



DEFENSE LOGISTICS AGENCY
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IN REPLY
REFER TO

J-33
PROCLTR 03- 11

JUN 13 2003

MEMORANDUM FOR PROCLTR DISTRIBUTION LIST

SUBJECT: Defense Logistics Acquisition Directive (DLAD) 4105.1, Section 19.807, Guidance on Estimating Fair Market Price (FMP)

The purpose of the PROCLTR is to disseminate revised DLAD coverage for estimating the FMP for Section 8(a) procurements. The DLAD coverage clarifies the use of price analysis techniques and the consideration of various factors that might affect price when establishing the FMP. The DLAD coverage does not include any language that would be tantamount to authorizing the payment of a premium to secure an award under the 8(a) program, as the Defense Logistics Agency has no such authority.

Compliance with this PROCLTR is effective immediately and expires upon incorporation of the coverage into the DLAD. The point of contact is Mr. Ralph Eagleton, J-3313, at (703) 767-1466 or ralph.eagleton@dla.mil


COL THOMAS R. ASHMAN, USAF
Acting, Executive Director
Acquisition, Technical, and Supply

Attachment



19.807 Estimating a Fair Market Price (FMP).

(a) A fair market price is one which the government can be expected to pay in a competitive environment, in the current open market place. It is not necessarily the lowest price resulting from a competition under ideal conditions.

(b) In determining the FMP for an acquisition other than those covered in paragraph (c)(90) of this section, the contracting officer, whether using previous buys, a market survey, pricing data, and/or cost or pricing data, would exclude any identifiable abnormally priced offers. This includes prices which, although reasonable, were found to have been abnormally low or high due to special or non-recurring circumstances, such as a one-time price reduction, premium charge, distress sale, etc. The FMP should normally be derived based on adjusting the lowest (except for repeat purchases (see 19.807(c)(90)) remaining reasonable price consistent with the Government's requirements in the manner specified in FAR and DLAD 19.807(c). No other price differential or adjustment factor shall be used (e.g., for independent government estimate inaccuracies, for differences between fully competitive awards and reservations, for differences between awards to manufacturers and to dealers, etc.). The practice of soliciting quotes from non-8(a) sources for the sole purpose of determining the FMP should be used only after the contracting officer/buyer has exhausted the use of cost or price analysis and considered commercial prices for similar products and services, available in-house cost estimates, data (including cost or pricing data) submitted by the SBA or the 8(a) contractor, and data obtained from any other Government agency. Soliciting market quotes is an acceptable means of conducting a market survey. However, market quotes provided by contractors for this purpose could be misleading, since there is no corresponding performance risk for the contractor.

(c)(90) Establishing an FMP does not mean that the section 8(a) subcontractor will always be able to meet the most recent, lowest, and /or comparable price obtained through full and open competition or sealed bidding.

(91) When there have been recent awards for comparable quantities of the item being purchased, which resulted from "normal competitive conditions," the most recent award shall be the basis upon which FMP is determined. A comparable quantity is not necessarily a similar quantity but must be one to which a logical price comparison can be made with the current quantity. **Recent award prices of incomplete contracts or orders may be considered if they were determined reasonable under normal competitive conditions and there is no evidence of poor performance.** All recent award prices are to be considered in determining if the most recent comparable price is representative of "normal competitive conditions." If the most recent award price is not representative of "normal competitive conditions," the file shall be so documented and the next most recent comparable award price shall be considered as the basis for the FMP determination. **The contracting officer must ensure that the differences in acquisition strategies are fully considered when developing the FMP. Factors to consider when developing the FMP include but are not limited to: direct vendor delivery, required delivery schedule, minimum order quantities, maximum order quantities, surge requirements, potential ship to locations, estimated annual quantities,**

contract period including options, FOB point, quality/inspection requirements, and packaging.

(92) Award of a section 8(a) contract shall not be delayed pending award of a recently issued solicitation which resulted in competitively priced offers, unless there is no reasonable basis for determining FMP other than the pending competitive award price.

(93) When a solicitation for a particular item would generally result in different unit prices for different line items, it may be desirable to develop separate FMPs for each line item. However, it is not permissible to establish a range of FMPs for any **single** item or group of items.

(94) Averaging of previous bid or award prices is prohibited.

(95) Previous section 8(a) award prices may be used to determine the current FMP only when: (a) a suitable previous competitive price is not available; and (b) when the previous FMP was established in accordance with FAR and DLAD guidelines.

(96) A format similar to that in paragraph 19.807(91), below, shall be used to document consideration of all relevant factors affecting price used to adjust the previous award price (base FMP), or the reason the factors were not adjusted.

(97) Once the FMP is established, considering previous award prices and all relevant factors affecting price, it will be the highest price that DLA will pay, except when a revised FMP, established within the FAR/DLAD guidelines, is fully supported and documented by the contracting officer.

(98) Although use of previous competitive award prices is the required method of determining FMP, whenever applicable, nothing in this directive shall preclude consideration of the unique factors of an individual acquisition or the application of another method of determining FMP, as listed in the FAR/DLAD, provided that the file clearly documents the reasonableness of the chosen approach.

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