15.403–2 Other circumstances where certified cost or pricing data are not required.

(a) The exercise of an option at the price established at contract award or initial negotiation does not require submission of certified cost or pricing data.
(b) Certified cost or pricing data are not required for proposals used solely for overrun funding or interim billing price adjustments.

[75 FR 53143, Aug. 30, 2010]

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;
(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;
(iii) Consider whether cost data are necessary to determine a fair and reasonable price when there is not adequate price competition;
(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.
(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.
(4) As specified in section 808 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Pub. L. 105–261), an offeror who does not comply with a requirement to submit data for a contract or subcontract in accordance with paragraph (a)(1) of this subsection is ineligible for award unless the HCA determines that it is in the best interest of the Government to make the award to that offeror, based on consideration of the following:
(i) The effort made to obtain the data.
(ii) The need for the item or service.
(iii) Increased cost or significant harm to the Government if award is not made.
(b) Adequate price competition. When adequate price competition exists (see 15.403–1(c)(1)), generally no additional data are necessary to determine the reasonableness of price. However, if there are unusual circumstances where it is concluded that additional data are necessary to determine the reasonableness of price, the contracting officer shall, to the maximum extent practicable, obtain the additional data from sources other than the offeror. In addition, the contracting officer should request data to determine the cost realism of competing offers or to evaluate competing approaches.
(c) Commercial items. (1) At a minimum, the contracting officer must use price analysis to determine whether the price is fair and reasonable whenever the contracting officer acquires a commercial item (see 15.404–1(b)). The fact that a price is included in a catalog does not, in and of itself, make it fair and reasonable. If the contracting officer cannot determine whether an offered price is fair and reasonable, even after obtaining additional data from sources other than the offeror, then the contracting officer shall require the offeror to submit data other than certified cost or pricing data to support further analysis (see 15.404–1). This data may include history of sales to non-governmental and governmental entities, cost data, or any other information the contracting officer requires.
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(a)(1) The contracting officer shall obtain certified cost or pricing data only if the contracting officer concludes that none of the exceptions in 15.403–1(b) applies. However, if the contracting officer has reason to believe exceptional circumstances exist and has sufficient data available to determine a fair and reasonable price, then the contracting officer should consider requesting a waiver under the exception at 15.403–1(b)(4). The threshold for obtaining certified cost or pricing data is $700,000. Unless an exception applies, certified cost or pricing data are required before accomplishing any of the following actions expected to exceed the current threshold or, in the case of existing contracts, the threshold specified in the contract:

(i) The award of any negotiated contract (except for undefinitized actions such as letter contracts);

(ii) The award of a subcontract at any tier, if the contractor and each higher-tier subcontractor were required to furnish certified cost or pricing data (but see waivers at 15.403–1(c)(4));

(iii) The modification of any sealed bid or negotiated contract (whether or not certified cost or pricing data were initially required) or any subcontract covered by paragraph (a)(1)(ii) of this subsection. Price adjustment amounts must consider both increases and decreases (e.g., a $200,000 modification resulting from a reduction of $500,000 and an increase of $300,000 is a pricing adjustment exceeding $700,000). This requirement does not apply when unrelated and separately priced changes for which certified cost or pricing data would not otherwise be required are included for administrative convenience in the same modification. Negotiated final pricing actions (such as termination settlements and total final price agreements for fixed-price incentive and redeterminable contracts) are contract modifications requiring certified cost or pricing data if—

(A) The total final price agreement for such settlements or agreements exceeds the pertinent threshold set forth at paragraph (a)(1) of this subsection; or

(B) The partial termination settlement plus the estimate to complete the continued portion of the contract exceeds the pertinent threshold set forth at paragraph (a)(1) of this subsection (see 49.105(c)(15)).

(2) Unless prohibited because an exception at 15.403–1(b) applies, the head of the contracting activity, without power of delegation, may authorize the contracting officer to obtain certified cost or pricing data for pricing actions below the pertinent threshold in paragraph (a)(1) of this subsection, provided the action exceeds the simplified acquisition threshold. The head of the contracting activity shall justify the requirement for certified cost or pricing data. The documentation shall include...