iv) Any acquisition for noncommercial supplies or services treated as commercial items at 12.102(f)(1), except sole source contracts greater than $17.5 million, is exempt from the requirements for certified cost or pricing data (41 U.S.C. 428a).

Waivers. The head of the contracting activity (HCA) may, without power of delegation, waive the requirement for submission of certified cost or pricing data in exceptional cases. The authorization for the waiver and the supporting rationale shall be in writing. The HCA may consider waiving the requirement if the price can be determined to be fair and reasonable without submission of certified cost or pricing data. For example, if certified cost or pricing data were furnished on previous production buys and the contracting officer determines such data are sufficient, when combined with updated data, a waiver may be granted. If the HCA has waived the requirement for submission of certified cost or pricing data, the contractor or higher-tier subcontractor to whom the waiver relates shall be considered as having been required to provide certified cost or pricing data. Consequently, award of any lower-tier subcontract expected to exceed the certified cost or pricing data threshold requires the submission of certified cost or pricing data unless—

i) An exception otherwise applies to the subcontract; or

ii) The waiver specifically includes the subcontract and the rationale supporting the waiver for that subcontract.

(a)(1) In those acquisitions that do not require certified cost or pricing data, the contracting officer shall—

i) Obtain whatever data are available from Government or other secondary sources and use that data in determining a fair and reasonable price; or

ii) Require submission of data other than certified cost or pricing data, as defined in 2.101, from the offeror to the extent necessary to determine a fair and reasonable price (10 U.S.C. 2306a(d)(1) and 41 U.S.C. 254b(d)(1)) if the contracting officer determines that adequate data from sources other than the offeror are not available. This includes requiring data from an offeror to support a cost realism analysis; or

iii) Consider whether cost data are necessary to determine a fair and reasonable price when there is not adequate price competition; or

iv) Require that the data submitted by the offeror include, at a minimum, appropriate data on the prices at which the same item or similar items have previously been sold, adequate for determining the reasonableness of the price unless an exception under 15.403–1(b)(1) or (2) applies; and

v) Consider the guidance in section 3.3, chapter 3, volume I, of the Contract Pricing Reference Guide cited at 15.404–1(a)(7) to determine the data an offeror shall be required to submit.

(b) Certified cost or pricing data are not required for proposals used solely for overrun funding or interim billing price adjustments.

15.403–3 Requiring data other than certified cost or pricing data.

(a)(1) In those acquisitions that do not require certified cost or pricing data, the contracting officer shall—

i) Obtain whatever data are available from Government or other secondary sources and use that data in determining a fair and reasonable price; or

ii) Require submission of data other than certified cost or pricing data, as defined in 2.101, from the offeror to the extent necessary to determine a fair and reasonable price; or

(2) The contractor’s format for submitting the data should be used (see 15.403–5(b)(2)).

(3) The contracting officer shall ensure that data used to support price negotiations are sufficiently current to permit negotiation of a fair and reasonable price. Requests for updated offeror data should be limited to data that affect the adequacy of the proposal for negotiations, such as changes in price lists.