contracting officer may negotiate a firm contract price—

(A) If cost or pricing data on the subcontracts show the amounts to be reasonable and realistic; or

(B) If cost or pricing data on the subcontracts are too indefinite to determine whether the amounts are reasonable and realistic, but—

(*1*) Circumstances require prompt negotiation; and

(*2*) A statement substantially as follows is included in the repricing modification of the prime contract:

As soon as the Contractor establishes firm prices for each subcontract listed below, the Contractor shall submit (in the format and with the level of detail specified by the Contracting Officer) to the Contracting Officer the subcontractor's cost incurred in performing the subcontract and the final subcontract price. The Contractor and Contracting Officer shall negotiate an equitable adjustment in the total amount paid or to be paid under this contract to reflect the final subcontract price.

(v) If the selection of the subcontractor is based on a trade-off among cost or price and other non-cost factors rather than lowest price, the analysis supporting subcontractor selection should include a discussion of the factors considered in the selection (also see FAR 15.101 and 15.304 and 215.304). If the contractor's analysis is not adequate, return it for correction of deficiencies.

(vi) The contracting officer shall make every effort to ensure that fees negotiated by contractors for cost-plus-fixed-fee subcontracts do not exceed the fee limitations in FAR 15.404–4(c)(4).

215.404–4 Profit.

(b) *Policy*. (1) Departments and agencies must use a structured approach for developing a prenegotiation profit or fee objective on any negotiated contract action when cost or pricing data is obtained, except for cost-plus-award-fee contracts (see 215.404–74) or contracts with Federally Funded Research and Development Centers (FFRDCs) (see 215.404–75). There are three structured approaches—

(A) The weighted guidelines method;

(B) The modified weighted guidelines method; and

(C) An alternate structured approach.

(c) *Contracting officer responsibilities*. (1) Also, do not perform a profit analysis when assessing cost realism in competitive acquisitions.

(2) When using a structured approach, the contracting officer—

(A) Shall use the weighted guidelines method (see 215.404–71), except as provided in paragraphs (c)(2)(B) and (c)(2)(C) of this subsection.

(B) Shall use the modified weighted guidelines method (see 215.404–72) on contract actions with nonprofit organizations other than FFRDCs.

(C) May use an alternate structured approach (see 215.404–73) when—

(*1*) The contract action is—

(*i*) At or below the cost or pricing data threshold (see FAR 15.403–4(a)(1));

(*ii*) For architect-engineer or construction work;

(*iii*) Primarily for delivery of material from subcontractors; or

(*iv*) A termination settlement; or

(*2*) The weighted guidelines method does not produce a reasonable overall profit objective and the head of the contracting activity approves use of the alternate approach in writing.

(D) Shall use the weighted guidelines method to establish a basic profit rate under a formula-type pricing agreement, and may then use the basic rate on all actions under the agreement, provided that conditions affecting profit do not change.

(E) Shall document the profit analysis in the contract file.

(5) Although specific agreement on the applied weights or values for individual profit factors shall not be attempted, the contracting officer may encourage the contractor to—

(A) Present the details of its proposed profit amounts in the weighted guidelines format or similar structured approached; and

(B) Use the weighted guidelines method in developing profit objectives for negotiated subcontracts.

(6) The contracting officer must also verify that relevant variables have not materially changed (e.g., performance risk, interest rates, progress payment rates, distribution of facilities capital).

(d) Profit-analysis factors.—(1) *Common factors*. The common factors are

embodied in the DoD structured approaches and need not be further considered by the contracting officer.

[63 FR 55040, Oct. 14, 1998, as amended at 63 FR 63799, Nov. 17, 1998; 65 FR 77829, Dec. 13, 2000; 66 FR 49863, Oct. 1, 2001]

215.404–70 DD Form 1547, Record of Weighted Guidelines Method Application.

(a) The DD Form 1547—

(1) Provides a vehicle for performing the analysis necessary to develop of profit objectives;

(2) Provides a format for summarizing profit amounts subsequently negotiated as part of the contract price; and

(3) Serves as the principal source documents for reporting profit statistics to DoD's management information system.

(b) The military departments are responsible for establishing policies and procedures for feeding the DoD-wide management information system on profit and fee statistics (see 215.404–75).

(c) The contracting officer shall—

(1) Use and prepare a DD Form 1547 whenever a structured approach to profit analysis is required by 215.404–4(b) (see 215.404–71, 215.404–72, and 215.404–73 for guidance on using the structured approaches). Administrative instructions for completing the form are in 253.215.–70.

(2) Ensure that the DD Form 1547 is accurately completed. The contracting officer is responsible for the correction any errors detected by the management system auditing process.

215.404–71 Weighted guidelines method.

215.404–71–1 General.

(a) The weighted guidelines method focuses on four profit factors—

(1) Performance risk;

(2) Contract type risk;

(3) Facilities capital employed; and

(4) Cost efficiency.

(b) The contracting officer assigns values to each profit factor; the value multiplied by the base results in the profit objective for that factor. Except for the cost efficiency special factor, each profit factor has a normal value and a designated range of values. The normal value is representative of average conditions on the prospective contract when compared to all goods and services acquired by DoD. The designated range provides values based on above normal or below normal conditions. In the price negotiation documentation, the contracting officer need not explain assignment of the normal value, but should address conditions that justify assignment of other than the normal value. The cost efficiency special factor has no normal value. The contracting officer shall exercise sound business judgment in selecting a value when this special factor is used (see 215.404–71–5).

[67 FR 20689, Apr. 26, 2002]

215.404–71–2 Performance risk.

(a) *Description*. This profit factor addresses the contractor's degree of risk in fulfilling the contract requirements. The factor consists of two parts:

(1) Technical—the technical uncertainties of performance.

(2) Management/cost control—the degree of management effort necessary—

(i) To ensure that contract requirements are met; and

(ii) To reduce and control costs.

(b) *Determination*. The following extract from the DD Form 1547 is annotated to describe the process.

Item	Contractor risk factors	Assigned weighting	Assigned value	Base (item 20)	Profit objective
21 ..	Technical	(1)	(2)	N/A	N/A
22 ..	Management/Cost Control	(1)	(2)	N/A	N/A
23 ..	Performance Risk (Composite)	N/A	(3)	(4)	(5)

(1) Assign a weight (percentage) to each element according to its input to the total performance risk. The total of the two weights equals 100 percent.

(2) Select a value for each element from the list in paragraph (c) of this