215.403-1 Prohibition on obtaining certified cost or pricing data (10 U.S.C. chapter 271 and 41 U.S.C. chapter 35).

(b) *Exceptions to certified cost or pricing data requirements.*

(i) Follow the procedures at PGI 215.403-1 (b).

(ii) Submission of certified cost or pricing data shall not be required in the case of a contract, subcontract, or modification of a contract or subcontract to the extent such data relates to an indirect offset.

(c) *Standards for exceptions from certified cost or pricing data requirements.*

(1) *Adequate price competition.*

(A) For acquisitions under dual or multiple source programs—

(*1*) The determination of adequate price competition must be made on a case-by-case basis. Even when adequate price competition exists, in certain cases it may be appropriate to obtain additional data to assist in price analysis; and

(*2*)Adequate price competition normally exists when—

(i) Prices are solicited across a full range of step quantities, normally including a 0-100 percent split, from at least two offerors that are individually capable of producing the full quantity; and

(ii) The reasonableness of all prices awarded is clearly established on the basis of price analysis (see FAR 15.404-1(b)).

(B) If only one offer is received in response to a competitive solicitation, see 215.371-3.

(3) *Commercial products or commercial services.*

(A) Follow the procedures at PGI (c)(3)(A) for pricing commercial products or commercial services, except see 234.7002(e) for pricing commercial subsystems of major weapon systems and components and spare parts of major weapon systems and of subsystems of major weapon systems.

(B) When applying the commercial product or commercial service exception under FAR 15.403-1(b)(3), see 212.102(a)(ii) regarding prior commercial product or commercial service determinations.

(4) *Waivers.*

(A) The head of the contracting activity may, without power of delegation, apply the exceptional circumstances authority when a determination is made that—

(1) The property or services cannot reasonably be obtained under the contract, subcontract, or modification, without the granting of the waiver;

(2) The price can be determined to be fair and reasonable without the submission of certified cost or pricing data; and

(3) There are demonstrated benefits to granting the waiver. Follow the procedures at PGI 215.403-1 (c)(4)(A) for determining when an exceptional case waiver is appropriate, for approval of such waivers, for partial waivers, and for waivers applicable to unpriced supplies or services.

(B) By November 30th of each year, departments and agencies shall provide a report to the Office of the Principal Director, Defense Pricing, Contracting, and Acquisition Policy, (Price, Cost and Finance), of all waivers granted under FAR 15.403-1(b)(4), during the previous fiscal year, for any contract, subcontract, or modification expected to have a value of $25 million or more. See PGI 215.403-1(c)(4)(B) for the format and guidance for the report.

(C) DoD has waived the requirement for submission of certified cost or pricing data for the Canadian Commercial Corporation and its subcontractors (but see 215.408 (3) and 225.870-4 (c)).

(D) DoD has waived certified cost or pricing data requirements for nonprofit organizations (including educational institutions) on cost-reimbursement-no-fee contracts. The contracting officer shall require—

(1) Submission of data other than certified cost or pricing data to the extent necessary to determine price reasonableness and cost realism; and

(2) Certified cost or pricing data from subcontractors that are not nonprofit organizations when the subcontractor’s proposal exceeds the certified cost or pricing data threshold at FAR 15.403-4(a)(1).

Parent topic: 215.403 Obtaining certified cost or pricing data.