

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-232 effective Jan. 1, 2020, subject to a savings provision, see section 836(h) of Pub. L. 115-232, set out as an Effective Date of 2018 Amendment; Savings Provision note under section 453b of Title 6, Domestic Security.

§ 3504. Cost or pricing data on below-threshold contracts

(a) **AUTHORITY TO REQUIRE SUBMISSION.**—Subject to subsection (b), when certified cost or pricing data are not required to be submitted by section 3502 of this title for a contract, subcontract, or modification of a contract or subcontract, the data may nevertheless be required to be submitted by the head of the procuring activity, but only if the head of the procuring activity determines that the data are necessary for the evaluation by the agency of the reasonableness of the price of the contract, subcontract, or modification of a contract or subcontract. In any case in which the head of the procuring activity requires the data to be submitted under this section, the head of the procuring activity shall justify in writing the reason for the requirement.

(b) **EXCEPTION.**—The head of the procuring activity may not require certified cost or pricing data to be submitted under this section for any contract or subcontract, or modification of a contract or subcontract, covered by the exceptions in section 3503(a)(1) or (2) of this title.

(c) **DELEGATION OF AUTHORITY PROHIBITED.**—The head of a procuring activity may not delegate the functions under this section.

(Pub. L. 111-350, § 3, Jan. 4, 2011, 124 Stat. 3767.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
3504	41:254b(c).	June 30, 1949, ch. 288, title III, §304A(c), as added Pub. L. 103-355, title I, §1251(a)(2), Oct. 13, 1994, 108 Stat. 3280; Pub. L. 104-106, title XLII, §§4201(b)(1), 4321(e)(3), Feb. 10, 1996, 110 Stat. 651, 675.

§ 3505. Submission of other information

(a) **AUTHORITY TO REQUIRE SUBMISSION.**—When certified cost or pricing data are not required to be submitted under this chapter for a contract, subcontract, or modification of a contract or subcontract, the contracting officer shall require submission of data other than certified cost or pricing data to the extent necessary to determine the reasonableness of the price of the contract, subcontract, or modification of the contract or subcontract. Except in the case of a contract or subcontract covered by the exceptions in section 3503(a)(1) of this title, the contracting officer shall require that the data submitted include, at a minimum, 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 for the procurement.

(b) **LIMITATIONS ON AUTHORITY.**—The Federal Acquisition Regulation shall include the fol-

lowing provisions regarding the types of information that contracting officers may require under subsection (a):

(1) **REASONABLE LIMITATIONS.**—Reasonable limitations on requests for sales data relating to commercial products or commercial services.

(2) **LIMITATION ON SCOPE OF REQUEST.**—A requirement that a contracting officer limit, to the maximum extent practicable, the scope of any request for information relating to commercial products or commercial services from an offeror to only that information that is in the form regularly maintained by the offeror in commercial operations.

(3) **INFORMATION NOT TO BE DISCLOSED.**—A statement that any information received relating to commercial products or commercial services that is exempt from disclosure under section 552(b) of title 5 shall not be disclosed by the Federal Government.

(Pub. L. 111-350, § 3, Jan. 4, 2011, 124 Stat. 3767; Pub. L. 115-232, div. A, title VIII, §836(b)(13), Aug. 13, 2018, 132 Stat. 1863.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
3505	41:254b(d).	June 30, 1949, ch. 288, title III, §304A(d), as added Pub. L. 103-355, title I, §1251(a)(2), Oct. 13, 1994, 108 Stat. 3281; Pub. L. 104-106, title XLII, §§4201(b)(1), 4321(e)(4), Feb. 10, 1996, 110 Stat. 652, 675; Pub. L. 105-261, div. A, title VIII, §808(b), Oct. 17, 1998, 112 Stat. 2085.

Editorial Notes

AMENDMENTS

2018—Subsec. (b). Pub. L. 115-232 substituted “commercial products or commercial services” for “commercial items” wherever appearing.

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§ 3506. Price reductions for defective cost or pricing data

(a) **PROVISION REQUIRING ADJUSTMENT.**—

(1) **IN GENERAL.**—A prime contract (or change or modification to a prime contract) under which a certificate under section 3502(b) of this title is required shall contain a provision that the price of the contract to the Federal Government, including profit or fee, shall be adjusted to exclude any significant amount by which it may be determined by the head of the executive agency that the price was increased because the contractor (or any subcontractor required to make the certificate available) submitted defective cost or pricing data.

(2) **WHAT CONSTITUTES DEFECTIVE COST OR PRICING DATA.**—For the purposes of this chapter, defective cost or pricing data are cost or