

# **Contract Pricing Statement – Single Source Non-qualifying contracts**

**DEFCON 815  
Edn 04/15**

1. This Contract was not the result of a competitive process. In such circumstances, to ensure that a fair and reasonable price can be agreed, the parties are required to observe the principle of 'equality of information' in the negotiations leading to the agreement of the Contract Price. Equality of information in this context means a mutuality of frankness and confidence between the parties and requires that information likely to have a material impact on pricing negotiations and price agreement should be volunteered to the other party and should not be withheld.
2. The Contractor has provided a Contract Pricing Statement in the form of DEFFORM 815 which sets out the basis on which the Contract Price has been agreed, showing the facts, assumptions and calculations which have been used to generate the Contract Price. The Contract Pricing Statement identifies and groups together any of those facts, assumptions and calculations which were provided by the Authority (the "Authority information").
3. The Contractor warrants to the Authority that:
  - a. it has made the Authority aware of all facts, assumptions and calculations which the Contractor has used to calculate, and which have a material effect on, the Contract Price, including those relevant to any risk or contingency sum included within the Contract Price;
  - b. on the basis of the information available to the Contractor at the date of this Contract, the assumptions and calculations referred to in sub-clause a. above (but not including any Authority information) are reasonable in all the circumstances and are suitable to be used to arrive at a fair and reasonable Contract Price; and
  - c. the facts, assumptions and calculations referred to in sub-clause a. above have been accurately recorded in the Contract Pricing Statement which relates to this Contract.
4. The Authority warrants to the Contractor that, on the basis of the information available to the Authority at the date of this Contract, and subject to the Contractor complying with clauses 2, 3.a and 3.c in respect of the Authority information, the Authority information is reasonable in all the circumstances and is suitable to be used to arrive at a fair and reasonable Contract Price.
5. Where the Contract is amended in a way which alters the Contract Price, the Contractor shall provide a Contract Pricing Statement by the date of the amendment if it is requested to do so in writing by the Authority.

6. Where the costs attributable to the amendment (“the amendment costs”) are severable from the Contract Price before the amendment and the Contractor is required to provide a Contract Pricing Statement:

- a. the Contract Pricing Statement shall update the previous Contract Pricing Statement by including in an annex all facts, assumptions and calculations which the Contractor has used to calculate, and which have a material effect on, the amendment costs, including those relevant to any risk or contingency sum included within the amendment costs;
- b. the Contractor warrants to the Authority that, on the basis of the information available to the Contractor at the date of the amendment, the assumptions and calculations referred to in sub-clause 6.a. above (but not including any Authority information) are reasonable in all the circumstances and are suitable to be used to arrive at a fair and reasonable Contract Price;
- c. the Authority warrants to the Contractor that, on the basis of the information available to the Authority at the date of the amendment, any Authority information provided to the Contractor with the intention that it should be used in the calculation of the amendment costs is reasonable in all the circumstances and is suitable to be used to arrive at a fair and reasonable Contract Price.

7. Where the costs attributable to the amendment are not severable from the Contract Price before the amendment and the Contractor is required to provide a Contract Pricing Statement:

- a. the Contract Pricing Statement shall relate to the new Contract Price and which includes all facts, assumptions and calculations which the Contractor has used to calculate, and which have a material effect on, the Contract Price, including those relevant to any risk or contingency sum included within the Contract Price;
- b. the Contractor warrants to the Authority that, on the basis of the information available to the Contractor at the date of the amendment, the assumptions and calculations referred to in sub-clause 7.a. above (but not including any Authority information) are reasonable in all the circumstances and are suitable to be used to arrive at a fair and reasonable Contract Price;
- c. the Authority warrants to the Contractor that, on the basis of the information available to the Authority at the date of the amendment, any Authority information provided to the Contractor with the intention that it should be used in the calculation of the Contract Price is reasonable in all the circumstances and is suitable to be used to arrive at a fair and reasonable Contract Price.

8. Except in the case of fraudulent misrepresentation, damages shall be the only remedy in relation to any act or omission which would amount to a breach of this Condition and neither party shall be entitled to rescission of the Contract by reason of misrepresentation.

9. A claim for breach of this Condition must be commenced within two years after final payment of all sums due under the Contract or three years after the final delivery or completion of performance under the Contract, whichever period expires sooner.