



Market Research and Pricing Webinar Questions

Question: Simplified acquisition threshold, what about orders over 10k but under 150k?

Response: The SAT has been increased to \$250,000. The Government expects some level of market research and support for a fair and reasonable price for all purchases even below the SAT. For a single nonrecurring purchase of a Commercially Available Off the Shelf (COTS) item totaling \$10k, the expectation is going to likely be some limited internet or catalog data and a buy from the lowest price. For a \$100k buy that is first of many for the same item, the expectation is going to be much greater. This is where your professional judgement comes in.

Questions:

Will this address purchase of NON widgets—i.e. purchase of technical professional consulting services and the establishment of fair & reasonable for labor rates?

How do you do research when labor rates for consulting firms are not usually available and I understand that GSA schedules which are usually openly available are not sufficient to establish fair and reasonable?

Response:

Everything we covered applies equally to supplies as well as services. You bring up a good point and we will try to remember to include an example related to services in the future.

While many consulting firms do not normally publish their rates, there is a competitive marketplace for consultants of all types. This allows you to send an RFP to several firms and get competitive rates submitted. If competition is not an option, you still need to perform market research and document what you can find. A search of the internet does disclose that rates are available for some consulting companies that range widely. You need to try a narrow the type of consultant to help narrow the range. Also, you may consider using salary data from your HR department for similar functional area (e.g., accountant) then factor it up for likely fringe, Overhead, and G&A using your own company rates to start. You may want to add an additional 10 to 20 percent increase for expertise as going to the consultant is due to the lack of a subject matter expert within the company. Additionally, Salary.com has information on different types of consultants.

Question: What if your market research doesn't yield anything useful? Should you document that?

Response: Yes, as we mentioned all of your efforts should be documented even those that result in no information. The documentation should include any and all effort made (sent requests for quotes, talked to suppliers, reviewed internet, and other datasheets, etc.) This supports your investment and commitment to market research. You need to remember that documenting that information is not readily available will support the sole source justification, you will also need to request sales and potentially other than cost or pricing data from the sole source vendor. This will also support your determination of a fair and reasonable prices.

Question: Is there a FAR or CPSR requirement to show proof that market research was conducted and documented?

Response: Yes – FAR 10.003 requires the inclusion of FAR 52.210-1, Market Research, in all Government contracts over \$5.5M for other than a commercial item. Additionally, market research is the key to being able to comply with FAR 52.244-6(b) that contractors at all tiers to incorporate, to the maximum extent practicable, commercial items or non-developmental items as components; FAR 52.244-5(a) that contractor to select subcontractors (including suppliers) on a competitive basis to the maximum practical extent possible; and DFARS 252.244-7001(c)(9) that contractor shall have a management approved justification and adequate cost or price analysis for any sole or single source purchases. Additionally, DFAR 252.244-7001(c) clearly requires PO file documentation to support all these requirement and market research is a key to support an adequate purchasing system, include items under \$5.5M.

Question: We have the challenge to try support pricing for an item that is not available commercially, and the process for manufacture is continuing to evolve. Are there modifications in the pricing documentation that we need to take to protect ourselves due to research related product costs?

Response: If you are trying to price an item from a vendor that is still evolving it is likely that cost data will be necessary from the vendor to support your determination of a fair and reasonable price. Remember that just because cost data is used at first does not mean it has to continue to be used. Sales data will hopefully become more available.

Question: What is a non-developmental item?

Response: A non-developmental item is an item that was developed exclusively at private expense and sold in substantial quantities, on a competitive basis, to multiple State and local governments or to multiple foreign governments. See FAR Part 2.101 definitions of a Nondevelopmental item and the Commercial Item definition paragraph (8).

Question: Would that be the same if the vendor provided redacted invoices that may be 6 months to a year old?

Response: Older sales data is an area a reviewer will likely focus in on. You need to get something in writing from the vendor that there are no more current sales and hopefully an explanation as to why sales have fallen off. You should go back to your market research and see if the fall off in sales is due to new vendors with better or updated products.

Question: The example where \$440 was fair and reasonable --- I thought the suggested price was \$500. So why was \$440 F&R?

Response: The \$440 is the fair and reasonable price based on your market research. Now as the buyer you need to go back to the vendor with that information and work to get the vendor to reduce its price to what you believe is fair and reasonable. Documenting your efforts to negotiate are very important. If you cannot get the vendor to come down on the price to \$440 you need to explain in your documentation whether the vendor brought forth more data that changed your pricing position, move to another vendor, or if the buy has to be placed, develop a plan to create additional suppliers for future buys. If you do develop a plan for the future, make sure you can provide a reviewer with documentation of your plan and the efforts completed.