



Price/Rate Proposals and Truth in Negotiations

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Agenda

- Forward Pricing/Rate Proposals
 - Introduction to Forward Pricing Proposals
 - Benefits of DCAA Forward Pricing Proposals Audits
- Truth in Negotiations (TIN)
 - Benefits of DCAA TIN Audit
 - DCAA Services in Alternative Contracting Environments (e.g, TINA Lite, Sweeps)
- Questions

Introduction To Forward Pricing Proposals

What is a Forward Pricing Proposals?

- Normally Requested by the customer
- Types of Forward pricing audits
 - Forward Pricing Rates Proposal (FPRP)
 - Pricing Proposals

Introduction To Forward Pricing Proposals (continued)

- What is a Forward Pricing Rate Proposal?
 - Set of rates and factors established by the contractor, submitted to the government for use in developing contractor proposals and set forward pricing rate recommendations
- Difference between FPRR and FPRA
 - FPRR is set by the Administrative Contracting Officer (ACO) when an FPRA has not been negotiated or agreed upon by both parties.
 - FPRA is a written agreement negotiated between a contractor and the government.
- DCAA's Role:
 - Evaluate the contractor's proposal
 - Submitting information and advice to the contracting officer
 - FPRP Audit Report withing 90 days of request for audit

Introduction To Forward Pricing Proposals (continued)

- What is a Price Proposals?
 - Types of Price Proposal Audits
 - Full Proposal or “Parts of a Proposal
 - Change Order Proposal
 - Foreign Military or Direct Commercial Sale
- Dollar Threshold
 - Fixed-price proposals exceeding \$10 million
 - Cost-type proposals exceeding \$100 million
- DCAA’s Role
 - Examine whether proposed amounts comply with solicitation terms
 - Opine on the proposed amounts examined



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Benefits of DCAA Forward Pricing Proposals Audits

DCAA Proposal Audit

- A DCAA audit is an independent verification and assessment of an entire proposal or customer requested elements of a proposal performed in accordance with professional standards. An audit consistently includes:
- Using the general access to the contractor's books and financial records granted to DCAA as the responsible audit agency and the proposal detailed supporting data to provide assurance the underlying data is reliable, and the estimating methodology produces a reasonable estimate of future costs

DCAA Proposal Audit (continued)

- Testing based on a risk assessment that considers the solicitation terms, basis of the contractor's proposal, contractor's internal control systems, established or disclosed cost accounting practices, and risk of fraud
- A report identifying contractor noncompliances (questioned costs) and failure to provide required data (unsupported costs) along with criteria the contractor failed to comply with supporting the findings and recommendations
- Briefing on complex audit findings so that you understand the defensibility and reliability of those findings

On-Site Support Staff Assistance

- The on-site support teams at each location are best prepared to identify experience, resource availability, specific contractor risks, and other factors to consider in establishing the recommended support plan that best meets your needs
- The recommended on-site support will vary based on the specific situation at each contractor location and with each procurement; no two situations will be exactly the same every time
- Ideally, discussions will be initiated with all support staff to establish the most efficient and effective approach

Audit Reports Examined, Dollars Examined, Net Savings and Return on Investment

- In FY23, DCAA issued 520 Forward Pricing audit Reports identifying over \$3.5 billion in audit exceptions from \$48 billion examined.
- In FY23, DCAA Forward Pricing audits resulted in \$2 billion net savings of defense spending with a return of investment of \$17.40

Meeting Forward Pricing Agreed-To Dates and Forward Pricing Average Elapse Days

- DCAA continues to focus on meeting agreed-to dates with a goal of 85 percent on time. In FY 2023, all reports were issued prior to the applicable negotiation to meet acquisition timelines.
- The time to complete a forward pricing audit is measured from the date DCAA receives the audit request or adequate proposal. The clock stops on the date we issue the audit report. In FY 2023, it took an average of 85 days to complete a forward pricing audit.

Additional DCAA Support Services

- Answer Questions about Report
- Negotiation Support:
 - Additional Analysis
 - Attendance at Negotiation
 - Recalculations
 - Research

Success Stories

- DCAA evaluated a \$629M price proposal and identified \$189M of questioned costs.
- Throughout the audit, DCAA provided the buying command with preliminary audit results.
- DCAA issued the audit report prior to the agreed to date.
- The command was able to use results for negotiations and reduce the acquisition cycle.

Success Stories (continued)

- Buying command requested DCAA to evaluate a \$464.5M cost reimbursable proposal. DCAA held early engagement discussions with the customer, which included potential audit support, and barriers to meet acquisition schedule.
- Throughout the audit DCAA informed the command of audit status, findings and audit schedule.
- DCAA met the command's acquisition schedule and issued the audit report with \$60.6M in questioned costs.
- The command met its acquisition schedule and was able to use DCAA's findings for negotiations.



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Truth in Negotiations

What is Truth in Negotiation Act (TINA)?

- Title 10 United States Code (U.S.C.) 271 Truthful Cost or Pricing Data requires that the Head of the Agency (HCA) obtain **certified cost or pricing data** for acquisitions valued in excess of the Truthful Cost or Pricing Data threshold, which is currently \$2 million for contracts issued after June 30, 2018, when none of the exceptions in Title 10 U.S.C. § 3703 applies.

Defective Pricing (DP)

- When a contractor fails to adequately disclose current, accurate, and complete **COST OR PRICING DATA** as of the date of agreement on price or another date agreed upon between the parties, and this failure causes an increase to the contract price, it becomes defective pricing.

Defective Pricing Risk Indicators

- No pre-award audit performed
- Significant time passed between the pre-award audit and price agreement date while
 - few or no proposal updates provided
 - lack of updates to cost or pricing data
- Issues with data or analyses
- Changes
- Delay or lack of disclosure

Purpose of TIN Compliance Audit

- To assess whether the contractor complied with 10 US Code Chapter 271: Truthful Cost or Pricing Data (Truth in Negotiations).
 - To determine if the negotiated contract price was increased by a significant amount because the contractor did not submit or disclose certified cost or pricing data to the Government as of the date of agreement on the price.

Benefit of DCAA TIN Audits

- In GFY23, DCAA performed 34 TIN audits identifying over \$60 million in Recommended Price Adjustment (RPA).

Type	Number	Dollars Examined	RPA
Reports	7	\$ 9,697,389,000	\$ 60,366,000
Memos	27	\$ 37,275,318,000	N/A
Total	34	\$46,972,707,000	\$ 60,366,000

Benefit of DCAA TIN Audits (continued)

- Better chance for complete facts (better cost or pricing data) during negotiations and in future proposals.
- Demonstrate potential risk areas in future pricing actions, which can ultimately result in CO negotiating a better contract price on future pricing actions.
- May identify contractor Business System deficiencies that can ultimately generate cost avoidance on future pricing actions.

TIN - How Can DCAA Assist?

- Assess CO identified areas of risk related to DP and review data for additional risks not previously identified
- Verify the contractor's certification that the data provided was current and accurate
- Determine whether the contractor disclosed all the facts during negotiation

TIN - How Can DCAA Assist? (continued)

- Examine contractor certified offsets
- Calculate accrued interest on defectively priced payments
- Recommend contract price adjustments, along with detailed establishment of the five elements of defective pricing

TIN - How Can DCAA Assist? (continued)

- Share insights of contractor estimating practices
- Share insights of whether the contractor's systems produce reliable cost or pricing data required to timely negotiate a fair and reasonable price.

TIN - How Can DCAA Assist? (continued)

- Assist CO in identifying and understanding disallowance or Non-Recognized costs on negotiated subcontracts
- Assistance with Contracting Officer's Final Decision (COFD)
- Assistance with demand letters
- Assist in settling the Recommended Price Adjustments

TINA Lite

NDAA Section 890

- “TINA Lite” is a pilot program where “Subject to approval by the Director, DPC, Price, Cost and Finance, the contracting officer may strategically establish the extent, structure, and level of detail of the historical actual cost data the contractor will be required to submit in lieu of providing complete certified cost or pricing data.”

TINA Lite (continued)

- TINA is still applicable to TINA Lite contracts
- TINA Lite does not change the value of the TINA threshold
- Requires a mature program & acquisition team
- TINA Lite flows to subcontracts

TINA Lite (continued)

- TINA Lite does not remove requirement for DCAA audit consideration.
- PGI instructs contracting officers to consider requesting a DCAA audit when an action is over the specified threshold.
 - PGI 215.404-2(c): Audit assistance for prime contracts or subcontracts.
 - (i) The contracting officer should consider requesting audit assistance from DCAA for
 - (A) Fixed-price proposals exceeding \$10 million;
 - (B) Cost-type proposals exceeding \$100 million.

TINA Lite - How Can DCAA Assist?

- Pre-TINA Lite Approval
 - Explain the source of the actual costs
 - Explain the pitfalls when “actual” costs do not represent present pricing actions (“when an actual is not an actual”).

TINA Lite - How Can DCAA Assist? (continued)

- Pre-Award:
 - Evaluate any required cost or pricing data
 - Evaluate actual costs
 - Provide rate analysis
 - Provide a simple overrun/underrun
 - Provide historical information
 - Inspect contractor provided documents and make additional inquiries
 - Provide status of contractor systems

TINA Lite - How Can DCAA Assist? (continued)

- Negotiation
 - Participate in fact finding/negotiations – even without an audit
 - Validate the updated data provided by the contractor during negotiations
 - Run updated actuals if there is a lengthy gap between proposal submission and negotiations

TINA Lite - How Can DCAA Assist? (continued)

- Post Award:
 - Perform TIN audit. All certified data required by the CO to be submitted under TINA Lite are subject to post award audit.
 - Identify any pitfalls in TINA Lite from a post award perspective to influence the path forward.

Sweeps

- “Sweeps” is a process whereby a contractor reviews its records to determine if more current cost or pricing data exist and need to be disclosed to the Government.
- “Sweeps” data should be submitted before agreement on price.

Sweeps

DFARS PGI 215.406-2

Option 1

Not Accept

- Notify the contractor (in writing)
- Additional data **will not** be reviewed until after contract award
- Dispositioned using defective certified cost or pricing data regulations (**FAR 15.407-1, 52.215-10, and 52.215-11 as applicable**)

Option 2

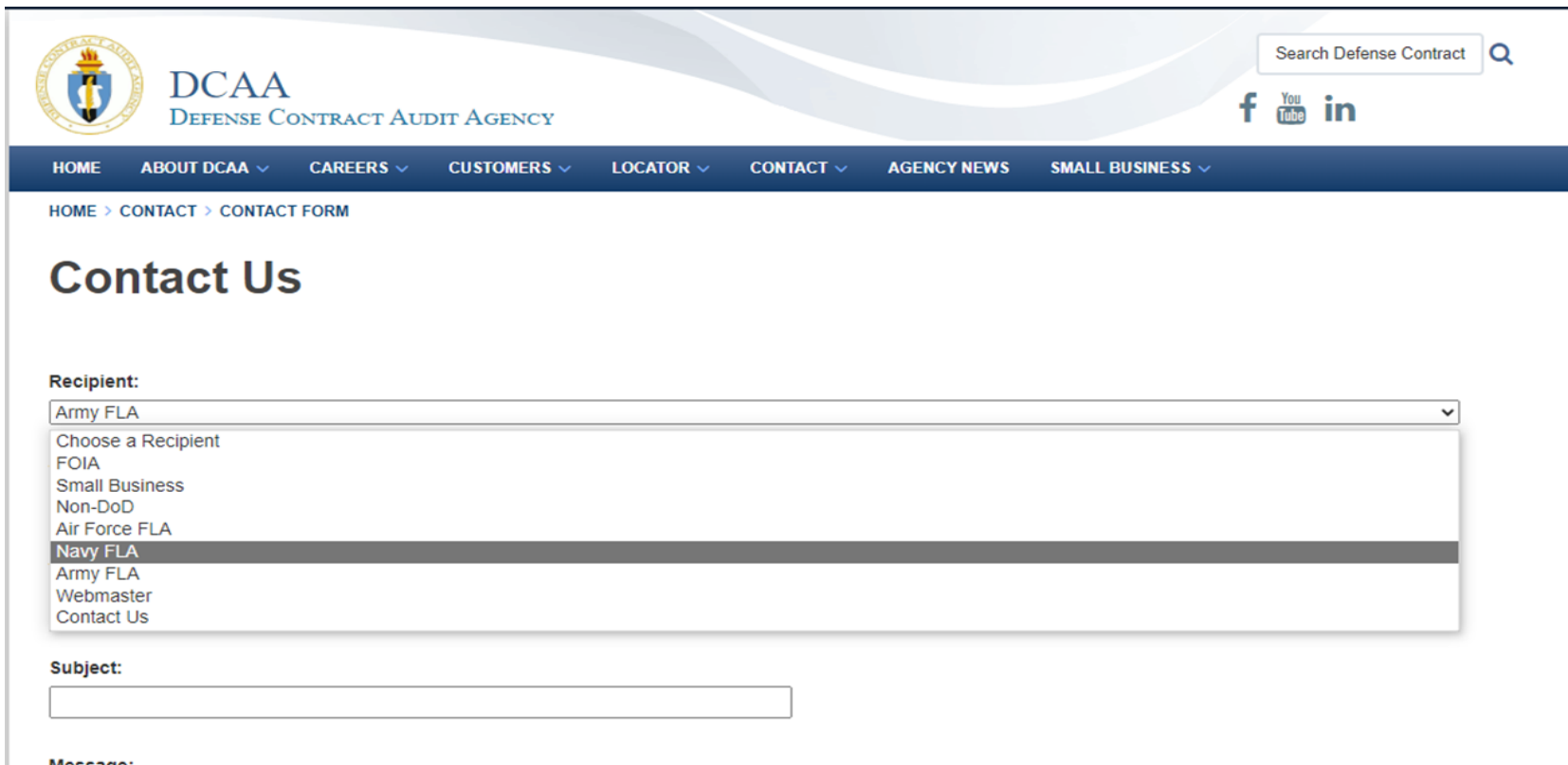
Accept

- Withdraw from prior price;
- **Reopen negotiations**
- Review the additional data
- Establish a new price
- Obtain a new certificate

Sweeps - How Can DCAA Assist?

- Assist CO in understanding the “Sweeps” data
- Assist CO on the impact of the “Sweeps” data on the Final Agreed-to Contract Price
- Consider the pattern of “Sweeps” data or cost or pricing data submission in the estimating system review

How to Request DCAA Audit Services



The screenshot shows the DCAA website's contact form. At the top left is the DCAA logo with the text "DCAA DEFENSE CONTRACT AUDIT AGENCY". To the right is a search bar labeled "Search Defense Contract" and social media icons for Facebook, YouTube, and LinkedIn. A dark blue navigation bar contains links: HOME, ABOUT DCAA, CAREERS, CUSTOMERS, LOCATOR, CONTACT, AGENCY NEWS, and SMALL BUSINESS. Below the navigation bar is a breadcrumb trail: HOME > CONTACT > CONTACT FORM. The main heading is "Contact Us". The form includes a "Recipient:" dropdown menu with options: Army FLA, Choose a Recipient, FOIA, Small Business, Non-DoD, Air Force FLA, Navy FLA (highlighted), Army FLA, Webmaster, and Contact Us. Below the dropdown is a "Subject:" text input field. The "Message:" field is partially visible at the bottom.

DCAA Website- Contact-Contact Form
(<https://www.dcaa.mil/Contact/>)



QUESTIONS

