Price Negotiation Memorandum

Multiple Award Schedule

Solicitation \_[solicitation\_number]\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Offer Number:\_\_\_ [offer\_number]\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Refresh #:\_[refresh\_number]

Company Name: [company\_name]

☐\_\_\_\_\_Monthly Reporting ([Applicable Clauses](https://docs.google.com/document/d/18uYJnYeiFHGo7L_JLd8g-oaO7w8VJr_hDqy7OJhUdEw/edit?usp=sharing))

☐\_\_\_\_\_Quarterly Reporting ([Applicable Clauses](https://docs.google.com/document/d/18uYJnYeiFHGo7L_JLd8g-oaO7w8VJr_hDqy7OJhUdEw/edit?usp=sharing))

**I. FAR 15.406-3(a) Negotiation Documentation**

1. Purpose of the Negotiation (FAR 15.406-3(a)(1)):

Having determined that the offer was complete, the information from the offer was consolidated into a pre-negotiation objectives memorandum (PNO) with recommended negotiation objectives. The PNO was approved on [date]. The purpose of the negotiations was to negotiate pricing, terms and conditions from responsible sources at fair and reasonable prices in accordance with Federal Acquisition Regulation (FAR) 15.402.

2. Description of the Acquisition (FAR 15.406-3(a)(2)):

This Price Negotiation Memorandum (PNM) is for a non-mandatory, Indefinite Delivery / Indefinite Quantity (IDIQ), Multiple Award Schedule (MAS), contract.

[company\_name] submitted an offer dated [offer\_date] under Solicitation Number 47QSMD-20-R-0001. The following Large Category / Sub-Category / SIN(s) were offered.

[SIN\_info]

Preponderance of Work NAICS:\_\_\_\_\_\_\_\_\_ [naics\_code]\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

3. The name, position, and organization of each person representing the contractor and the Government in the negotiation (FAR 15.406-(a)3)):

Contractor Negotiators:

[negotiator\_administrators], [negotiator\_title], authorized to Negotiate on behalf of contractor.

Government Negotiators:

Name(s), Position(s), Organization(s)

Negotiation Participants:

Name(s), Position(s), Organization(s)

4. Current status of contractor systems (e.g., purchasing, estimating, accounting and compensation) to the extent they were affected and were considered in the negotiation (FAR 15.406-3(a)(4)). All Responsibility determinations are filed in Tab 17, Responsibility Determination, of the contract file. Technical Reviews and Compensation Plans for Professional Services are filed in Tab 23, Contractual Action, of the contract file.

5. If certified cost or pricing data were not required in the case of any price negotiation exceeding the certified cost or pricing data threshold, the exception used and the basis for it (FAR 15.406-3(a)(5)):

This solicitation is for commercial items as defined by FAR 2.101 and is exempt from the requirement for certified cost or pricing data (FAR 15.403-1(b)(3)).

6. Statement of use if certified cost or pricing data were required (FAR 15.406-3(a)(6)):

N/A - As noted in #5, this solicitation is exempt from certified cost or pricing data.

6a. If data *other than certified* cost or pricing data was requested from the offeror in order to establish negotiation objectives or determine the proposed pricing fair and reasonable (see FAR 15.403-3, Requiring data other than certified cost or pricing data and [PAP 2012-05, Use of Cost Analysis when Evaluating MAS Offers](https://hallways.cap.gsa.gov/app/#/gateway/fas-acquisition-policy-library/17833/pin-2012-05-use-of-cost-analysis-when-evaluating-federal-supply-schedule-offers)) identify the type of data requested and provided.

7. A summary of the contractor’s proposal, any field pricing assistance recommendations, including the reasons for any pertinent variances from them, the Government’s negotiation objective, and the negotiated position. Where the determination of a fair and reasonable price is based on cost analysis, the summary shall address each major cost element. When determination of a fair and reasonable price is based on price analysis, the summary shall include the source and type of data used to support the determination (FAR 15.406-3(a)(7)).

See PNO, Section VII Cost/Pricing Analysis, dated XX-XX-XX filed in Tab 14 of the contract file.

8. The most significant facts and considerations controlling the establishment of pre-negotiation objectives and the negotiated agreement including explanation of any significant differences between the two positions (FAR 15.406-3(a)(8)).

Discuss each element below in sufficient detail to fully document the negotiations and support the price reasonableness determination:

*(1) Summarize the Contractor’s proposal. Identify the product/services offered and initial pricing offered. Discuss the analysis of the proposed pricing, CSP (if applicable), horizontal price analysis, market research, etc..*   
  
[Insert]

*(2) Discuss the Government’s negotiation objectives*   
  
[Insert]

*(3) Discuss the Government's negotiated position. Were the objectives met? Discuss any differences between the pre-negotiation objectives and the negotiated position*   
  
[Insert]

*(4) Were there significant issues that developed during negotiations that the reader of the PNM should be aware of?*   
  
[Insert]

*(5) Discuss any changes from the initial proposal.*   
  
[Insert]

*(6) Indicate whether the company has provided quantity or prompt payment discounts or other concessions*[Insert]

*(7) Discuss exchanges held with the Office of Inspector General regarding contract audit report findings and the reasons for any variations from the audit report findings, if applicable. If no audit was conducted, skip to Element 9.*

[Insert]

*(8) Discuss Pre-Award Audit. If no audit was conducted, skip to Element 9.*

*Cite the audit number. Summarize negotiation results in terms of audit findings (PAP 2019-02, Contracting Officer Responsibilities Pursuant to GSA Office of Inspector General Contract Audits of Federal Supply Schedule (FSS) Contracts.) For example:*

*Audit Report #:*

|  |  |  |  |
| --- | --- | --- | --- |
| *Item/Labor*  *Category/*  *Category of*  *Customer* | *Audit Findings* | *Negotiation*  *Objectives*  *for Item / Labor Category*  *(from Pre-Neg)* | *Objective*  *Achieved* |
| *Insert* | *Insert* | *Insert* | *Insert* |

See PNO dated [insert] for a summary of Audit Findings, Funds Put to Better Use (FBPU) and any Questioned Costs (QC) identified in the audit.

Summary of Savings Achieved – Explain savings achieved on Funds Put to Better Use or Questioned Costs from the referenced audit:

[*EXAMPLE - Finding 1 – Contractor’s CSP is current, but not accurate or complete. Certain labor rates were overstated in the contractor’s proposal. Further, the proposed escalation rate of 3.5% is overstated. The CO should negotiate per audit rates for the labor categories reviewed (a 4.58% adjustment) and negotiate the escalation rate to a more appropriate rate of 2%. The OIG calculated the FPBU at $1,645,000 which represents the full 6.58% in reductions identified in the audit report, if achieved.*

*During negotiations on the escalation rate, the CO was successful in lowering the proposed contract escalation rate from 3.5% to 2%. This portion of the finding was satisfactorily resolved.*

*During negotiations on the labor pricing, the CO was able to achieve a 2.58% reduction from the proposed pricing.*

*Based on a reduction of the escalation rate from 3.5% to 2% (1.5% reduction) and negotiation of a 2.58% reduction in proposed pricing, the CO was able to achieve an overall reduction of 4.08%. This results in FPBU achieved of $1,020,000 or 62% of the savings recommended in the audit report. This finding is considered satisfactorily resolved.*

FPBU Achieved: [Insert Dollar figure]

EXAMPLE – Finding 2 – *The Audit identified $4,895 in various overbillings and incorrect discounts applied to orders examined during the audit period. The CO sent a demand letter to the contractor dated September 16, 20XX in the amount of $4,895 as noted in the audit report. The vendor paid the claim in full via check #391726 dated September 23, 20XX. Further, the CO discussed during negotiations the requirements for proper administration of the contract. This finding is considered successfully resolved.*

Questioned Costs Achieved: [Insert Dollar figure]

EXAMPLE – Finding 3 - Non-Monetary Findings – *The vendor assigned unqualified employees to work on GSA Task Orders.*

*The CO discussed this issue with the vendor during negotiations. The vendor indicated they would review their procedures for assigning employees to GSA task orders and ensure that only qualified workers were assigned. This finding is considered satisfactorily resolved.*

If Audit is not resolved within 365 days from issuance of report, provide an explanation of why the audit was not resolved timely.

9. To the extent such direction has a significant effect on the action, a discussion and quantification on the impact of direction given by Congress, other agencies, and higher-level officials (FAR 15.406-3(a)(9):

[*If applicable, clarify the impact or direction given by Congress, other agencies, and higher-level officials or insert NONE.*]

10. The basis for the profit or fee pre-negotiation objective and the profit or fee negotiated (FAR 15.406-3(a)(10):

Not applicable to FAR Part 12 Commercial Item Solicitations or Contracts. Profit or fee may be evaluated in terms of the overall price offered.

11. Documentation of fair and reasonable pricing (see FAR 15.406-3(a)(11) and PAP 2018-03, Proper Documentation of Price Analysis Decision - Federal Supply Schedule (FSS) Program):

**A. FOR QUARTERLY REPORTING CONTRACTS:**

See PNO dated XX-XX-XX filed in Tab 14 of the contract file for detailed information on negotiation objectives established and determining the proposed pricing fair and reasonable.

In addition to the CSP provided, which is the primary data source for evaluation, the following horizontal price analysis, market research, or data other than certified cost or pricing data, or pre-award audit findings (if applicable) were utilized to determine price reasonableness:

*Discuss price reasonableness based on evaluation of CSP, price or cost analysis including the source and type of data used to determine price reasonableness (GSAR 538.270-1). Indicate what data was utilized (i.e., horizontal price analysis, prices paid data, master contract pricing, market research (define), pre-award audit findings (if applicable), terms offered commercial customers, etc.. Discuss how this data was used to determine the negotiated pricing fair and reasonable. Discuss how data was adjusted to allow for valid comparisons (if applicable) in order to negotiate fair and reasonable pricing.*

The following data sources were utilized in establishing negotiation objectives and determining pricing fair and reasonable: [list each document or report utilized, include all documents as attachments to this PNM or refer to location where documentation can be reviewed in the Contract file].

☐ Commercial Pricelist title / dated:

☐ Price Proposal Template submitted via eOffer dated:

☐ Horizontal Pricing utilized in evaluating pricing:

☐ Other (specify)\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**B. FOR MONTHLY REPORTING CONTRACTS:**

See PNO dated XX-XX-XX filed in Tab 14 of the contract file for detailed information on negotiation objectives established and determining the proposed pricing fair and reasonable.

The following horizontal price analysis, market research, data other than certified cost or pricing data, and pre-award audit findings (if applicable) were utilized to determine price reasonableness:

The following data sources were utilized in establishing negotiation objectives and determining pricing fair and reasonable: [list each document or report utilized, include all documents as attachments to this PNM or refer to location where documentation can be reviewed in the Contract file].

☐ Commercial Pricelist dated:

☐ Price Proposal Template submitted via eOffer dated:

☐ Horizontal Pricing utilized in evaluating pricing:

☐ Other (specify)\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**II. FAR 15.406-3(b) Negotiation Documentation**

Whenever field pricing assistance has been obtained, the CO shall forward a copy of the negotiated documentation to the office(s) providing assistance. When appropriate, information on how advisory field support can be made more effective should be provided separately. (See also PAP 2019-02, Audit Resolution.)

**III. Final Pricing / Terms Accepted:**

A Final Proposal Revision (FPR) was requested from the contractor on [date] and received on [date] pursuant to FAR 15.307(b). The FPR is filed in Tab 23c - Proposal Revisions in the contract file. The FPR will be incorporated and made a part of the contract award.

For Quarterly Reporting Offer identify the MFC(s) / BOA(s) agreed upon and the price / discount relationship accepted during negotiations:

The following Economic Price Adjustment (EPA) terms were accepted:

☐ 552.216-70 Economic Price Adjustment – FSS Multiple Award Schedule Contracts – (SEP 1999)(DEV II - JULY 2016) (Monthly Reporting)

☐ 552.216-70 Economic Price Adjustment – FSS Multiple Award Schedule Contracts (SEP 1999)(ALTERNATE I - SEP 1999) (Quarterly Reporting)

☐ I-FSS-969 Economic Price Adjustment – FSS Multiple Award Schedule (OCT 2014)(ALT II - JUL 2016) (Monthly Reporting)

☐ (b)(1) - Accepted annual escalation rate:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

☐ (b)(2) - Accepted market indicator:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

☐ I-FSS-969 Economic Price Adjustment – FSS Multiple Award Schedule (OCT 2014) (Quarterly Reporting)

☐ (b)(1) - Accepted annual escalation rate:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

☐ (b)(2) - Accepted market indicator:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

☐ Commercial Sales Practices dated:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (not applicable to Monthly Reporting)

Solicitation EPA Maximum Limitations:

* Human Capital Category - 4%
* Professional Services Category - 5%
* Travel Category - 5%
* All Other Large Categories - 10%

|  |  |  |
| --- | --- | --- |
| *Term* | *Initial Terms Offered* | *Final GSA Terms Accepted* |
| *Basic Discount* |  |  |
| *Labor Hour Pricing* |  |  |
| *Quantity/Volume* |  |  |
| *Prompt Payment Terms* |  |  |
| *FOB Terms* |  |  |
| *Delivery Days ARO* |  |  |
| *Expedited Delivery Days ARO* |  |  |
| *Warranty* |  |  |
| *Brands (OEM or Suppliers)* |  |  |
| *Any Other Terms or Concessions including, but not limited to Minimum Order limits negotiated, Return Policy, Restocking Fee, etc..)* |  |  |

|  |  |
| --- | --- |
| *Element* | *Date Approved / Date Completed* |
| *Subcontracting Plan Approved (if applicable). See Tab 23b of the Contract File for approved plan.*   * *Date of Initial SBTA Plan Review* * *Date of Final SBTA/PCR Review* * *Date Plan Approved by CO* * *Effective Date of Plan* |  |
| *Completed CSA Review and Results of Negotiations (if applicable.) See Tab 17 of the contract file for results of negotiations and any CSAs incorporated into the contract.* |  |
| *Accepted Labor Category Qualifications (education, and experience (if applicable.) See Tab 23a of the contract file for accepted labor category qualifications. (Or link or refer to separate attachment.)* |  |

**IV Final Determination:**

Insert Date of Pricelist or Price Proposal accepted as the basis of the offer: is shown below:

*[Insert]*

Any exclusions made have been noted on the Pricelist(s) or Price Proposal(s) noted above.

Based upon the information contained in the PNO Memorandum and all attachments thereto, dated XX-XX-XX, which will be incorporated and made a part of the award, and the information contained in this PNM, the accepted pricing, terms or conditions are determined to be fair and reasonable, acceptance is recommended and award is considered to be in the best interest of the Government. Therefore, it is recommended that this offer be awarded to [company\_name] under Solicitation # [solicitation\_number], Multiple Award Schedule, for the following Large Categories, Sub-Categories, and SINs accepted.

Prepared By:

Name Date   
Contract Specialist

Acquisition Center Organization Code

Approved By:

Name Date   
Contracting Officer

Acquisition Center Organization Code