different purchasers may reach different conclusions when evaluating the same information
  - Best practice is to maintain an open dialogue with your buyer throughout the bid process and gain the best possible understanding of their expectations



# Price Analysis: Techniques

- There are various analysis techniques used to determine fair and reasonable prices (FAR 15.404-1(b)(2))
  - Comparison of competitor prices, if known
  - Comparison of proposed prices to historical prices offered for the same or similar items/services
  - Use of parametric estimating methods/application of rough yardsticks (rules of thumb)
  - Comparison with competitive published price lists/commodities/similar indexes
  - Comparison with any independent cost estimates
  - Comparison with prices obtained through market research



# Price Analysis: Issues to Consider

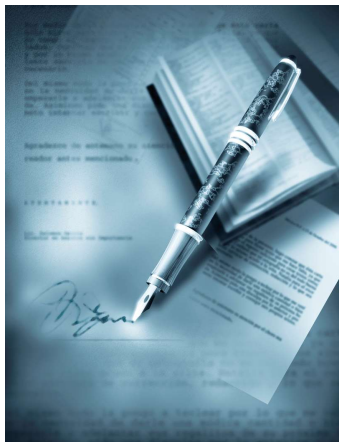
- Issues to consider when pricing and performing price analysis
  - Strategic pricing decisions
    - Is the bid strategic in nature (for example, an entrance into a new market)?
    - What are buyer's expectations for pricing?
  - Pricing history (internal and external)
    - Has Cobham offered the same or similar item before? At what price?
    - Have competitors offered the same or similar item before? At what price?
  - Market conditions
    - Rules of supply and demand
    - Price elasticity of demand
    - Macro economic forces (such as inflation)





# Price Analysis: Issues to Consider

- Issues to consider when pricing and performing price analysis
  - Tradeoff of price and technical performance
    - Is the award lowest priced technically acceptable? (LPTA)
    - How heavily are other factors such as qualifications, past performance, technical quality, etc. weighted?
      - Analyze the numbers and weighting
  - Contract terms and conditions
    - Have all terms and conditions been considered when pricing?
    - Are there dependent costs that must be priced?



- Contract terms and conditions
  - Have all terms and conditions been considered when pricing?
  - Are there dependent costs that must be priced?

# Cost Analysis

- Cost analysis is the review and evaluation of any of the separate cost elements and profit or fee in a proposal as needed to determine fair and price or determine cost realism (FAR 15.404-(c)(1))
- The government will perform cost analysis when certified cost or pricing data are required in order to evaluate the reasonableness of individual cost elements (FAR 15.404-1(a)(3))
  - Price analysis will likely still be used to verify that the overall price offered is fair and reasonable
- Cost analysis may also be used when other methods cannot be used to determine price reasonableness

# Cost Analysis: Techniques

- Cost analysis techniques include (FAR 15.404-1(c)(2)):
  - Evaluating the necessity for, and reasonableness of, proposed costs (including allowances for contingencies)
  - Projecting cost trends on the basis of current and historical cost or pricing data
  - Evaluating the reasonableness of estimates generated by parametric models or cost estimating relationships
  - Evaluating the application of audited or negotiated indirect cost rates, labor rates, cost of money factors, etc.



# Cost Analysis: Techniques

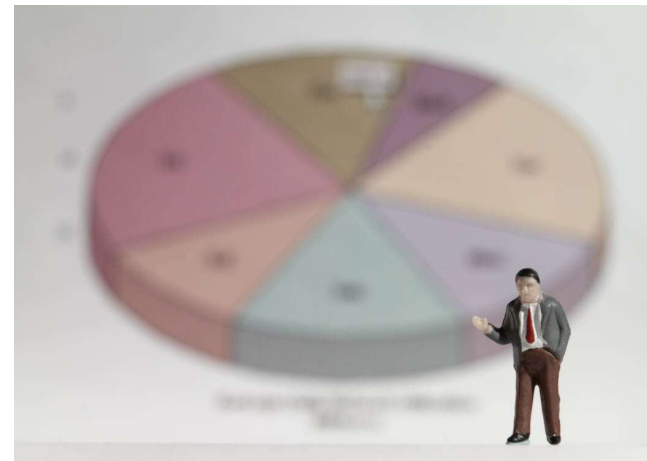
- Cost analysis techniques include (FAR 15.404-1(c)(2)):
  - Evaluating the effect of current practices on future costs
    - Inefficient or uneconomical practices should not be projected into the future
  - Evaluating proposed costs against:
    - Previously incurred costs
    - Previous cost estimates for the same or similar items
    - Competitor cost information, if available
    - Independent cost estimates
    - Forecasted cost expenditures
- Cost analysis techniques include (FAR 15.404-1(c)(2)):
  - Evaluating proposed costs to ensure congruence with FAR 31 Cost Principles (and FAR supplement Cost Principles, where applicable)
  - Evaluating proposed costs against verifiable documentation (quotes, negotiated agreements, etc.)





# Cost Analysis

- Major elements of cost to consider in cost analysis
  - Labor Costs
  - Subcontractors
  - Materials and Other Direct Costs (ODCs)
  - Indirect Costs
  - Profit/Fee



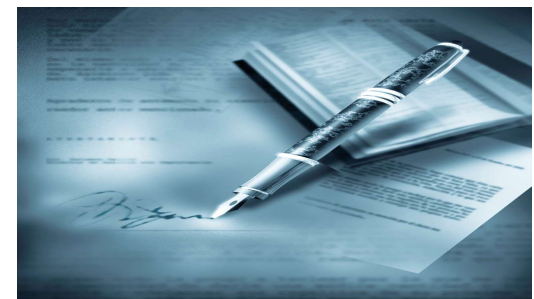
## ■ Labor Costs

- Are labor rates discretely identified by labor category?
- Are labor rates reasonable based on price build up, market data, and/or regulatory guidance (wage determination)?
- Are available hours projected by labor category?
- Are projected hours appropriate based on anticipated efforts, by labor category?



## ■ Subcontracts

- Have independent cost/price analysis been performed to verify the reasonableness of subcontract quotes?
  - Consider whether the subcontractor has an approved purchasing system
  - Consider whether there are negotiated and agreed to subcontract prices
  - Consider the need to obtain certified cost or pricing data or data other than certified cost or pricing data
- Have responsibilities been clearly delineated between the prime and sub and is the corresponding pricing appropriate considering the delineation?
- Consider pass through limitations



- Materials

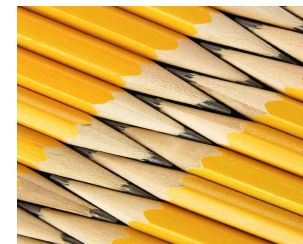
- Is material pricing consistent with the Bill of Material (BOM)?
- Do terms and conditions require specific materials or is there latitude in the materials allowed to be used?
- Are assembly times appropriately considered in pricing?
- Are spoilage and scrap accounted for in pricing?

- ODCs

- Are transportation, lodging, consultant, special tooling, royalties, etc. considered?
- Where applicable, are FAR 31 restrictions accounted for (airfare, meals, etc.)?

## ■ Indirect Costs

- Are indirect cost applications consistent with cost accounting structure?
- Is there a forward pricing rate agreement stipulating indirect rates to be used over defined periods?
- Have there been any recent governmental audit adjustments to indirect rates which should be considered for application of future rates?
- Are indirect cost limitations or caps appropriately considered in pricing?





# Cost Analysis

- Profit/Fee
  - Statutory limitations on fee for certain types of contracts
    - 15% on cost plus fixed fee for R&D (FAR 15.404-4(c)(4)(i)(A))
    - 6% on architect-engineer services (FAR 15.404-4(c)(4)(i)(B))
    - 10% on other cost plus fixed fee contracts (FAR 15.404-4(c)(4)(i)(C))
    - 0% on cost sharing contracts (FAR 16.303)
  - Profit analysis factors (FAR 15.404-4(d); DD Form 1547)
    - Contractor effort
    - Contractor cost risk
    - Federal socioeconomic programs
    - Capital investments
    - Cost-control and other past accomplishments
    - Independent development



# Cost/Price Analysis Summary

- Price analysis used to evaluate reasonableness of overall price
- Cost analysis used to assess discrete cost elements and profit/fee
- Cost/Price must be **justifiable and reasonable**
  - Justifiable and reasonable to both the government and Cobham
- Consideration must be given to differences between GAAP and IFRS that may produce accounting differences, such as cost capitalization, revenue recognition for margin analysis, etc. when evaluating projected margins
- Statutory and regulatory limitations and guidance must be considered

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