

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3311	41:253c.	June 30, 1949, ch. 288, title III, § 303C, formerly § 303D, as added Pub. L. 98-577, title II, § 202(a), Oct. 30, 1984, 98 Stat. 3069; renumbered § 303C, Pub. L. 99-145, title XIII, § 1304(c)(4)(A), Nov. 8, 1985, 99 Stat. 742.

In subsection (d)(1)(A), the words “in the Commerce Business Daily” are omitted as obsolete. See revision note for section 1708(d) of the revised title.

§ 3312. Database on price trends of items and services under Federal contracts

(a) DATABASE REQUIRED.—The Administrator shall establish and maintain a database of information on price trends for items and services under contracts with the Federal Government. The information in the database shall be designed to assist Federal acquisition officials in the following:

(1) Monitoring developments in price trends for items and services under contracts with the Federal Government.

(2) Conducting price or cost analyses for items and services under offers for contracts with the Federal Government, or otherwise conducting determinations of the reasonableness of prices for items and services under such offers, and addressing unjustified escalation in prices being paid by the Federal Government for items and services under contracts with the Federal Government.

(b) USE.—(1) The database under subsection (a) shall be available to executive agencies in the evaluation of offers for contracts with the Federal Government for items and services.

(2) The Secretary of Defense may satisfy the requirements of this section by complying with the requirements of section 892¹ of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (10 U.S.C. 2306a note).

(Added Pub. L. 112-239, div. A, title VIII, § 851(a)(1), Jan. 2, 2013, 126 Stat. 1855.)

Editorial Notes

REFERENCES IN TEXT

Section 892 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011, referred to in subsec. (b)(2), is section 892 of Pub. L. 111-383, which was formerly set out as a note under section 2306a of Title 10, Armed Forces, prior to repeal by Pub. L. 114-92, div. A, title X, § 1073(f), Nov. 25, 2015, 129 Stat. 996.

Statutory Notes and Related Subsidiaries

USE OF ELEMENTS OF DEPARTMENT OF DEFENSE PILOT PROJECT

Pub. L. 112-239, div. A, title VIII, § 851(b), Jan. 2, 2013, 126 Stat. 1855, provided that: “In establishing the database required by section 3312 of title 41, United States Code (as added by subsection (a)), the Administrator for Federal Procurement Policy shall use and incorporate appropriate elements of the pilot project on pricing being carried out by the Under Secretary of Defense for Acquisition, Technology, and Logistics pursuant to sec-

tion 892 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 [Pub. L. 111-383] (10 U.S.C. 2306a note) and the Better Buying Power initiative of the Secretary of Defense.”

CHAPTER 35—TRUTHFUL COST OR PRICING DATA

Sec.	General.
3501.	Required cost or pricing data and certification.
3502.	Exceptions.
3503.	Cost or pricing data on below-threshold contracts.
3504.	Submission of other information.
3505.	Price reductions for defective cost or pricing data.
3506.	Interest and penalties for certain overpayments.
3507.	Right to examine contractor records.
3508.	Notification of violations of Federal criminal law or overpayments.
3509.	

SENATE REVISION AMENDMENT

In chapter 35 heading, “OR” substituted for “AND” by S. Amdt. 4726 (111th Cong.). See 156 Cong. Rec. 18683 (2010).

§ 3501. General

(a) DEFINITIONS.—In this chapter:

(1) COST OR PRICING DATA.—The term “cost or pricing data” means all facts that, as of the date of agreement on the price of a contract (or the price of a contract modification) or, if applicable consistent with section 3506(a)(2) of this title, another date agreed upon between the parties, a prudent buyer or seller would reasonably expect to affect price negotiations significantly. The term does not include information that is judgmental, but does include factual information from which a judgment was derived.

(2) SUBCONTRACT.—The term “subcontract” includes a transfer of commercial products or commercial services between divisions, subsidiaries, or affiliates of a contractor or a subcontractor.

(b) REGULATIONS.—

(1) MINIMIZING ABUSE OF COMMERCIAL SERVICES AUTHORITY.—The Federal Acquisition Regulation shall ensure that services that are not offered and sold competitively in substantial quantities in the commercial marketplace, but are of a type offered and sold competitively in substantial quantities in the commercial marketplace, may be treated as commercial services for purposes of this chapter only if the contracting officer determines in writing that the offeror has submitted sufficient information to evaluate, through price analysis, the reasonableness of the price for the services.

(2) INFORMATION TO SUBMIT.—To the extent necessary to make a determination under paragraph (1), the contracting officer may request the offeror to submit—

(A) prices paid for the same or similar commercial services under comparable terms and conditions by both government and commercial customers; and

(B) if the contracting officer determines that the information described in subpara-

¹ See References in Text note below.