

Design-build, as used in this part, means combining design and construction in a single contract with one contractor.

* * * * *

Two-phase design-build, as used in this part, is one type of *design-build* construction contracting in which a limited number of offerors (normally five or fewer) is selected during Phase One to submit detailed proposals for Phase Two (See subpart 36.3).

7. Section 36.104 is added to read as follows:

36.104 Policy.

(a) Contracting officers are authorized to use any of the following methods, as appropriate, when contracting for construction:

(1) Design-bid-build;

(2) Design-build, including—

(i) Two-phase design-build, as authorized by 10 U.S.C. 2305a and 41 U.S.C. 253m (see subpart 36.3);

(ii) For DOD, the design-build process described in 10 U.S.C. 2862;

(3) Any other acquisition process authorized by law.

(b) When awarding contracts using the methods in paragraph (a) of this section, contracting officers may use the procedures established in this and other parts, including parts 14 and 15.

36.213 Special procedures for sealed bidding in construction contracting.

8. A new section heading for 36.213 is added to read as set forth above.

36.213-1 through 36.213-4 [Redesignated from 36.301 through 36.304]

9. 36.301 through 36.304 are redesignated as 36.213-1 through 36.213-4 respectively.

36.214 Special procedures for price negotiation in construction contracting.

10. 36.402 is redesignated as 36.214 and the heading is revised to read as set forth above.

36.215 Special procedures for cost-reimbursement contracts for construction.

11. 36.403 is redesignated 36.215 and the heading is revised to read as set forth above.

Subpart 36.3—Two-phase Design-build Contracting for Construction [Revised]

12. Subpart 36.3 is revised to read as follows:

Subpart 36.3—Two-Phase Design-Build Contracting for Construction.

Sec.

36.300 Scope of subpart.

36.301 Use of two-phase design-build method.

36.302 Scope of work.

36.303 Procedures.

36.303-1 Phase one.

36.303-2 Phase two.

36.300 Scope of subpart.

This subpart prescribes policies and procedures for the use of the two-phase design-build method for construction contracting authorized by 10 U.S.C. 2305a and 41 U.S.C. 253m.

36.301 Use of two-phase design-build method.

(a) During formal or informal acquisition planning (see part 7), if considering the use of two-phase design-build, the contracting officer shall conduct the evaluation in paragraph (b) of this section.

(b) The two-phase design-build method shall be used when the contracting officer determines that this method is appropriate, based on the following—

(1) Three or more offers are anticipated;

(2) A substantial amount of design work will be performed by offerors before developing price or cost proposals, that may result in offerors incurring substantial expenses in preparing offers; and

(3) The following criteria have been considered:

(i) The extent to which the project requirements have been adequately defined;

(ii) The time constraints for delivery of the project;

(iii) The capability and experience of potential contractors;

(iv) The suitability of the project for use of the two-phase selection procedures;

(v) The capability of the agency to manage the two-phase selection process; and

(vi) Other criteria established by the head of the contracting activity.

36.302 Scope of work.

The agency shall develop, either in-house or by contract, a scope of work that defines the project and states the Government's requirements. The scope of work may include criteria and preliminary design, budget parameters, and schedule or delivery requirements. If the agency contracts for development of the scope of work, the procedures in subpart 36.6 shall be used.

36.303 Procedures.

One solicitation may be issued covering both phases, or two solicitations may be issued in sequence. Proposals will be evaluated in Phase

One to determine which offerors will submit proposals for Phase Two. One contract will be awarded using competitive negotiation.

36.303-1 Phase one.

(a) Phase One of the solicitation(s) shall include—

(1) The scope of work;

(2) The phase-one evaluation factors including—

(i) Technical approach (but not detailed design or technical information);

(ii) Specialized experience and technical competence;

(iii) Capability to perform;

(iv) Past performance of the offeror's team (including the architect-engineer and construction members); and

(v) Other appropriate factors (excluding cost or price related factors, which are not permitted in Phase One);

(3) Phase-two evaluation factors; and

(4) A statement of the maximum number of offerors that will be determined to be in the competitive range and invited to submit phase-two proposals. The maximum number specified shall not exceed five unless the contracting officer determines, for the particular solicitation, that a number greater than five is in the Government's interest and is consistent with the purposes and objectives of two-phase design-build contracting.

(b) After evaluating phase-one proposals, the contracting officer shall determine the competitive range of most highly qualified offerors (not to exceed the maximum number specified in the solicitation in accordance with 36.303-1(a)(4) and request that only those offerors in the competitive range submit phase-two proposals. The requirement in 15.609 that cost or price be considered in the determination of the competitive range does not apply.

36.303-2 Phase two.

Phase Two of the solicitation(s) shall:

(a) Be prepared in accordance with part 15, including phase-two evaluation factors, developed in accordance with 15.605, and

(b) Require the submission of separate technical and price proposals, that shall be evaluated separately, in accordance with part 15.

Subject 36.4—[Removed and Reserved]

13. Subpart 36.4 is removed and reserved.

[FR Doc. 96-20012 Filed 8-6-96; 8:45 am]

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DEPARTMENT OF DEFENSE**GENERAL SERVICES
ADMINISTRATION****NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION**

**48 CFR Parts 4, 12, 15, 16, 25, 31, 46,
and 52**

[FAR Case 96-306]

RIN 9000-AH16

**Federal Acquisition Regulation;
Exception to Requirement for Certified
Cost or Pricing Data**

AGENCIES: Department of Defense (DOD),
General Services Administration (GSA),
and National Aeronautics and Space
Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency
Acquisition Council and the Defense
Acquisition Regulations Council are
proposing to amend the Federal
Acquisition Regulation (FAR) to
implement Section 4201 of the Federal
Acquisition Reform Act of 1996. This
regulatory action was not subject to
Office of Management and Budget
review under Executive Order 12866,
dated September 30, 1993. This is not a
major rule under 5 U.S.C. 804.

DATES: Comments should be submitted
on or before October 7, 1996, to be
considered in the formulation of a final
rule.

ADDRESSES: Interested parties should
submit written comments to: General
Services Administration, FAR
Secretariat (MVRS), 18th & F Streets,
NW., Room 4037, Washington, DC
20405.

Please cite FAR case 96-306 in all
correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: Mr.
Jeremy Olson at (202) 501-3221 in
reference to this FAR case. For general
information, contact the FAR
Secretariat, Room 4037, GS Building,
Washington, DC 20405 (202) 501-4755.
Please cite FAR case 96-306.

SUPPLEMENTARY INFORMATION:

A. Background

The proposed rule implements
changes to the Truth in Negotiations Act
(TINA) contained in Section 4201 of the
Federal Acquisition Reform Act of 1996
(Public Law 104-106).

The proposed rule:

- Simplifies obtaining a TINA
exception for commercial items by
eliminating the distinction between
catalog or market-priced commercial
items and all other commercial items;

- Eliminates the subordination of the
commercial item exception to the
traditional exceptions of adequate price
competition, catalog or market-priced
commercial items, or prices set by law
or regulation, which previously was
required by the Federal Acquisition
Streamlining Act of 1994 (Public Law
103-355) (FASA);

- Eliminates the criteria established
by FASA for the commercial item
exception (i.e., an exception could not
be granted unless price reasonableness
could be determined based on specific
information requirements) and deletes
the authority to obtain cost or pricing
data for commercial item acquisitions
when the criteria is not met; and

- Eliminates the clause for postaward
audit of information submitted to
support the pricing of commercial item
contracts.

B. Regulatory Flexibility Act

This proposed rule is not expected to
have a significant economic impact on
a substantial number of small entities
within the meaning of the Regulatory
Flexibility Act, 5 U.S.C. 601 *et seq.*,
because it is estimated that most
contracts awarded to small entities are
awarded on a competitive, fixed-price
basis and do not require the submission
of "cost or pricing data." An Initial
Regulatory Flexibility Analysis has,
therefore, not been performed. Comments
from small entities concerning the
affected FAR subpart will be considered
in accordance with 5 U.S.C. 610 of the
Act. Such comments should be submitted
separately and should cite 5 U.S.C. 601
et seq. (FAR case 96-306), in
correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does
not apply because the proposed changes
to the FAR do not impose recordkeeping
or information collection requirements,
or collections of information from
offerors, contractors, or members of
the public which require the approval
of the Office of Management and Budget
under 44 U.S.C. 3501 *et seq.*

List of Subjects in 48 CFR Parts 4, 12,
15, 16, 25, 31, 46 and 52:

Government procurement.

Dated: July 31, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, it is proposed that 48 CFR
Parts 4, 12, 15, 16, 25, 31, 46 and 52 be
amended as set forth below:

1. The authority citation for 48 CFR
Parts 4, 12, 15, 16, 25, 31, 46 and 52
continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C.
chapter 137; and 42 U.S.C. 2473(c).

PART 4—ADMINISTRATIVE MATTERS

4.702 [Amended]

2. Section 4.702 is amended by
removing paragraph (a)(3).

**PART 12—ACQUISITION OF
COMMERCIAL ITEMS**

12.209 [Amended]

3. Section 12.209(e) is amended in the
first sentence by removing "15.804-
1(b)(6)" and inserting "15.804-1(b)(5)"
in its place.

**PART 15—CONTRACTING BY
NEGOTIATION**

4. Section 15.106 is revised to read as
follows:

15.106 Contract clause.

(a) This section implements 10 U.S.C.
2313, 41 U.S.C. 254d, and OMB Circular
No. A-133.

(b) The contracting officer shall, if
contracting by negotiation, insert the
clause at 52.215-2, Audit and Records—
Negotiation, in solicitations and
contracts except those—

(1) Not exceeding the simplified
acquisition threshold in part 13;

(2) For commercial items exempted
under 15.804-1; or

(3) For utility services at rates not
exceeding those established to apply
uniformly to the general public, plus
any applicable reasonable connection
charge.

(c) In facilities contracts, the
contracting officer shall use the clause
with its Alternate I. In cost-
reimbursement contracts with
educational institutions and other
nonprofit organizations, the contracting
officer shall use the clause with its
Alternate II. If the examination of
records by the Comptroller General is
waived in accordance with 25.901, the
contracting officer shall use the clause
with its Alternate III.

15.106-1 [Amended]

5. Section 15.106-1 is removed.

15.106-2 [Amended]

6. Section 15.106-2 is removed.

15.802 [Amended]

7. Section 15.802 is amended in the
third sentence of paragraph (a)
introductory text by removing "(b)",
and in (a)(1) by removing "(a)(3)" and
inserting "(b)" in its place.

8. Section 15.804-1 is amended by
revising paragraph (a); removing (b)(2);
redesignating (b)(3) through (b)(6) as
(b)(2) through (b)(5), respectively, and

revising newly designated (b)(3) and (b)(5); and by removing paragraphs (c) and (d). The revised text reads as follows:

15.804-1 Prohibition on obtaining cost or pricing data.

(a) *Exceptions to cost or pricing data requirements.* The contracting officer shall not, pursuant to 10 U.S.C. 2306a and 41 U.S.C. 254b, require submission of cost or pricing data (but may require information other than cost or pricing data to support a determination of price reasonableness or cost realism)—

(1) If the contracting officer determines that prices agreed upon are based on—

(i) Adequate price competition (see exception standards at paragraph (b)(1) of this subsection); or

(ii) Prices set by law or regulation (see exception standards at paragraph (b)(2) of this subsection).

(2) For acquisition of a commercial item (see exception standards at paragraph (b)(3) of this subsection).

(3) For exceptional cases where a waiver has been granted (see exception standards at paragraph (b)(4) of this subsection).

(4) For modifications to contracts or subcontracts for commercial items, if the basic contract or subcontract was awarded without the submission of cost or pricing data because the action was granted an exception from cost or pricing data requirements under paragraph (a)(1) or (a)(2) of this subsection and the modification does not change the contract or subcontract to a contract or subcontract for the acquisition of other than a commercial item (see exception standards at paragraph (b)(5) of this subsection).

(b) * * *

(3) *Commercial items.* If an acquisition is for an item that meets the commercial item definition in 2.101, it is excepted from the requirement to obtain cost or pricing data.

* * * * *

(5) *Modifications.* This exception applies when the original contract or subcontract was exempt from cost or pricing data based on adequate price competition, price set by law or regulation, or was a contract or subcontract for the acquisition of a commercial item (15.804-1 (a)(1) or (a)(2)). For modifications of contracts or subcontracts for commercial items, the exception at 15.804-1(a)(4) applies if the modification does not change the item from a commercial item to a noncommercial item. However, if the modification to a contract or a subcontract changes the nature of the work under the contract or subcontract

either by a change to the commercial item or by the addition of other noncommercial work, the contracting officer is not prohibited from obtaining cost or pricing data for the changed or added work.

15.804-2 [Amended]

9. Section 15.804-2 is amended in the second sentence of paragraph (a)(1) introductory text, by removing “15.804-1(b)(5)” and inserting “15.804-1(b)(4)”; and in (a)(1)(ii) by removing “15.804-1(b)(5)” and inserting “15.804-1(b)(4)” in its place; and by revising paragraph (a)(2) as follows:

15.804-2 Requiring cost or pricing data.

(a) * * *

(2) Unless prohibited because an exception at 15.804-1(a)(1) or (a)(2) applies, the head of the contracting activity, without power of delegation, may authorize the contracting officer to obtain 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 cost or pricing data. The documentation shall include a written finding that cost or pricing data are necessary to determine whether the price is fair and reasonable and the facts supporting that finding.

* * * * *

10. Section 15.804-5 is revised to read as follows:

15.804-5 Requiring information other than cost or pricing data.

(a) *General.* (1) If cost or pricing data are not required because an exception applies, or an action is at or below the cost or pricing data threshold, the contracting officer shall perform a price analysis to determine the reasonableness of the price and any need for further negotiation.

(2) The contracting officer shall require submission of information other than cost or pricing data only to the extent necessary to determine reasonableness of the price or cost realism. Unless an exception under 15.804-1(a)(1) applies, the contracting officer shall obtain at a minimum, in accordance with the policy at 15.802(a)(2), appropriate information on the prices at which the same item or similar items have previously been sold that is adequate for evaluating the reasonableness of the price.

(3) The contractor's format for submitting such information shall generally be used (see 15.804-5(c)(2)).

(4) The contracting officer shall ensure that information used to support

price negotiations is sufficiently current to permit negotiation of a fair and reasonable price. Requests for updated offeror information should be limited to information that affects the adequacy of the proposal for negotiations, such as changes in price lists. Such data shall not be certified in accordance with 15.804-4.

(b) *Adequate price competition.* When an acquisition is based on adequate price competition, generally no additional information is necessary to determine the reasonableness of price. However, if it is determined that additional information is necessary to determine the reasonableness of the price, the contracting officer shall, to the maximum extent practicable, obtain the additional information from sources other than the offeror. In addition, the contracting officer may request information to determine the cost realism of competing offers or to evaluate competing approaches.

(c) *Limitations relating to commercial items.* (1) Requests for sales data relating to commercial items shall be limited to data for the same or similar items during a relevant time period.

(2) The contracting officer shall, to the maximum extent practicable, limit the scope of the request for information relating to commercial items to include only information that is in the form regularly maintained by the offeror in commercial operations.

(3) Any information obtained relating to commercial items that is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552(b)) shall not be disclosed by the Government.

11. Section 15.804-6 is amended in paragraph (a)(5) by removing the words “or postaward” and in Table 15-2 by revising the fourth paragraph of Item 1 entitled “Established Catalog or Market Prices or Prices Set by Law or Regulation or Commercial Items Not Covered By Another Exception” to read as follows:

15.804-6 Instructions for submission of cost or pricing data or information other than cost or pricing data.

* * * * *

TABLE 15-2 INSTRUCTIONS FOR SUBMISSION OF A CONTRACT PRICING PROPOSAL WHEN COST OR PRICING DATA ARE REQUIRED

* * * * *

Prices Set by Law or Regulation or Commercial Item Exception—When an exception from the requirement to submit cost or pricing data is requested, whether the item was produced by

others or by the offeror, provide justification for the exception.

* * * * *

12. Section 15.812-1 is amended by revising paragraph (b) and the fourth sentence of (c) to read as follows:

15.812-1 General.

* * * * *

(b) However, the policy in paragraph (a) of this subsection does not apply to any contract or subcontract for acquisition of a commercial item.

(c) * * * The information shall not be requested for commercial items. * * *

13. Section 15.812-2 is amended by revising paragraphs (a)(3) and (5); and adding (a)(6) to read as follows:

15.812-2 Contract clause.

(a) * * *

(3) Utility services under part 41;

* * * * *

(5) Acquisitions of commercial items; and

(6) Contracts for petroleum products.

* * * * *

PART 16—TYPES OF CONTRACTS

14. Section 16.203-4 is amended by revising paragraphs (a)(1)(ii) and (b)(1)(ii) to read as follows:

16.203-4 Contract clauses.

(a)(1) * * *

(ii) The requirement is for standard supplies that have an established catalog or market price.

* * * * *

(b)(1) * * *

(ii) The requirement is for semistandard supplies for which the prices can be reasonably related to the prices of nearly equivalent standard supplies that have an established catalog or market price.

* * * * *

PART 25—FOREIGN ACQUISITION

25.901 [Amended]

15. Section 25.901(b) is amended in the first sentence by removing “15.106-1(b)” and inserting “15.106(b)” in its place.

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

16. Section 31.205-26 is amended by revising paragraph (f) to read as follows:

31.205-26 Material costs.

* * * * *

(f) When a commercial item under paragraph (e) of this subsection is transferred at a price based on a catalog or market price, the price should be adjusted to reflect the quantities being

acquired and may be adjusted to reflect the actual cost of any modifications necessary because of contract requirements.

PART 46—QUALITY ASSURANCE

46.804 [Amended]

17. Section 46.804 is amended by removing “(see 15.804-1(b)(2))”.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.215-2 [Amended]

18. Section 52.215-2 is amended in the introductory text by removing “15.106-1(b)” and inserting “15.106(b)” and in Alternates I, II and III remove “15.106-1(c)” and add “15.106(c)” in its place.

19. Section 52.215-26 is revised to read as follows:

52.215-26 Integrity of Unit Prices.

As prescribed in 15.812-2, insert the following clause:

Integrity of Unit Prices (Date)

(a) Any proposal submitted for the negotiation of prices for items of supplies shall distribute costs within contracts on a basis that ensures that unit prices are in proportion to the items’ base cost (e.g., manufacturing or acquisition costs). Any method of distributing costs to line items that distorts unit prices shall not be used. For example, distributing costs equally among line items is not acceptable except when there is little or no variation in base cost. Nothing in this paragraph requires submission of cost or pricing data not otherwise required by law or regulation.

(b) The Offeror/Contractor shall also identify those supplies which it will not manufacture or to which it will not contribute significant value when requested by the Contracting Officer.

(c) The Contractor shall insert the substance of this clause, less paragraph (b), in all subcontracts other than those for the acquisition of commercial items.

(End of clause)

Alternate I (DATE). As prescribed in 15.812-2(b), substitute the following paragraph (b) for paragraph (b) of the basic clause:

(b) The Offeror/Contractor shall also identify those supplies which it will not manufacture or to which it will not contribute significant value.

20. Section 52.215-41 is amended by revising the clause, the clause date, and Alternates II and III to read as follows:

52.215-41 Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data.

* * * * *

Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data (Date)

(a) *Exceptions from cost or pricing data.* (1) In lieu of submitting cost or pricing data, offerors may submit a written request for exception by submitting the information described in the following subparagraphs. The Contracting Officer may require additional supporting information, but only to the extent necessary to determine whether an exception should be granted, and whether the price is fair and reasonable.

(i) *Identification of the law or regulation establishing the price offered.* If the price is controlled under law by periodic rulings, reviews, or similar actions of a governmental body, attach a copy of the controlling document, unless it was previously submitted to the contracting office.

(ii) For a commercial item exception, the offeror shall submit, at a minimum, information on prices at which the same item or similar items have previously been sold that is adequate for evaluating the reasonableness of the price for this acquisition. Such information may include—

(A) For catalog items, a copy of or identification of the catalog and its date, or the appropriate pages for the offered items, or a statement that the catalog is on file in the buying office to which the proposal is being submitted. Provide a copy or describe current discount policies and price lists (published or unpublished), e.g., wholesale, original equipment manufacturer, or reseller. Also explain the basis of each offered price and its relationship to the established catalog price, including how the proposed price relates to the price or recent sales in quantities similar to the proposed quantities.

(B) For market-priced items, the source and date or period of the market quotation or other basis for market price, the base amount, and applicable discounts. In addition, describe the nature of the market.

(C) For items included on an active Federal Supply Service or Information Technology Service Multiple Award Schedule contract, proof that an exception has been granted for the schedule item.

(2) The offeror grants the Contracting Officer or an authorized representative the right to examine, at any time before award, books, records, documents, or other directly pertinent records to verify any request for an exception under this provision, and the reasonableness of price.

Access does not extend to cost or profit information or other data relevant solely to the offeror’s determination of the prices to be offered in the catalog or marketplace.

(b) *Requirements for cost or pricing data.* If the offeror is not granted an exception from the requirement to submit cost or pricing data, the following applies:

(1) The offeror shall submit cost or pricing data on Standard Form (SF) 1411, Contract Pricing Proposal Cover Sheet (Cost or Pricing Data Required), with supporting attachments prepared in accordance with Table 15-2 of FAR 15.804-6(b)(2).

(2) As soon as practicable after agreement on price, but before contract award (except for unpriced actions such as letter contracts), the offeror shall submit a Certificate of

Current Cost or Pricing Data, as prescribed in FAR 15.804-4.

(End of provision)

* * * * *

Alternate II (DATE). As prescribed in 15.804-8(h), add the following paragraph (c) to the basic provision:

(c) When the proposal is submitted, also submit one copy each, including the SF 1411 and supporting attachments, to (1) the Administrative Contracting Officer, and (2) the Contract Auditor.

Alternate III (DATE). As prescribed in 15.804-8(h), add the following paragraph (c) to the basic provision (if Alternate II is also used, redesignate as paragraph (d)):

(c) Submit the cost portion of the proposal via the following electronic media: (Insert media format, e.g., electronic spreadsheet format, electronic mail, etc.).

* * * * *

21. Section 52.215-42 is amended by revising the clause, the clause date, and the last sentence in paragraph (b) of Alternate IV to read as follows:

52.215-42 Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data—Modifications.

* * * * *

Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data—Modifications (Date)

(a) *Exceptions from cost or pricing data.* (1) In lieu of submitting cost or pricing data for modifications under this contract, for price adjustments expected to exceed the threshold set forth at FAR 15.804(a)(1) on the date of the agreement on price or the date of the award, whichever is later, the Contractor may submit a written request for exception by submitting the information described in the following subparagraphs. The Contracting Officer may require additional supporting information, but only to the extent necessary to determine whether an exception should be granted, and whether the price is fair and reasonable:

(i) Identification of the law or regulation establishing the price offered. If the price is controlled under law by periodic rulings, reviews, or similar actions of a governmental body, attach a copy of the controlling document, unless it was previously submitted to the contracting office.

(ii) Information on modifications of contracts or subcontracts for commercial items.

(A) If (1) the original contract or subcontract was granted an exception from cost or pricing data requirements because the price agreed upon was based on adequate price competition, or prices set by law or regulation, or was a contract or subcontract

for the acquisition of a commercial item, and (2) the modification (to the contract or subcontract) is not exempted based on one of these exceptions, then the Contractor may provide information to establish that the modification would not change the contract or subcontract from a contract or subcontract for the acquisition of a commercial item to a contract or subcontract for the acquisition of an item other than a commercial item.

(B) For a commercial item exception, the Contractor shall provide, at a minimum, information on prices at which the same item or similar items have previously been sold that is adequate for evaluating the reasonableness of the price of the modification. Such information may include:

(1) For catalog items, a copy of or identification of the catalog and its date, or the appropriate pages for the offered items, or a statement that the catalog is on file in the buying office to which the proposal is being submitted. Provide a copy or describe current discount policies and price lists (published or unpublished), e.g., wholesale, original equipment manufacturer, or reseller. Also explain the basis of each offered price and its relationship to the established catalog price, including how the proposed price relates to the price of recent sales in quantities similar to the proposed quantities.

(2) For market-priced items, the source and date or period of the market quotation or other basis for market price, the base amount, and applicable discounts. In addition, describe the nature of the market.

(3) For items included on an active Federal Supply Service or Information Technology Service Multiple Award Schedule contract, proof that an exception has been granted for the schedule item.

(2) The Contractor grants the Contracting Officer or an authorized representative the right to examine, at any time before award, books, records, documents, or other directly pertinent records to verify any request for an exception under this clause, and the reasonableness of price. Access does not extend to cost or profit information or other data relevant solely to the Contractor's determination of the prices to be offered in the catalog or marketplace.

(b) *Requirements for cost or pricing data.* If the Contractor is not granted an exception from the requirement to submit cost or pricing data, the following applies:

(1) The Contractor shall submit cost or pricing data on Standard Form (SF) 1411, Contract Pricing Proposal Cover Sheet (Cost or Pricing Data Required), with supporting attachments prepared in accordance with Table 15-2 of FAR 15.804-6(b)(2).

(2) As soon as practical after agreement on price, but before award (except for unpriced actions), the Contractor shall submit a Certificate of Current Cost or Pricing Data, as prescribed by FAR 15.804-4.

(End of clause)

* * * * *

Alternate IV (Date) * * *

* * * * *

(b) * * * *Standard Form 1448, Proposal Cover Sheet (Cost or Pricing Data Not Required), may be used for information other than cost or pricing data.*

52.215.43 [Removed]

22. Section 52.215-43 is removed.

23. Section 52.216-2 is amended by revising the introductory paragraph, the clause date, and the third sentence in paragraph (a) to read as follows:

52.216-2 Economic Price Adjustment—Standard Supplies.

As prescribed in 16.203-4(a), insert the following clause. The clause may be modified by increasing the 10 percent limit on aggregate increases specified in subparagraph (c)(1), upon approval by the chief of the contracting office.

Economic Price Adjustment—Standard Supplies (Date)

(a) * * * The term "established price" means a price that (1) is an established catalog or market price for a commercial item sold in substantial quantities to the general public, and (2) is the net price after applying any standard trade discounts offered by the Contractor.

24. Section 52.216-3 is amended by revising the introductory paragraph, the clause date and the second sentence of paragraph (a) to read as follows:

52.216-3 Economic Price Adjustment—Semistandard Supplies.

As prescribed in 16.203-4(b), insert the following clause. The clause may be modified by increasing the 10 percent limit on aggregate increases specified in subparagraph (c)(1), upon approval by the chief of the contracting office.

Economic Price Adjustment—Semistandard Supplies (Date)

(a) * * * The term "established price" means a price that (1) is an established catalog or market price for a commercial item sold in substantial quantities to the general public, and (2) is the net price after applying any standard trade discounts offered by the Contractor. * * *

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