

NIH POLICY MANUAL

Date: 10/25/2001

Replaces: 6015-1 9/01/82

Issuing Office: OA/OAMP 496-4401

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6015-1 - Financial Analysis of Contract Proposals And Modifications

**1. Explanation of Material Transmitted:** This chapter states the NIH policy with regard to the analysis of contract proposals and modifications. This issuance differs from the previous cost analysis chapter in that the FAR requirement to determine cost/price reasonableness of proposals has been significantly changed to place more emphasis on best buy analyses and alternative proposal evaluation techniques, e.g., cost realism analyses, price analyses and/or cost analyses using information other than cost or pricing data.

**2. Filing Instructions:**

<u>Remove</u>	<u>Insert</u>
6015-1 (still issued as 6000-3-3.807) 09/01/82	6015-1 10/25/2001

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- Content of this chapter, contact the issuing office listed above.
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### 6015-1 - Financial Analysis of Contract Proposals And Modifications

#### A. PURPOSE:

This issuance states the NIH policy and guidelines for analysis of contract proposals and modifications.

#### B. BACKGROUND:

This Manual Chapter provides updated NIH policy for the financial analysis of contract proposals and modifications. The Federal Acquisition Streamlining Act (FASA), (P.L. 103-355), and the Federal Acquisition Reform Act (FARA) (P.L. 104-106), significantly affected the federal acquisition process. The resultant FAR Part 15 implementation streamlined the proposal evaluation process in the area of cost/price analysis. For example, the legislation and resultant FAR implementation amended the Truth in Negotiations Act (TINA) by increasing the threshold for obtaining "cost or pricing data" (formerly called certified cost or pricing data), prohibiting the contracting officer from obtaining cost or pricing data unless specific exceptions exist or a waiver is obtained, and redefining commercial items. However, the resultant FAR Part 15 implementation added an alternate source of data that could be obtained for cost/cost realism or price analysis called "information other than cost or pricing data" which is cost or price information for which a Certificate of Current Cost or Pricing Data is not required. While evaluation of price or cost to the Government in every source selection determination is still required to verify that the overall price to the Government is fair and reasonable, there is a need to re-address the methods of such determinations, e.g., cost realism, price analysis and cost analysis using cost or pricing data or information other than cost or pricing data.

#### C. POLICY:

A cost realism analysis shall be performed whenever a cost-reimbursement type contract is contemplated.

Price or cost to the Government shall be evaluated in every source selection, and price analysis should be used to verify that the overall price offered is fair and reasonable.

When any of the exceptions in FAR 15.403-1(b) *Exceptions to cost or pricing data requirements* apply, generally no additional information from the contractor is necessary to determine reasonableness of price. When none of the exceptions in FAR 15.403-1(b) apply, a cost analysis shall be performed. In any case, only that information or data which is required should be obtained, and it should not be requested until it is actually needed.

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D. REFERENCES:

Federal Acquisition Regulations Part 15

Health and Human Services Acquisition Regulations Part 315

NIH Manual Chapter 1753 - Audits and Investigations by Outside Organizations

E. DEFINITIONS:

1. **Price Analysis** is the process of evaluating the total overall proposed price without evaluating the individual elements of cost (see more detailed definition in FAR 15.404-1(b).
2. **Cost Analysis** is the process of evaluating the individual elements of cost proposed and the application of judgment as to how well those costs reflect actual costs. This is done by using cost or pricing data or information other than cost or pricing data to verify the basis for the estimated costs (see more detailed definition in FAR 15.404-1 (c). This method includes verification of cost or pricing data.
3. **Cost Realism Analysis** is the process of evaluating the methodology used by the offeror to estimate proposed costs. This is done by using information other than cost or pricing data. It is similar to a cost analysis but it is less extensive and not as exact as a cost analysis. It is done with the assistance of the Project Officer and other members of the Government Acquisition Team such as reviewers and auditors as necessary. Together they evaluate the proposed cost to:
  - o Verify the offeror's understanding of the requirements
  - o Assess the degree to which the cost proposal reflects the work effort approach described in the technical proposal
  - o Assess the degree of risk that the offeror can provide the goods or services at the offered amount.

A cost realism analysis must be performed in evaluating all cost reimbursement contracts. The solicitation is a strategic component of performing a cost realism analysis. It should clearly state how the cost realism analysis will be used in the award decision and what type of current cost information should be submitted to perform an effective cost realism analysis. The cost data required in the solicitation should be limited to the data that is anticipated will be needed to perform the analysis. The required data may not include every element of cost. It should be noted, that the solicitation should permit each offeror to determine its submission format unless a specific format is required for efficient and effective analysis.

An overview of the process of conducting a cost realism analysis is as follows, though the precise events may vary somewhat with each acquisition. Assure that the solicitation

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states how cost realism analysis will be used in the contract award decision. Obtain information other than cost or pricing data needed to support the cost realism analysis. Obtain other information necessary to support the analysis. Obtain analysis support from other members of the Government Acquisition Team (e.g., Division of Financial Advisory Services). Identify costs/prices that are understated for the required contract effort. Even if the proposal is internally consistent and reflects an accurate understanding of the work, the offeror may still have underestimated the cost of completing the contract. Assess the probability that the offeror can complete the contract on time at the proposed amount. Estimate the probable cost of contract performance. The probable cost is the Government's estimate of what it will cost for the offeror to complete the contract based on the Government's evaluation of the offeror's technical proposal and proposed costs. If performing a cost realism analysis of a proposal for a cost-reimbursement contract, a probable cost estimate must be developed to support an analysis of best value. Each probable cost estimate must consider the unique characteristics of the offeror and the technical proposal. The cost realism analysis should be used to determine best value in evaluating the offerors.

Even though the primary objective of cost realism analysis is to ensure proposed costs are not understated, the emphasis of a cost realism analysis is to determine whether costs may be **overstated** or **understated**. Cost realism helps to ascertain the potential risk to the Government as a result of the offeror being unable to meet contract requirements. A cost realism analysis is an objective process of identifying the specific elements of a cost estimate or a proposed price and comparing those elements against reliable and independent means of cost measurement. This analysis judges whether or not the offeror's estimating methodology is logical, appropriate, and adequately explained so that the proposed cost or prices fairly represent the costs likely to be incurred for the proposed services, utilizing the offeror's technical and management approach. For additional clarification of the differences between a cost analysis and a cost realism analysis see Appendix 2.

#### F. RESPONSIBILITIES:

The contracting officer is responsible for establishing the reasonableness of offered prices in accordance with FAR 15.402.

In conjunction with determining cost/price reasonableness, the contracting officer is responsible for determining the financial responsibility of a prospective contractor in accordance with FAR 9.104-1.

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#### G. PROCEDURES:

Decentralized NIH contracting offices allow close working relationships that enable project personnel to advise contracting staff regarding the scientific judgments that are the essence of contract pricing. The contracting officer is thus in the most advantageous position to evaluate proposals for best value and to perform any necessary cost or price evaluation.

Although the contracting officer is responsible for determining the reasonableness of offered prices using various evaluation techniques singly or in combination with others, e.g., cost analysis, price analysis or cost realism analysis, the contracting officer may seek the assistance of the Special Reviews Branch of the Division of Financial Advisory Services.

The Special Reviews Branch (SRB) is staffed with professional auditors/financial analysts who assume a supportive role in providing the contracting officer with advice and guidance on specific financial analysis issues. When requested, the SRB will either conduct cost or cost realism analyses on complex and sensitive proposals or assist the contracting officer in doing so. If insufficient resources are available in the SRB to provide a requested cost analysis, the Chief, SRB may arrange to have the analysis performed by the appropriate audit agency. The Chief of the SRB will make the assignment determination [(SRB, DHHS, Defense Contract Audit Agency (DCAA)] at the time of request based on the resources available, previous analysis experience, etc.

The SRB provides two types of cost/cost realism analysis assistance: (1) **On-site assistance.** On-site assistance is customer-oriented service that is customized based on the needs of the requestor and is usually performed at the customer's site but may be performed in DFAS. Typical examples of on-site assistance include training on the review of specific cost elements, assistance with the review of proposals, training on the use of computer spreadsheets developed by DFAS, computer spreadsheet preparation assistance for specific proposals, and the development of questions that contracting personnel can ask of offerors when requesting documentation for proposed costs. (2) **DFAS review.** DFAS reviews are more detailed cost analyses or cost realism analyses performed by SRB auditors of proposals that have been determined to be within the competitive range for a specific acquisition. To ensure the SRB's services are used most effectively, the following criteria should be considered when making requests for DFAS reviews:

- o Potential protest situation
- o Complex proposal
- o Politically sensitive project
- o Crisis situation
- o Organization new to the Government
- o Indirect cost rates not negotiated

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- o Clinical practice plan compensation involved
- o Patient care costs proposed
- o V.A. employees proposed
- o Lease vs. purchase analysis required
- o Large dollar value fixed-price proposal
- o Charge out centers involved
- o Service Contract Act applies
- o Davis Bacon Act applies
- o Major information technology (IT) Acquisition

The Project Officer's Technical Questionnaire (POTQ), Form NIH-2497 (see Appendix 1), must be completed and placed in the contract file in all instances where the acquisition is expected to result in an award of \$550,000 or more and a cost/cost realism analysis is performed. For awards that are less than \$550,000 and a cost/cost realism analysis is performed, the contracting officer has the option of requiring the completion of the POTQ or assuring that there is documentation in the contract file to show that there was an adequate technical evaluation of the judgmental aspects of the cost proposal.

Responsibility for completion of the POTQ rests jointly with the project officer and the contracting officer. The contracting officer/contract specialist will then consider the answers/comments included on the POTQ in the conduct of the analysis of the cost proposal.

Although the POTQ contains only questions requiring "yes" or "no" answers, a complete explanation of any "no" answers must be entered on page three of the POTQ and be keyed to the question number to which the explanation refers. Pertinent comments related to areas not covered by the POTQ will also be entered on page three. The contracting officer and project officer should have a comprehensive discussion to ensure that the project officer's views on the validity of the offeror's estimates for labor categories, labor mix, effort in each labor category, materials, travel, and the need for special scientific equipment, etc. are well understood by the contracting officer.

When cost analysis/cost realism assistance of the SRB is required, the contracting officer/contract specialist should forward a copy of the POTQ along with the request for assistance. If it is not possible to forward the POTQ at that time, it should be forwarded as soon as possible (but not longer than five working days) after the date of the request.

The official contract file will be documented with analyses (e.g., cost realism analysis/cost analysis, and/or price analysis) performed by the contracting officer, contract specialist, or the SRB. When a cost analysis is required, the official contract file must also include a negotiation plan (identifying cost and other possible issues) and a negotiation objective. Following

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negotiations, the file must document the rationale for considering the overall negotiated price reasonable. The contract file should include a memorandum recording the results of negotiation (i.e., Summary of Negotiations) in accordance with the requirements of HHSAR 315.372, including a statement that negotiated costs were evaluated in accordance with FAR Part 15. If an award is made to an offeror whose proposal was analyzed by the SRB, DFAS, the Department of Health and Human Services (DHHS), or (DCAA), a copy of the Summary of Negotiations must be forwarded to DFAS as soon as possible after the award is made.

#### H. RECORDS RETENTION AND DISPOSAL:

Documentation of decisions relative to cost analyses, cost realism analyses and/or price analyses will be placed in the official contract file of each affected contract. All records (**e-mail** and non-e-mail) pertaining to this chapter must be retained and disposed of under the authority of NIH Manual 1743, "Keeping and Destroying Records," Appendix 1, "NIH Records Control Schedule," Item 2600-A-7, "Solicited and Unsolicited Bids and Proposal Files".

**NIH e-mail messages** (messages, including attachments, that are created on NIH computer systems or transmitted over NIH networks) that are evidence of the activities of the agency or have informational value are considered Federal records. These records must be maintained in accordance with current NIH Records Management guidelines. Contact your IC Records Officer for additional information. (<http://www1.od.nih.gov/oma/manualchapters/management/1743/>)

All e-mail messages are considered Government property; and, if requested for a legitimate Government purpose, must be provided to the requestor. Employees' supervisors, NIH staff conducting official reviews or investigations, and the Office of Inspector General may request access to or copies of e-mail messages. E-mail messages must also be provided to Congressional oversight committees if requested and are subject to Freedom of Information Act requests. Since most e-mail systems have back-up files that are retained for significant periods of time, e-mail messages and attachments are likely to be retrievable from a back-up file after they have been deleted from an individual's computer. The back-up files are subject to the same requests as the original messages.

#### I. MANAGEMENT CONTROLS:

The purpose of this Manual Issuance is to establish NIH policy with regard to cost analysis of contract proposals.

##### **1. The Office Responsible for Reviewing Management Controls Relative to this Chapter: Office of Acquisition Management and Policy.**

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2. **Frequency of Review (in years):** A percentage of new awards from each contracting office are reviewed annually. The number of files for review is based on a percentage of new contracts awarded by NIH during the previous three fiscal years. The Board of Contract Awards reviews approximately ten per cent of the new contracts awarded with a minimum of one file from each awarding office.
3. **Method of Review:** Reviews are conducted by the Board of Contract Awards and are used by the Head of the Contracting Activity (HCA) to determine if acquisitions at the NIH are being conducted properly and in compliance with laws and regulations. Reviews by the Board are conducted in accordance with the Federal Acquisition Regulation, the Health and Human Services Acquisition Regulation and with the NIH Manual Chapters and other policy and guidance.
4. **Review Reports:** Reviews of individual presolicitation or preaward files are sent to the appropriate Chief Contracting Officer for either immediate corrective action or remedial action within 30 days. A compilation of recurring problems is issued annually to the Acquisition Management Committee which is responsible for recommending to the HCA the need for new or revised policies and procedures and the need to provide for new or revised training to the NIH acquisition community.

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**PROJECT OFFICER'S TECHNICAL QUESTIONNAIRE**

Contractor: \_\_\_\_\_  
RFP/Contract No.: \_\_\_\_\_  
Proposal Date: \_\_\_\_\_

This questionnaire should serve as the basis for communication between the contracting officer/specialist and the project officer relative to the technical aspects of each element of cost. It should be filled out only after careful review of the instructions on the last page of this form (page 4). Further guidance for completion of this form can be found in **NIH Manual 6015-1 Financial Analysis of Contract Proposals and Modifications**.

<u>YES</u>	<u>NO</u>	<u>N/A</u>	<b>Direct Labor</b>
_____	_____	_____	1. Is the proposed mix/type of labor effort appropriate for the work/research to be performed?
_____	_____	_____	2. Are the proposed number of hours/percents of effort reasonable for the work to be performed?
_____	_____	_____	<b>Direct Materials/Supplies</b>
_____	_____	_____	3. Are the following appropriate as compared to the contract workscope:
_____	_____	_____	a. Proposed type of materials/supplies
_____	_____	_____	b. Proposed quality of materials/supplies?
_____	_____	_____	c. Proposed number of units of each type of material/supply?
_____	_____	_____	<b>Equipment</b>
_____	_____	_____	4. Is the proposed equipment necessary for the work/research to be performed?
_____	_____	_____	5. Is the proposed equipment "project specific" rather than a type that would be required for the work/research normally performed by the contractor i.e., inherent to the business?
_____	_____	_____	6. Is use of the proposed type of equipment limited only to research, medical, scientific or other technical activities?
_____	_____	_____	7. To your knowledge, are the same or similar types of equipment (ones that may be used for comparable purposes) currently unavailable at the institution?
_____	_____	_____	<b>Travel</b>
_____	_____	_____	8. Are the following appropriate or reasonable taking into consideration the purpose of the travel and the contract work scope:
_____	_____	_____	a. Proposed number of trips
_____	_____	_____	b. Proposed duration of trips?
_____	_____	_____	c. Proposed destination of trips?
_____	_____	_____	d. Proposed number and types of people traveling?
_____	_____	_____	<b>Computer</b>
_____	_____	_____	9. Are computer services required for the work/research to be performed?
_____	_____	_____	10. Are the proposed computer and related services reasonable from a quantitative

\_\_\_\_\_ standpoint e.g. CPU hours, I/O lines, number of runs?  
\_\_\_\_\_ 11. Is the proposed type of computer equipment appropriate for the work/research to be performed?

\_\_\_\_\_ **Consultants**

\_\_\_\_\_ 12. Are the proposed consultants' services essential to the project?  
\_\_\_\_\_ 13. Are the proposed consulting hours/effort reasonable compared to the work/research to be performed?  
\_\_\_\_\_ 14. Is the proposed travel for consultants reasonable (i.e. number of trips, destination of trips, duration of trips, etc)?

\_\_\_\_\_ **Alterations and renovations**

\_\_\_\_\_ 15. Are the proposed alterations and renovations essential to the proposed project?

\_\_\_\_\_ **Patient Care**

\_\_\_\_\_ 16. Are the proposed number and/or types of tests reasonable considering the work/research to be performed?  
\_\_\_\_\_ 17. If the proposed tests are considered to be in the nature of routine patient care, should the contractor be expected to obtain reimbursement for these services from third party carriers?  
\_\_\_\_\_ 18. Are the proposed number of patient days reasonable considering the work/research to be performed?

\_\_\_\_\_ **Animal Tests/Care**

\_\_\_\_\_ 19. Are the proposed number and/or types of tests reasonable considering the work/research to be performed?  
\_\_\_\_\_ 20. Are the proposed number of animal-care days reasonable considering the work/research to be performed?

\_\_\_\_\_ **Subcontracts**

\_\_\_\_\_ 21. An additional Project Officer's Technical Questionnaire should be completed for each subcontract.

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Space for Additional Comments. Indicate question number to which comments apply if applicable

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Project Officer
Date
I certify that responses to these questions are based on communications with the Project Officer
Contracting Officer/Specialist
Date

NOTES:

1. If sufficient technical detail (quantities, mixes, etc.) is not included in the business proposal to allow for analysis, the contracting officer/specialist should obtain it prior to discussing the technical aspects of the proposal with the project officer.
2. In answering the questions on the questionnaire, emphasis must be placed on the reasonableness of the technical aspects of the element being reviewed. Recommended adjustments should be entered on page 3 in the space provided, and comments should be keyed to the particular question being answered. Be specific when noting changes that should be made (e.g. designate positions/FTE's/individuals to be deleted/reduced or added/increased; quantities to be adjusted, etc.). If a dollar amount is recommended in lieu of a specific recommendation relative to the technical aspects (e.g., "materials/supplies should be reduced to \$30,000), a justification for the recommended dollar amount must be included on page 3.
3. All questions on the technical questionnaire must be answered.

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APPENDIX 2

DISTINGUISHING DIFFERENCES	COST REALISM	COST ANALYSIS
ANALYSIS MUST BE PERFORMED ON ALL COST REIMBURSEMENT CONTRACTS	YES	NO
COST AND PRICING DATA REQUIRED	NEVER	SOMETIMES
PRIMARY PURPOSE IS TO ENSURE THAT COSTS ARE NOT SIGNIFICANTLY UNDERSTATED	YES	NOT NEC.
CAN ADDITIONAL DOCUMENTATION BE REQUIRED OF THE OFFEROR WHEN DOING THE ANALYSIS?	USUALLY NO	YES
WITH ADEQUATE PRICE COMPETITION MUST AN ANALYSIS BE PERFORMED IF A COST REIMBURSEMENT CONTRACT WILL BE AWARDED?	YES	NO (PRICE ANALYSIS YES)
INTENSIVE PRELIMINARY WORK REQUIRED IN FORMATION OF THE SOLICITATION	YES	NO
PROBABLE COST ESTIMATE MUST BE DEVELOPED FOR COST REIMBURSEMENT CONTRACT	YES	NO