15.403-4 Requiring certified cost or pricing data (10 U.S.C. chapter 271 and 41 U.S.C. chapter 35).

(a)

(1) The *contracting officer shall* obtain *certified cost or pricing data* only if the *contracting officer* concludes that none of the exceptions in 15.403-1(b) applies. However, if the *contracting officer* has reason to believe exceptional circumstances exist and has sufficient data available to determine a fair and reasonable *price*, then the *contracting officer should* consider requesting a waiver under the exception at 15.403-1(b)(4). The threshold for obtaining *certified cost or pricing data* is $950,000 for prime contracts awarded before July 1, 2018, and $2.5 million for prime contracts awarded on or after July 1, 2018.When a clause refers to this threshold, and if the threshold is adjusted for inflation pursuant to 1.109(a), then pursuant to 1.109(d) the changed threshold applies throughout the remaining term of the contract, unless there is a subsequent threshold adjustment. Unless an exception applies, *certified cost or pricing data* are required before accomplishing any of the following actions expected to exceed the current threshold or, in the case of existing contracts, the threshold specified in the contract:

(i) The award of any negotiated contract (except for undefinitized actions such as letter contracts).

(ii) The award of a *subcontract* at any tier, if the contractor and each higher-tier subcontractor were required to furnish *certified cost or pricing data* (but see waivers at 15.403-1(c)(4)).

(iii) The modification of any sealed bid or negotiated contract (whether or not *certified cost or pricing data* were initially required) or any *subcontract* covered by paragraph (a)(1)(ii) of this subsection. *Price* adjustment amounts *must* consider both increases and decreases (e.g., a $500,000 modification resulting from a reduction of $1,500,000 and an increase of $1,000,000 is a $2,500,000 *pricing* adjustment exceeding the $2,000,000 threshold). This requirement does not apply when unrelated and separately priced changes for which *certified cost or pricing data* would not otherwise be required are included for administrative convenience in the same modification. Negotiated final *pricing* actions (such as termination settlements and total final *price* agreements for fixed-*price* incentive and redeterminable contracts) are *contract modifications* requiring *certified cost or pricing data* if-

(A) The total final *price* agreement for such settlements or agreements exceeds the pertinent threshold set forth at paragraph (a)(1) of this subsection; or

(B) The *partial termination* settlement plus the estimate to complete the *continued portion of the contract* exceeds the pertinent threshold set forth at paragraph (a)(1) of this subsection (see 49.105(c)(15)).

(2) Unless prohibited because an exception at 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 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 *certified cost or pricing data*. The documentation *shall* 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.

(3) Upon the request of a contractor that was required to submit *certified cost or pricing data* in connection with a prime contract entered into before July 1, 2018, the *contracting officer shall* modify the contract, without requiring consideration, to reflect a $2.5 million threshold for obtaining *certified cost or pricing data* on *subcontracts* entered on and after July 1, 2018. See 15.408.

(b) When *certified cost or pricing data* are required, the *contracting officer shall* require the contractor or prospective contractor to submit to the *contracting officer* (and to have any subcontractor or prospective subcontractor submit to the prime contractor or appropriate subcontractor tier) the following in support of any proposal:

(1) 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.

(2) A Certificate of Current *Cost or Pricing Data*, in the format specified in 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*.

(c) 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 *certified cost or pricing data* as defined in 2.101 and *must* not be certified in accordance with 15.406-2

(d) The requirements of this subsection also apply to contracts entered into by an agency on behalf of a foreign government.

Parent topic: 15.403 Obtaining certified cost or pricing data.