

Contract Formation

Activity 19: Price-Related Information from Offerors

Procedures for identifying and collecting information that is required to evaluate price reasonableness or cost realism.

Related Flow Charts: [Flow Chart 19](#)

Related Courses: [FAC 021 \(Price Analysis\)](#), [CLB 007 \(Fundamentals of Cost Analysis\)](#)

Tasks	FAR Reference(s)	Additional Information
1. Determine if a certified cost or pricing data exception applies to the contracting situation.	FAR 2.101 Definitions [cost or pricing data; certified cost or pricing data]. FAR 15.403-1(b) Prohibition on obtaining certified cost or pricing data (10 U.S.C. 2306a and 41 U.S.C. chapter 35). FAR 15.403-4 Requiring certified cost or pricing data (10 U.S.C. 2306a and 41 U.S.C. chapter 35).	Cost or pricing data: <ul style="list-style-type: none">• Are all facts that, as of the date of price agreement or, if applicable, another date agreed upon between the parties that is as close as practicable to the date of agreement on price, prudent buyers and sellers would reasonably expect to affect price negotiations significantly.• Are factual, not judgmental, and are therefore verifiable.• Include the data that form the basis for the prospective offeror's judgment about future cost projections. The data do not indicate the accuracy of the prospective contractor's judgment.• Are more than historical accounting data. They are all the facts that can be reasonably expected to contribute to the soundness of estimates of future costs and to the validity of determinations of costs already incurred.• Include such factors as:<ul style="list-style-type: none">○ Vendor quotations;

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		<ul style="list-style-type: none"> ○ Nonrecurring costs; ○ Information on changes in production methods and in production or purchasing volume; ○ Data supporting projections of business prospects and objectives and related operations costs; ○ Unit-cost trends such as those associated with labor efficiency; ○ Make-or-buy decisions; ○ Estimated resources to attain business goals; and ○ Information on management decisions that could have a significant bearing on costs. <p>Certified cost or pricing data:</p> <ul style="list-style-type: none"> ● Are cost and pricing data that were required to be submitted in accordance with FAR 15.403-4 and 15.403-5 and have been certified, or are required to be certified, in accordance with FAR 15.406-2. This certification states that, to the best of the person's knowledge and belief, the cost or pricing data are accurate, complete, and current as of a date certain before contract award. <p>Do not require certified cost or pricing data to support any action (contracts, subcontracts, or modifications) (but may require data other than certified cost or pricing data as defined in FAR 2.101 to support a determination of a fair and reasonable price or cost realism):</p> <ul style="list-style-type: none"> ● When prices agreed upon are based on adequate price competition; ● When prices agreed upon are based on prices set by law or regulation; ● When a commercial item is being acquired;

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		<ul style="list-style-type: none"> • When a waiver has been granted; or • When modifying a contract or subcontract for commercial items.

2. Determine if data other than cost or pricing data are needed to determine reasonableness.

FAR 15.403-3 Requiring data other than certified cost or pricing data.

Data other than certified cost or pricing data:

- Are pricing data, cost data and judgmental information necessary for the contracting officer to determine a fair and reasonable price or to determine cost realism that are not required to be certified as accurate, complete, and current, in accordance with FAR 15.406-2.
- May include sales data and any data reasonably required to explain the offeror's estimating process including but not limited to:
 - The Judgmental factors applied and the mathematical or other methods used in the estimate, including those used in projecting from known data; and
 - The nature and amount of any contingencies included in the proposed price.
- Includes "cost or pricing data" but for which certification is not required.

The contracting officer is responsible for obtaining data other than certified cost or pricing data to the extent necessary to determine price reasonableness or cost realism.

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2a. Require submission of data other than certified cost or pricing data.	FAR 15.403-3 Requiring data other than certified cost or pricing data.	<p>Unless price reasonableness will be determined by adequate price competition or a price set by law or regulation, obtain appropriate information on prices at which the same item or similar items have previously been sold that is adequate for determining price reasonableness.</p> <p>For commercial items:</p> <ul style="list-style-type: none"> • Limit requests for sales data relating to commercial items to data for the same or similar items during a relevant time period. • To the maximum extent practicable, limit the scope of the request for data relating to commercial items to include only data that are in the form regularly maintained by the offeror as part of its commercial operations. • Do not disclose outside the Government data obtained relating to commercial items that is exempt from disclosure under FAR 24.202(a) or the Freedom of Information Act (5 U.S.C. 552(b)).
2b. Rely on completion and/or information obtained from market research for contract pricing.	<p>FAR 15.403-1(c)(1) Prohibitions on obtaining certified cost or pricing data (10 U.S.C. 2306a and 41 U.S.C. chapter 35).</p> <p>FAR 15.403-3 Requiring data other than certified cost or pricing data.</p>	<p>Do not require firms to submit data other than certified cost or pricing data when:</p> <ul style="list-style-type: none"> • There is adequate price competition. • Prices are set by law or regulation. <p>When adequate price completion exists, generally no additional data are necessary to determine the reasonableness of price. A price is based on adequate price competition if:</p> <ul style="list-style-type: none"> • Two or more responsible offerors, competing independently, submit priced offers that satisfy the Government's expressed requirement and if: <ul style="list-style-type: none"> ○ Award will be made to the offeror whose proposal represents the best value where price is a substantial factor in source selection; and

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		<ul style="list-style-type: none"> ○ There is no finding that the price of the otherwise successful offeror is unreasonable. Any finding that the price is unreasonable must be supported by a statement of the facts and approved at a level above the contracting officer; ● There was a reasonable expectation, based on market research or other assessment, that two or more responsible offerors, competing independently, would submit priced offers in response to the solicitation's expressed requirement, even though only one offer is received from a responsible offeror and if: <ul style="list-style-type: none"> ○ Based on the offer received, the contracting officer can reasonably conclude that the offer was submitted with the expectation of competition, e.g., circumstances indicate that: <ul style="list-style-type: none"> ▪ The offeror believed that at least one other offeror was capable of submitting a meaningful offer; and ▪ The offeror had no reason to believe that other potential offerors did not intend to submit an offer; and ○ The determination that the proposed price is based on adequate price competition and is reasonable has been approved at a level above the contracting officer; or ● Price analysis clearly demonstrates that the proposed price is reasonable in comparison with current or recent prices for the same or similar items, adjusted to reflect changes in market conditions, economic conditions, quantities, or terms and conditions under contracts that resulted from adequate price competition.

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<p>3. If over the certified cost or pricing threshold, request offeror submission of cost or pricing data.</p>	<p>FAR 15.403-4(b) Requiring certified cost or pricing data (10 U.S.C. 2306a and 41 U.S.C. chapter 35).</p>	<p>When certified cost or pricing data are required, require the contractor or prospective contractor to submit (and to have any subcontractor or prospective subcontractor submit to the prime contractor or appropriate subcontractor tier) the following in support of any proposal:</p> <ul style="list-style-type: none"> • The certified cost or pricing data and data other than certified cost or pricing data required by the contracting officer to determine that the price is fair and reasonable. • A Certificate of Current Cost or Pricing Data, in the format specified in FAR 15.406-2, certifying that to the best of its knowledge and belief, the cost or pricing data were accurate, complete, and current as of the date of agreement on price or, if applicable, an earlier date agreed upon between the parties that is as close as practicable to the date of agreement on price. <p>If certified cost or pricing data are requested and submitted by an offeror, but an exception is later found to apply, the data must not be considered cost or pricing data as defined in FAR 2.101 and must not be certified in accordance with FAR 15.406-2.</p>
<p>4. If under the cost or pricing threshold but over seek authorization from HCA if cost or pricing data is necessary.</p>	<p>FAR 15.403-4(a)(2) Requiring certified cost or pricing data (10 U.S.C. 2306a and 41 U.S.C. chapter 35).</p>	<p>Unless prohibited because an exception at FAR 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 provided the action exceeds the simplified acquisition threshold.</p>
<p>4a. Obtain HCA justification for requirement for certified cost or pricing data.</p>	<p>FAR 15.403-4(a)(2) Requiring certified cost or pricing data (10 U.S.C. 2306a and 41 U.S.C. chapter 35).</p>	<p>The head of the contracting activity must justify the requirement for certified cost or pricing data.</p>

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4b. Document reason for cost or pricing necessity.	FAR 15.403-4(a)(2) Requiring certified cost or pricing data (10 U.S.C. 2306a and 41 U.S.C. chapter 35).	The documentation must include a written finding that certified cost or pricing data are necessary to determine whether the price is fair and reasonable and the facts supporting that finding.
5. If HCA does not authorize obtaining cost or pricing data, determine if data other than certified cost or pricing data is needed.	FAR 15.403-3 Requiring data other than certified cost or pricing data.	
6. Take appropriate action if offeror refuses to provide or certify cost or pricing data.	FAR 15.404-2(d) Deficient proposals.	<p>When cost or pricing data are required and no exception applies:</p> <ul style="list-style-type: none"> • Withhold contract action (e.g., award or modification of contract or subcontract); and • Refer the contract action to higher authority. <p>The head of the contracting activity has the authority to waive the requirement for cost or pricing data.</p>
7. Identify any data that are inaccurate, incomplete, or not current and take appropriate action.	<p>FAR 15.406-3 Documenting the negotiation.</p> <p>FAR 15.407 Defective certified cost or pricing data.</p>	Failure to question any data that are known to be inaccurate, incomplete, or noncurrent before negotiations are complete may affect the Government's rights under the defective pricing clause in the contract.
8. Determine the "as of" date for the Certificate of Current Cost or Pricing Data.	FAR 15.406-2 Certificate of current cost or pricing data.	<p>Use either:</p> <ul style="list-style-type: none"> • The date when price negotiations were concluded and price agreement was reached; or • An earlier date agreed upon that is as close as practicable to the agreement on price.
9. Obtain from offeror (including proposed subcontractor, if appropriate) a properly executed Certificate of Current Cost or Pricing Data.	FAR 15.406-2 Certificate of current cost or pricing data.	The executed certificate must be included in the contract file.