

# Defective pricing investigation results in lower settlement amount

A defective pricing charge could entitle the government to a reduction in the contract price.

## Client's challenge

As the result of the US government's post-award audit, a government contractor faced charges for defective pricing of a fixed-price contract. The government demanded payment totaling 27 percent of the purchase price, claiming the contractor failed to disclose certain information that would have reduced the price the government should have paid for the services. The government's claim of defective pricing would significantly reduce the profit on the contractor's contract. To prove it had indeed disclosed the required cost and pricing information during its contract negotiations with the government, the contractor enlisted the services of PricewaterhouseCoopers (PwC) to perform a thorough analysis of the allegations.

## PricewaterhouseCoopers' Advisory solution

PwC assembled an experienced team of professionals to investigate, analyze, and help our client resolve the government's pricing dispute charges. The team analyzed the contractor's disclosure protocol, which included a thorough review of its contract negotiation files. In addition to analyzing our client's pricing methodologies, PwC called upon internal resources experienced in litigation consulting to research court cases on defective pricing. Based on the evidence uncovered, the team was able to establish a defense against the government's defective pricing allegations.

PwC's detailed analysis uncovered facts that the client used to successfully defend its pricing practices. The findings revealed that:

- The cost or pricing data were not reasonably available for the contractor to disclose during contract negotiations. Additionally, had the data been available, it would not have been relied on for pricing.
- The government negotiated from a position of knowledge.
- The government's audit report contained a calculation error.

## Impact on client's business

After our client presented this information to the government, the Defense Contract Audit Agency (DCAA)—the auditing body of the Department of Defense—conducted a supplemental audit. In this supplemental audit, DCAA reduced their findings from 27 percent of the contract price, to below 10 percent. The amount was reduced even further with the submission of a request for equitable adjustment.

### For more information:

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