



# **ACQUISITION LETTER**

This Acquisition Letter is issued under the authority of the Senior Procurement Executive of DOE. It is intended for use by procurement professionals of DOE, primarily Contracting Officers, and other officials of DOE that are involved in the acquisition process. Other parties are welcome to its information, but definitive interpretations of its effect on contracts, and related procedures if any, may only be made by DOE Contracting Officers.

**Subject: Contract Pricing: Proposal Analysis and Contractors' Cost Estimating Systems**

**References:**

**FAR 15.4—Contract Pricing**

**FAR 15.404—Proposal Analysis**

**FAR 15.407-5—Estimating Systems**

**When is this Acquisition Letter (AL) effective?**

This Acquisition Letter (AL) is effective immediately upon issuance.

**When does this AL expire?**

This AL remains in effect until canceled.

**Who is the intended audience for this AL?**

Department of Energy (DOE) Contracting Officers (COs) are the intended audience.

**Who is the point of contact?**

DOE COs should contact MA-611, [DOE\\_oapmpolicy@hq.doe.gov](mailto:DOE_oapmpolicy@hq.doe.gov).

For additional information on ALs and other issues, visit our website at:

<http://energy.gov/management/office-management/operational-management/procurement-and-acquisition>

**What is the purpose of this AL?**

This AL provides guidance to COs for performing proposal analyses regarding: the value of contractors' creating and maintaining strong cost estimating systems; the requirements such systems might meet; and the need to ensure contractors have met the requirements before deciding to what extent to rely upon, modify, or reject the contractors' estimating techniques in performing cost or price analyses of contractors' proposals.

**What types of M&O and non-M&O contracts are affected by this AL?**

This AL applies to M&O contracts and non-M&O contracts that require proposal analysis.

**What is the background information?**

The CO is responsible for evaluating the reasonableness of an offered price and must use proposal analysis, that is, apply the appropriate analytical techniques and procedures described in FAR 15.404 or other effective techniques, singly or in combination, to ensure that the negotiated price is fair and reasonable. The complexity and circumstances of each acquisition determine the level of detail of the analysis the CO must perform.

The CO: must use price analysis when certified cost or pricing data are not required; must use cost analysis when certified cost or pricing data are required; when using cost analysis, should use price analysis to verify that the overall price offered is fair and reasonable; and may request the advice and assistance of other experts to ensure that an appropriate analysis is performed.

Regarding the CO's use of the appropriate analytical techniques, the circumstances of the acquisition dictate the appropriate technique or techniques. The CO: may use any of the price analysis techniques listed in FAR or other price analysis techniques; and may use any of the cost analysis techniques listed in FAR or other cost analysis techniques.

One of the circumstances of an acquisition is the contractor's estimating system that produced the contractor's offered price. The stronger the estimating system, that is, the more confident the CO is that it produced an accurate and reliable price proposal, the less effort required of the CO to evaluate the reasonableness of the offered price. A contractor's establishing a strong estimating system benefits the contractor and the Government by reducing the needed scope of the CO's review of an individual price proposal and expediting the negotiation process.

Because of the value of contractors' establishing strong estimating systems, cognizant audit activities, when it is appropriate to do so, establish and manage regular programs for reviewing contractors' estimating systems or methods. For each review, they document the results in a survey report and send a copy of it and a copy of each official notice of corrective action required to each contracting office and contract administration office having substantial business with the contractor whose estimating system was reviewed. If a contractor does not correct significant deficiencies, the CO must consider the contractor's lack of response and the contractor's estimating system deficiencies in performing proposal analyses and conducting negotiations.

### **What is the guidance contained in this AL?**

#### **The regulatory requirements of FAR 15.4**

Every CO must meet the regulatory requirements of FAR 15.4 in establishing fair and reasonable prices for an acquisition. To meet those regulatory requirements efficiently, the CO should, among other things, take full advantage of the advice and assistance of other experts and, if appropriate, of the contractor's estimating system.

While it is desirable, there is no regulatory requirement that a contractor establish a strong estimating system, and, regardless of the strength of a contractor's estimating system, all of the regulatory requirements of FAR 15.4 for establishing a fair and reasonable price apply. Nonetheless, the value of a contractor's creating and maintaining a strong cost estimating system is clear. Among other things, it reduces the needed scope of the contracting officer's review of the contractor's offered price and expedites the negotiation process.

#### If the contractor has an approved estimating system

If the cognizant audit activity has established and managed a regular program for reviewing a contractor's estimating system or methods and the contract administration office has approved the contractor's estimating system, a CO analyzing a contractor's price proposal should work closely with the cognizant audit activity and contract administration office to understand the requirements the contractor's estimating system met that earned the system's approval and to ensure the contractor met those requirements in preparing its price proposal (or take the contractor's failure to do so into account in reviewing the proposal and conducting negotiations).

The quality of the CO's analysis of the contractor's price proposal, the time it takes to perform it, and the CO's effectiveness in establishing a fair and reasonable price all benefit from the CO's taking advantage of the cognizant auditor's and the contract administration office's familiarity with contractor's estimating techniques and their confidence the contractor appropriately applied those techniques in preparing its price proposal. The more a CO understands the estimating techniques the contractor used in producing its price proposal, the more effectively the CO can determine a fair and reasonable price for the acquisition. To the extent the CO understands those techniques and how the contractor used them, the CO can be confident in deciding to what extent to rely upon, modify, or reject them in performing the CO's cost or price analysis of the contractor's price proposal.

#### If the contractor does not have an approved estimating system

If the cognizant audit activity has not established and managed a regular program for reviewing a contractor's estimating system or methods and the contract administration office has not approved the contractor's estimating system, the CO, in meeting the regulatory requirements of FAR 15.4: must take the lack of an approved estimating system into account by adjusting the scope of the CO's review of the contractor's price proposal; and should take the lack of an approved estimating system into account in estimating the timeframe to complete the negotiation process.