

Ch 2 - Obtaining Offeror Information for Cost Analysis

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2.0 Chapter Introduction

Solicitation Cost Information Requirements ([FAR 15.403-5](#) and [15.408\(1\)](#)). When cost analysis is necessary to support a decision on price reasonableness or cost realism, the contracting officer may require an offeror to submit cost information at any time prior to the close of negotiations. However, identifying all requirements in the solicitation will permit offerors to gather and document the required information during proposal preparation. If you require the data after proposals are received, the contracting process must be delayed while the offeror gathers and documents the information required.

The solicitation must specify:

- Whether cost or pricing data are required;
- That, when cost or pricing data are required, the offeror may submit a request for exception from the requirement to submit cost or pricing data;
- Whether information other than cost or pricing data is required, if cost or pricing data are not necessary;
- Necessary preaward or post award access to the offeror's records;
- The format required for submission of cost or pricing data or information other than cost or pricing data (the [FAR Table 15-2](#) format, a specified alternate format, or a format selected by the offeror).

Information Other than Cost or Pricing Data ([FAR 15.401](#) and [15.406-2](#)). Information other than cost or pricing data:

- Is any type of information required to determine price reasonableness or cost realism, that does not require offeror certification as accurate, complete, and current in accordance with FAR [15.406-2](#).
- May include pricing, sales, or cost information.
- Includes cost or pricing data for which certification is determined inapplicable after submission.

Cost or Pricing Data ([FAR 15.401](#) and [15.406-2](#)). Cost or pricing data:

- Are all facts that, as of the date of price agreement or, if applicable, an earlier 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.
- Require certification as accurate, complete, and current in accordance with [FAR 15.406-2](#).
- Are factual, not judgmental, and are 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:
 - Vendor quotations;
 - 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.

Price-Related Information Requirements After Receipt of Offers ([FAR 15.403-4\(c\)](#) and [15.404-2\(d\)](#)).

Decisions on offeror cost information requirements continue after proposals are received:

- If offerors were required to submit cost or pricing data and:
 - An offeror submitted the data, but the contracting officer later finds that certification is not required, treat the data as information other than cost or pricing data.
 - An offeror initially refuses to provide the required data or the data provided are so deficient as to preclude adequate analysis and evaluation, the contracting officer must again attempt to obtain the data unless the data are no longer required. If the offeror persists in refusing to provide the needed data, the contracting officer must withhold contract award or price adjustment and refer the contract action to higher authority, with details of the attempts made to resolve the matter and a statement on the practicality of obtaining the supplies or services from another source.
- If the Government does not require submission of cost or pricing data and the contracting officer later determines that the data are necessary, require the offeror to submit the required data prior to the close of contract negotiations.
- If the Government does not require submission of cost or pricing data or information other than cost or pricing data, but the contracting officer later determines that information other than cost or pricing data is needed from the offeror to determine price reasonableness, require the offeror to submit the necessary information prior to the close of contract negotiations.

2.1 Recognizing The Need For Cost Or Pricing Data

TINA Cost or Pricing Data Requirements ([FAR 15.403-4\(a\)\(1\)](#)). **Unless an exception applies**, the Truth in Negotiations Act (TINA), as amended, requires the contracting officer to obtain cost or pricing data before accomplishing any of the following actions when the price is expected to exceed the applicable cost or pricing data threshold:

- The award of any negotiated contract (except for undefinitized actions such as letter contracts).
- The award of a subcontract at any tier, if the contractor and each higher-tier subcontractor have been required to furnish cost or pricing data.
- The modification of any sealed bid or negotiated contract (whether or not cost or pricing data were initially required) or subcontract. When calculating the amount of the contract price adjustment, consider both increases and decreases. (For example, a \$150,000 modification resulting from a reduction of \$350,000 and an increase of \$200,000 is a pricing adjustment exceeding the current cost or pricing data threshold.) This requirement does not apply when unrelated and separately priced changes for which cost or pricing data would not otherwise be required are included for administrative convenience in the same contract modification.

New Contract Cost or Pricing Data Threshold ([FAR 15.403-4\(a\)\(1\)](#)). For a new contract, the applicable cost or pricing data threshold is the current threshold on the date of agreement on price, or the date of award, whichever is later. At this time, the current threshold is \$500,000. That amount is subject to review and possible adjustment on October 1, 2000 and every five years thereafter.

Subcontract and Modification Cost or Pricing Data Threshold ([FAR 52.215-13](#) and [52.215-21](#)). For prime contract modifications, new subcontracts at any tier, and subcontract modifications, the applicable cost or pricing data threshold is established by the prime contract.

- For most contracts, the applicable cost or pricing data threshold is the current threshold on the date of agreement on price, or the date of award, whichever is later.
- Some older contracts specify a dollar threshold that does not automatically change as the current threshold changes. However, a specific dollar threshold can be updated using a bilateral contract modification.

Exceptions to TINA Cost or Pricing Data Requirements ([FAR 15.403-1](#)). The same laws that establish requirements for cost or pricing data also provide for mandatory exceptions. **Never** require cost or pricing data, when an exception applies.

<p>Except from TINA requirements if...</p>	<p>Standard for Granting the Exception</p>
<p>The contracting officer determines that the agreed-upon price is based on adequate price competition.</p>	<p>A price is based on adequate price competition when one of the following situations exists:</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 both of the following requirements are met: • Award will be made to the offeror whose proposal represents the best value where price is a substantial factor in the source selection; and • 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, responsive offeror and both of the following requirements are met: • 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

	<ul style="list-style-type: none"> • The determination that the proposed price is based on adequate price competition and is reasonable is approved at a level above the contracting officer. • 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 price competition.
<p>The contracting officer determines that the item price is set by law or regulation.</p>	<p>Pronouncements in the form of periodic rulings, reviews, or similar actions of a governmental body, or embodied in the laws, are sufficient to demonstrate a set price.</p>
<p>The contracting officer determines that you are acquiring a commercial item.</p>	<p>A new contract or subcontract must be for an item that meets the FAR commercial-item definition.</p> <p>A contract or subcontract modification of a commercial-item contract must not change the item from a commercial item to a noncommercial item.</p>
<p>The head of the contracting activity waives the requirement.</p>	<p>The head of the contracting activity (HCA) (without power of delegation) waives the requirement in writing. The HCA may consider waiving the requirement if the price can be determined to be fair and reasonable without submission of cost or pricing data.</p> <p>Note: Consider the contractor or higher-tier subcontractor to whom the waiver relates to have been required to provide cost or pricing data. Consequently, award of any lower-tier subcontract expected to exceed the cost or pricing data threshold requires the submission of cost or pricing</p>

	data unless an exception otherwise applies to the subcontract.
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Other Prohibitions Against Requiring Cost of Pricing Data ([FAR 15.403-1\(a\)](#) and [15.403-2](#)).

Never require cost or pricing data for:

- Any contract or subcontract action with a price that is equal to or less than the simplified acquisition threshold. When calculating the price adjustment related to a contract modification, consider both increases and decreases, unless unrelated and separately priced changes for which cost or pricing data would not otherwise be required are included for administrative convenience in the same contract modification.
- The exercise of a contract option at the price established at contract award or initial negotiation.
- Proposals used solely for overrun funding or interim billing price adjustments.

Cost or Pricing Data Requirements Authorized by the Head of the Contracting Activity ([FAR 15.403-4\(a\)\(2\)](#)).

If none of the exceptions or prohibitions described above apply, the head of the contracting activity (without power of delegation) may authorize the contracting officer to require cost or pricing data for any contract action at or below the cost or pricing data threshold.

- The head of the contracting activity must justify the requirement.
- Documentation must include a written finding that cost or pricing data are necessary to determine whether the price is fair and reasonable and the facts supporting that finding.

Before requesting authorization to require cost or pricing data below the cost or pricing data threshold, consider both the costs and benefits of requiring cost or pricing data. Give special consideration to requesting authorization to require cost or pricing data when the offeror, contractor, or subcontractor:

- Has been the subject of recent or recurring and significant findings of defective pricing;

- Currently has significant deficiencies in cost estimating systems; or
 - Has recently been indicted for, convicted of, or the subject of an administrative or judicial finding of fraud regarding its cost estimating system or cost accounting practices.
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2.2 Obtaining Cost Or Pricing Data

Cost or Pricing Data Format ([FAR 15.403-5\(b\)\(1\)](#), [15.408\(1\)](#), [15.408\(m\)](#), and [49.6](#)). Require cost or pricing data submission in the format prescribed in the solicitation/contract.

- For a contract termination settlement proposal submitted on a form specified in [FAR 49.6](#), cost or pricing data must be submitted in the format prescribed by the form.
 - For all other contract or subcontract actions:
 - [FAR Table 15-2](#) (presented below) outlines the type of data that you should require.
 - The solicitation/contract may prescribe submission in:
 - The format outlined in [FAR Table 15-2](#);
 - An alternate format outlined in the solicitation/contract; or
 - A format selected by the offeror.
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FAR Table 15-2, Instructions For Submitting Cost/Price Proposals When Cost Or Pricing Data Are Required

This document provides instructions for preparing a contract pricing proposal when cost or pricing data are required.

Note 1. There is a clear distinction between submitting cost or pricing data and merely making available books, records, and other documents without identification. The requirement for submission of cost or pricing data is met when all accurate cost or pricing data reasonably available to the offeror have been submitted, either actually or by specific identification, to the contracting officer or an

authorized representative. As later information comes into your possession, it should be submitted promptly to the contracting officer in a manner that clearly shows how the information relates to the offeror's price proposal. The requirement for submission of cost or pricing data continues up to the time of agreement on price, or an earlier date agreed upon between the parties if applicable.

Note 2. By submitting your proposal, you grant the contracting officer or an authorized representative the right to examine records that formed the basis for the pricing proposal. That examination can take place at any time before award. It may include those books, records, documents, and other types of factual information (regardless of form or whether the information is specifically referenced or included in the proposal as the basis for pricing) that will permit an adequate evaluation of the proposed price.

I. General Instructions

A. You must provide the following information on the first page of your pricing proposal:

- (1) Solicitation, contract, and/or modification number;
- (2) Name and address of offeror;
- (3) Name and telephone number of point of contact;
- (4) Name of contract administration office (if available);
- (5) Type of contract action (that is, new contract, change order, price revision/redetermination, letter contract, unpriced order, or other);
- (6) Proposed cost; profit or fee; and total;
- (7) Whether you will require the use of Government property in the performance of the contract, and, if so, what property;
- (8) Whether your organization is subject to cost accounting standards; whether your organization has submitted a CASB Disclosure Statement, and if it has been determined adequate; whether you have been notified that you are or may be in noncompliance with your Disclosure Statement or

CAS, and, if yes, an explanation; whether any aspect of this proposal is inconsistent with your disclosed practices or applicable CAS, and, if so, an explanation; and whether the proposal is consistent with your established estimating and accounting principles and procedures and [FAR Part 31](#), Cost Principles, and, if not, an explanation;

(9) The following statement:

This proposal reflects our estimates and/or actual costs as of this date and conforms with the instructions in [FAR 15.403-5\(b\)\(1\)](#) and Table 15-2. By submitting this proposal, we grant the contracting officer and authorized representative(s) the right to examine, at any time before award, those records, which include books, documents, accounting procedures and practices, and other data, regardless of type and form or whether such supporting information is specifically referenced or included in the proposal as the basis for pricing, that will permit an adequate evaluation of the proposed price.

(10) Date of submission; and

(11) Name, title and signature of authorized representative.

B. In submitting your proposal, you must include an index, appropriately referenced, of all the cost or pricing data and information accompanying or identified in the proposal. In addition, you must annotate any future additions and/or revisions, up to the date of agreement on price, or an earlier date agreed upon by the parties, on a supplemental index.

C. As part of the specific information required, you must submit, with your proposal, cost or pricing data (that is, data that are verifiable and factual and otherwise as defined at [FAR 15.401](#)). You must clearly identify on your cover sheet that cost or pricing data are included as part of the proposal. In addition, you must submit with your proposal any information reasonably required to explain your estimating process, including--

(a) The judgmental factors applied and the mathematical or other methods used in the estimate, including those used in projecting from known data; and

(b) The nature and amount of any contingencies included in the proposed price.

D. You must show the relationship between contract line item prices and the total contract price. You must attach cost-element breakdowns for each proposed line item, using the appropriate format prescribed in the "Formats for Submission of Line Item Summaries" section of this table. You must furnish supporting breakdowns for each cost element, consistent with your cost accounting system.

E. When more than one contract line item is proposed, you must also provide summary total amounts covering all line items for each element of cost.

F. Whenever you have incurred costs for work performed before submission of a proposal, you must identify those costs in your cost/price proposal.

G. If you have reached an agreement with Government representatives on use of forward pricing rates/factors, identify the agreement, include a copy, and describe its nature.

H. As soon as practicable after final agreement on price or an earlier date agreed to by the parties, but before the award resulting from the proposal, you must, under the conditions stated in [FAR 15.406-2](#), submit a Certificate of Current Cost or Pricing Data.

II. Cost Elements

Depending on your system, you must provide breakdowns for the following basic cost elements, as applicable:

A. **Materials and services.** Provide a consolidated priced summary of individual material quantities included in the various tasks, orders, or contract line items being proposed and the basis for pricing (vendor quotes, invoice prices, etc.). Include raw materials, parts, components, assemblies, and services to be produced or performed by others. For all items proposed, identify the item and show the source, quantity, and price. Conduct price analyses of all subcontractor proposals. Conduct cost analyses for all subcontracts when cost or pricing data are submitted by the subcontractor. Include these analyses as part of your own cost or pricing data submissions for subcontracts expected

to exceed the appropriate threshold in [FAR 15.403-4](#). Submit the subcontractor cost or pricing data as part of your own cost or pricing data as required in paragraph [IIA\(2\)](#) of this table. These requirements also apply to all subcontractors if required to submit cost or pricing data.

(1) **Adequate Price Competition.** Provide data showing the degree of competition and the basis for establishing the source and reasonableness of price for those acquisitions (such as subcontracts, purchase orders, material order, etc.) exceeding, or expected to exceed, the appropriate threshold set forth at [FAR 15.403-4](#) priced on the basis of adequate price competition. For interorganizational transfers priced at other than the cost of comparable competitive commercial work of the division, subsidiary, or affiliate of the contractor, explain the pricing method (see [FAR 31.205-26\(e\)](#)).

(2) **All Other.** Obtain cost or pricing data from prospective sources for those acquisitions (such as subcontracts, purchase orders, material order, etc.) exceeding the threshold set forth in [FAR 15.403-4](#) and not otherwise exempt, in accordance with [FAR 15.403-1\(b\)](#) (i.e., adequate price competition, commercial items, prices set by law or regulation or waiver). Also provide data showing the basis for establishing source and reasonableness of price. In addition, provide a summary of your cost analysis and a copy of cost or pricing data submitted by the prospective source in support of each subcontract, or purchase order that is the lower of either \$10,000,000 or more, or both more than the pertinent cost or pricing data threshold and more than 10 percent of the prime contractor's proposed price. The contracting officer may require you to submit cost or pricing data in support of proposals in lower amounts. Subcontractor cost or pricing data must be accurate, complete and current as of the date of final price agreement, or an earlier date agreed upon by the parties, given on the prime contractor's Certificate of Current Cost or Pricing Data. The prime contractor is responsible for updating a prospective subcontractor's data. For standard commercial items fabricated by the offeror that are generally stocked in inventory, provide a separate cost breakdown, if priced based on cost. For interorganizational transfers priced at cost, provide a separate breakdown of cost elements. Analyze the cost or pricing data and submit the results of your analysis of the prospective source's proposal. When submission of a

prospective source's cost or pricing data is required as described in this paragraph, it must be included along with your own cost or pricing data submission, as part of your own cost or pricing data. You must also submit any other cost or pricing data obtained from a subcontractor, either actually or by specific identification, along with the results of any analysis performed on that data.

B. **Direct Labor.** Provide a time-phased (e.g., monthly, quarterly, etc.) breakdown of labor hours, rates, and cost by appropriate category, and furnish bases for estimates.

C. **Indirect Costs.** Indicate how you have computed and applied your indirect costs, including cost breakdowns. Show trends and budgetary data to provide a basis for evaluating the reasonableness of proposed rates. Indicate the rates used and provide an appropriate explanation.

D. **Other Costs.** List all other costs not otherwise included in the categories described above (e.g., special tooling, travel, computer and consultant services, preservation, packaging and packing, spoilage and rework, and Federal excise tax on finished articles) and provide bases for pricing.

E. **Royalties.** If royalties exceed \$1,500, you must provide the following information on a separate page for each separate royalty or license fee:

- (1) Name and address of licensor.
- (2) Date of license agreement.
- (3) Patent numbers.
- (4) Patent application serial numbers, or other basis on which the royalty is payable.
- (5) Brief description (including any part or model numbers of each contract item or component on which the royalty is payable).
- (6) Percentage or dollar rate of royalty per unit.
- (7) Unit price of contract item.
- (8) Number of units.

(9) Total dollar amount of royalties.

(10) If specifically requested by the contracting officer, a copy of the current license agreement and identification of applicable claims of specific patents (see [FAR 27.204](#) and [31.205-37](#)).

F. Facilities Capital Cost of Money. When you elect to claim facilities capital cost of money as an allowable cost, you must submit [Form CASB-CMF](#) and show the calculation of the proposed amount (see [FAR 31.205-10](#)).

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III. Formats for Submission of Line Item Summaries

A. New Contracts (including letter contracts).

Cost Elements	Proposed Contract Estimate-Total Cost	Proposed Contract Estimate-Unit Cost	Reference
(1)	(2)	(3)	(4)

Column Instruction

- (1) Enter appropriate cost elements.
Enter those necessary and reasonable costs that, in your judgment, will properly be incurred in efficient contract performance. When any of the costs in this column have already been incurred (e.g., under a letter contract),
- (2) describe them on an attached supporting page. When preproduction or startup costs are significant, or when specifically requested to do so by the contracting officer, provide a full identification and explanation of them.
- (3) Optional, unless required by the contracting officer.
Identify the attachment in which the information
- (4) supporting the specific cost element may be found.

(Attach separate pages as necessary.)

B. Change Orders, Modifications, and Claims.

Cost Elements (1)	Estimate Cost of All Work Deleted (2)	Cost of Deleted Work Already Performed (3)	Net Cost to Be Deleted (4)	Cost of Work Added (5)	Net Cost of Change (6)	Reference (7)
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Column Instructions

- (1) Enter appropriate cost elements.
- (2) Include the current estimates of what the cost would have been to complete the deleted work not yet performed (not the original proposal estimates), and the cost of deleted work already performed.
- (3) Include the incurred cost of deleted work already performed, using actuals incurred if possible, or, if actuals are not available, estimates from your accounting records. Attach a detailed inventory of work, materials, parts, components, and hardware already purchased, manufactured, or performed and deleted by the change, indicating the cost and proposed disposition of each line item. Also, if you desire to retain these items or any portion of them, indicate the amount offered for them.
- (4) Enter the net cost to be deleted which is the estimated cost of all deleted work less the cost of deleted work already performed. Column (2) minus Column (3) equals Column (4).
- (5) Enter your estimate for cost of work added by the change. When nonrecurring costs are significant, or when specifically requested to do so by the contracting officer, provide a full identification and explanation of them. When any of the costs in this column have already been incurred, describe them on an attached supporting schedule.
- (6) Enter the net cost of change which is the cost of work added, less the net cost to be deleted. When this result is negative, place the amount in parentheses. Column (4) less Column (5) = Column (6).
- (7) Identify the attachment in which the information supporting the specific cost element may be

found.

C. Price Revision/Redetermination.

Cutoff Date (1)	Number of Units Completed (2)	Number of Unites to be Completed (3)	Contract Amount (4)	Redetermination Proposal Amount (5)	Difference (6)
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Cost Elements (7)	Incurred Cost -- Preproduction (8)	Incurred Cost- Completed Units (9)	Incurred Cost- Work in Process (10)	Total Incurred Cost (11)	Estimated Cost to Complete (12)	Est T C
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Column

Instruction

- (1) Enter the cut off date required by the contract, if applicable.
- (2) Enter the number of units completed during the period for which experienced costs of production are being submitted.
- (3) Enter the number of units remaining to be completed under the contract.
- (4) Enter the cumulative contract amount.
- (5) Enter your redetermination proposal amount.
- (6) Enter the difference between the contract amount and the redetermination proposal amount. When this result is negative, place the amount in parentheses. Column (4) minus Column (5) equals Column (6).
- (7) Enter appropriate cost elements. When residual inventory exists, the final costs established under fixed-price-incentive and fixed-price-redeterminable arrangements should be net of the fair market value of such inventory. In support of subcontract costs, submit a listing of all subcontracts subject to repricing action, annotated as to their status.
- (8) Enter all costs incurred under the contract before starting production and other nonrecurring costs (usually referred to as startup costs) from your books and records as of the cutoff date. These include such costs as preproduction engineering, special plant rearrangement, training program, and any identifiable nonrecurring costs such as initial rework, spoilage, pilot runs, etc. In the event

the amounts are not segregated in or otherwise available from your records, enter in this column your best estimates. Explain the basis for each estimate and how the costs are charged on offeror's accounting records (e.g., included in production costs as direct engineering labor, charged to manufacturing overhead). Also show how the costs would be allocated to the units at their various stages of contract completion.

- (9) Enter in Column (9) the production costs from your books and records (exclusive of preproduction costs reported in Column (8)) of the units completed as of the cutoff date. Enter in Column (10) the costs of work in process as determined from your records or inventories at the cutoff date. When the amounts for work in process are not available in your records but reliable estimates for them can be made, enter the estimated amounts in Column (10) and enter in Column (9) the differences between the total incurred costs (exclusive of preproduction costs) as of the cutoff date and
- (10) these estimates. Explain the basis for the estimates, including identification of any provision for experienced or anticipated allowances, such as shrinkage, rework, design changes, etc. Furnish experienced unit or lot costs (or labor hours) from inception of contract to the cutoff date, improvement curves, and any other available production cost history pertaining to the item(s) to which yours proposal relates.
- (11) Enter total incurred costs (Total of Columns (8), (9), and (10)).
- (12) Enter those necessary and reasonable costs that in your judgment will properly be incurred in completing the remaining work to be performed under the contract with respect to the item(s) to which your proposal relates.
- (13) Enter total estimated cost (Total of Columns (11) and (12)).
- (14) Identify the attachment in which the information supporting the specific cost element may be found.

(Attach separate pages as necessary.)

Local Data Requirements ([FAR 15.401](#), [15.403-5\(b\)\(1\)](#), [15.408\(l\)\(1\)](#), and [15.408\(m\)\(1\)](#)). Many contracting activities establish specific format and data requirements tailored to the products typically acquired by the activity. In addition to FAR and local requirements, the contracting officer may establish format and data requirements for a specific contract.

Be careful. You must obtain the data required for cost analysis, but collection, formatting, manipulation, and analysis of unnecessary data can unreasonably increase contract costs. Offerors may refuse to submit data that they feel are not what "prudent buyers and sellers would reasonably expect to affect price negotiations significantly." Litigation may be required to obtain such data and the results of such litigation are not guaranteed.

Paper or Electronic Data Submission ([FAR 15.403-5\(b\)\(1\)](#), [15.408\(l\)\(3\)](#), and [15.408\(m\)\(3\)](#)). Traditionally contracting officers have required offerors to submit cost or pricing data as printed documents. Most firms prepare these documents using company computers and the resulting printouts may be several inches or even several feet thick.

When the contracting officer gets the paper proposal, the data usually must be entered into a Government computer for analysis. Data entry may require hours, days, or even weeks. This is an unnecessary waste of Government manpower and computer resources, because the offeror has the data in electronic files.

Many activities are eliminating this wasted effort by requiring electronic data submission. Data submitted electronically are ready for immediate analysis and the cost of data entry is eliminated.

You may require an offeror to submit data on a computer diskette or you may require electronic transmission (computer to computer) by Electronic Data Interchange (EDI). Whatever method you choose, make sure that the requirement does not place an unreasonable hardship on the offeror.

2.3 Assuring Proper Cost Or Pricing Data Certification

This section will present information on the cost pricing data certification requirements and the consequences of certifying defective data.

- 2.3.1 - [Obtaining A Properly Executed Certificate](#)
 - 2.3.2 - [Identifying The Consequences Of Certifying Defective Data](#)
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2.3.1 Obtaining A Properly Executed Certificate

Situations Requiring a Certificate ([FAR 15.403-4\(c\)](#) and [15.406-2\(a\)](#)). Whenever you obtain cost or pricing data, you must require a Certificate of Current Cost or Pricing Data unless the contracting officer finds after data submission that the proposal qualifies for an exception to the submission requirement. Never require a Certificate of Current Cost or Pricing Data when a proposal qualifies for an exception.

If the contracting officer determines after data submission that a proposal should be excepted from the cost or pricing data requirement, treat the data received as information other than cost or pricing data.

Certificate Wording ([FAR 15.401](#), [15.403-4\(b\)](#), and [15.406-2\(a\)](#)). FAR prescribes the following wording for the Certificate of Current Cost or Pricing Data:

Certificate Of Current Cost Or Pricing Data

This is to certify that, to the best of my knowledge and belief, the cost or pricing data (as defined in section [15.401](#) of the Federal Acquisition Regulation (FAR) and required under FAR subsection [15.403-4](#)) submitted, either actually or by specific identification in writing, to the contracting officer or to the contracting officer's representative in support of _____* are accurate, complete, and current as of _____**. This certification includes the cost or pricing data supporting any advance agreements and forward pricing rate agreements between the offeror and the Government that are part of the proposal.

Firm _____
Signature _____
Name _____
Title _____
Date of execution*** _____

* Identify the proposal, request for price adjustment, or other submission involved, giving the appropriate identifying number (e.g., RFP No.).

** Insert the day, month, and year when price negotiations were concluded and price agreement was reached or, if applicable, an earlier date agreed upon between the parties that is as close as practicable to the date of agreement on price.

*** Insert the day, month, and year of signing, which should be as close as practicable to the date when the price negotiations were concluded and the contract price was agreed to.

Assure that the offeror uses the exact wording prescribed in [FAR 15.406-2\(a\)](#). If you accept any variation, you could potentially invalidate the certification.

For example: An offeror might substitute the following sentence for the last sentence of the required certification, "This certification includes only the data used to estimate direct labor hours and direct material dollars." The offeror may be trying to limit the certification or may erroneously think that forward pricing rate agreements have their own certification. If you accept the modified certification, you may limit or waive the Government's rights to pursue remedies for any defective labor or overhead rates.

Other Elements of a Properly Worded Certificate ([FAR 15.406-2\(a\)](#)). In addition to the exact FAR language, a properly executed Certificate of Current Cost or Pricing Data must include the following elements:

- Identification of the proposal, quotation, request for price adjustment, or other submission involved, giving the appropriate identifying number;
- Date when price negotiations were concluded and price agreement was reached or, if applicable, an earlier date agreed upon between the parties that is as close as practicable to the date of agreement on price;
- Name of the firm entering into the agreement with the Government;
- Name and signature of the individual signing the Certificate on behalf of the firm;
- Title of the individual signing the Certificate on behalf of the firm; and the
- Date of Certificate execution.

Certification Timing ([FAR 15.406-2](#), [52.215-20\(b\)\(2\)](#), and [FAR 52.215-21\(b\)\(2\)](#)). Require the offeror to submit the Certificate of Current Cost or Pricing Data:

- On or after the "as of" date on the Certificate. The "as of" date may either be:
 - The date when price negotiations were concluded and price agreement was reached, or (if applicable).
 - Another date agreed upon between the parties that is as close as practicable to the date of agreement on price.
 - The contracting officer and the offeror are encouraged to reach prior agreement on criteria for establishing closing or cutoff dates when appropriate in order to minimize delays associated with proposal updates.
 - The offeror should include closing or cutoff dates as part of the data submitted with the proposal and, before agreement on price, data should be updated to the latest closing or cutoff dates for which data are available (e.g., the most recent end-of-month report).
- Prior to executing the contract award or bilateral modification.

Documenting Data Submitted or Identified by the Offeror ([FAR Table 15-2](#)). When an offeror is required to submit cost or pricing data, consider every piece of information submitted or identified by the offeror as potential cost or pricing data. Assure that the existence and location of the data are clearly documented.

[FAR Table 15-2](#) requires the offeror to submit an appropriately referenced index of all cost or pricing data accompanying or identified in its proposal. The offeror must annotate any additions or revisions, up to the date of price agreement, or earlier date agreed upon by the parties.

Assure that the index is an accurate record of the data provided. Accepting the index without question indicates agreement that the Government has received all the data identified.

Data and Judgment ([FAR 15.401](#) and [15.406-2\(b\)](#)). What is the offeror certifying with the Certificate of Current Cost or Pricing Data? The offeror is certifying that the cost or pricing data submitted are accurate, complete, and current.

Remember that cost or pricing data are facts not judgment. The Certificate does not certify the accuracy of the offeror's judgment in making the projections or estimates (educated guesses) of future costs using these data. It applies only to the data upon which the judgment and estimate were based.

For example: The offeror estimates labor hours based on a recent contract for an identical item. Contract accounting records confirm that the contract required \$10,000 of material per unit. Government indexes confirm that there has been a five percent price increase for similar material since the last contract. The offeror estimates that the new contract will require \$10,500 of material per unit (\$10,000 plus 5% for inflation). The material cost for the last contract is a fact. The general price increase for similar material is a fact. Using that increase to adjust material prices is judgment. This judgment may or may not be reasonable (e.g., actual prices for the material specifically required for this contract may have decreased). Either way, the judgment is not subject to certification or defective pricing remedies. Only the facts are subject to certification as accurate, complete, and current.

Complete Knowledge ([FAR 15.406-2](#)). In the Certificate of Current Cost or Pricing Data, the offeror's representative certifies that the data submitted are accurate, complete, and current to the "best of my knowledge and belief" as of the time when negotiations were concluded and price

agreement was reached or (if applicable) an earlier date agreed upon between the parties that is as close as practicable to the date of agreement on price.

If something affecting cost changed between the "as of" date and the date of the certification, the offeror is not required to inform the Government.

However, if anyone in the offeror's firm knew, on the "as of" date, of any data that may have reasonably resulted in a lower contract price, then that data should have been disclosed. If the data were not disclosed prior to agreement on price, then they must be disclosed when the Certificate is submitted. Failure to disclose the data constitutes defective pricing.

For example: An offeror's subcontract negotiator negotiated a \$100,000 price reduction on the \$450,000 subcontract proposal used as a basis for contract pricing. Data on the negotiated reduction were not disclosed to the offeror's negotiator or the Government because the subcontract had not been signed. That would likely be considered defective pricing, because offeror personnel knew of the subcontract price reduction.

2.3.2 Identifying The Consequences Of Certifying Defective Data

Defective Pricing ([FAR 15.407-1\(b\)](#)).

Defective pricing exists when any price, including profit or fee, for any purchase action covered by a Certificate of Current Cost or Pricing Data, is increased by any significant amount because the data were not accurate, complete, or current.

For example: The following table provides examples of defects related to the three different cost or pricing data requirements:

Defect	Example
Data are not accurate.	The decimal point was accidentally or purposefully moved one place to the right.

	As a result, the costs used for trend analysis of a key component were ten times the actual cost.
Data are not complete.	The past history of vendor prices did not include two recent purchases with lower prices for the item being procured.
Data are not current.	Actual production costs for last month were available but not provided. Instead estimates were based on higher costs from earlier production.

Government Rights Under Defective Pricing ([FAR 15.407-1](#), [52.215-10](#), [52.215-11](#), and [32.902](#)).

Under contract defective pricing clauses, the Government is entitled to:

- A price adjustment, including profit or fee, for any price increase that resulted because defective data were provided by the contractor. (This is one reason why proper cost analysis documentation is so important.)
- Interest on any overpayments that resulted from the defective pricing. When calculating overpayments, do not include contract financing.
- Penalty amounts equal to the amount of any overpayments when the contractor knowingly submitted defective cost or pricing data. Obtain the advice of Government legal counsel, before taking any contractual actions concerning penalties.

When a defective pricing clause applies, the Government's right to a price adjustment under defective pricing is not affected by any of the following circumstances:

- The contractor or subcontractor was a sole source supplier or otherwise was in a superior bargaining position and thus the contract price would not have been modified even if accurate, complete, and current cost or pricing data had been submitted;

- The contracting officer should have known that the cost or pricing data were defective even though the contractor or subcontractor took no affirmative action to bring the character of the data to the contracting officer's attention;
- The contract price was based on an agreement about the total cost of the contract and there was no agreement about the cost of each item procured under such contract; or
- The contractor or subcontractor did not submit a Certificate of Current Cost or Pricing Data.

Offsets Under Defective Pricing ([FAR 15.407-1\(b\)](#)). As you calculate the price adjustment due the Government under defective pricing, allow an offset for any estimates that were understated, because cost or pricing data submitted in support of the same pricing action were not accurate, complete, or current.

- Never allow the offset to exceed the amount due the Government (i.e., the contract price can never increase because of defective pricing).
- Only allow an offset in an amount supported by the facts and only if the contractor:
 - Certifies that, to the best of the contractor's knowledge and belief, the contractor is entitled to the offset in the amount requested, and
 - Proves that the cost or pricing data were available before the date of agreement on price but were not submitted. Offsets need not be in the same cost groupings as the defective pricing (e.g., material, direct labor, or indirect costs).
- Never allow an offset if:
 - The understated data were known by the contractor to be understated before the "as of" date specified in the Certificate of Current Cost or Pricing Data, or
 - The Government proves that the facts demonstrate that the price would not have increased in the amount to be offset even if the available data had been submitted before the "as of" date specified in the Certificate of Current Cost or Pricing Data.

Offset example: Contract price was overstated by \$100,000 because the offeror did not provide accurate, complete, or

current material cost data. For the same contract action, contract price was understated by \$75,000 because the offeror did not provide accurate, complete, or current wage rate data. The amount due the Government would be \$25,000.

Penalties and Fraud for Knowingly Withheld Data (GAO/T-NSIAD-88-45, Pages 4-5). The following is an example of defective pricing identified by the General Accounting Office:

A contract was found to be overpriced by \$1 million because the company did not disclose lower prices on seven material items. As negotiations were concluding, the material estimating department provided the firm's negotiator a 1-page update showing that substantially lower prices had been received on three of the seven items. However, the firm's negotiator did not disclose the lower prices to the contracting officer.

This is an example of a situation where you should obtain legal counsel before taking action.

- It appears that the Government may be entitled to penalty amounts equal to the amount of any overpayments, because the contractor knowingly failed to update its cost or pricing data.
- However, the contractor's knowing failure to update its cost or pricing data also appears to be evidence of intent to **defraud** the Government. Possibly the case should be prosecuted as a fraud case rather than defective pricing.

The Government cannot pursue both remedies for the same overpricing. Legal counsel can provide you with advice on the proper course of action and the evidence required to support that course of action.

Audit Scrutiny ([DCAM 14-121.2](#)). Most Government auditors consider repetitive findings of defective pricing findings in the same firm as an indicator of fraud. Thus repetitive defective pricing findings may lead to substantially more intensive audit scrutiny.

2.4 Recognizing The Need For Information Other Than Cost Or Pricing Data

Situations That May Require Cost Information Other Than Cost or Pricing Data ([FAR 15.402](#) and [15.404-1\(d\)](#)).

Only require an offeror to submit cost information other than cost or pricing data when you expect that the offeror will be excepted from submitting certified cost or pricing data, but you need cost information to determine price reasonableness or cost realism. The table below provides several examples of such situations. Government technical and audit assistance may be required to analyze the cost information and answer related questions.

Contracting Situation	Analysis Purpose	Analysis Questions
You expect a single offer at or below the cost or pricing data threshold, and you do not expect to be able to determine price reasonableness using price analysis alone.	Support determination of price reasonableness	Does the proposed price appear reasonable based on its relationship with estimated costs?
You expect a single offer greater than the cost or pricing data threshold that will be excepted from cost or pricing data requirements, but you do not expect to be able to determine price reasonableness using price analysis alone.		
You expect competitive offers, but because of technical differences, you do not expect to be able to determine price reasonableness using price analysis alone.		
You expect competitive offers for a cost-reimbursement contract.	Cost realism analysis to determine probable final	Are proposed costs realistic for the work to

	cost to the Government.	be performed?
You expect competitive offers for a fixed-price contract, but new requirements may not be understood by all offerors.	Cost realism analysis to determine an offeror understands all contract requirements.	Do proposed costs reflect a clear understanding of contract requirements?
You expect competitive offers for a fixed-price contract, but you have concerns about the performance quality that will result from each offeror's proposal.	Cost realism analysis to determine an offeror's ability to deliver proposed quality at the proposed price.	Are proposed costs consistent with the offeror's technical proposal?
You expect competitive offers for a fixed-price contract, but market analysis leads you to believe that some offerors may propose unrealistic prices that would jeopardize contract performance.	Cost realism analysis to determine an offeror's ability to meet all contract requirements at the proposed price.	

Tailor Information Requirements ([FAR 15.403-3\(a\)](#) and [Table 15-2](#)). Tailor any requirements for cost information other than cost or pricing data so that you only require information essential to your analysis, but not readily available from other sources.

- Identify cost elements that must be considered in evaluating price reasonableness or cost realism.
- Use [FAR Table 15-2](#) to identify the type of information that might be useful in evaluating a particular cost element.
- Identify information readily available from other sources.
- Limit cost information requirements to those facts necessary to determine price reasonableness or cost realism but not available from other sources.

For example: Suppose you are acquiring an estimated \$300,000 research study from the only known source. You expect that material and other direct costs will be a small portion of the total price. You have a copy of a Forward Pricing Rate Agreement (FPRA) with the firm, which covers direct labor rates and indirect cost rates (based on direct labor cost). Given these facts, you are particularly concerned about estimated direct labor hours. The solicitation might require an offeror to submit information on:

- Proposed labor hours and costs by task and labor category.
- Total material costs and total other direct costs without further breakdown of those costs.
- Proposed indirect cost, by category (e.g., overhead and general administrative cost).
- Proposed profit or fee.

Format Requirements ([FAR 15.403-3\(a\)\(2\)](#), [15.408\(1\)\(4\)](#), [15.408\(m\)\(4\)](#), [52.215-20](#), and [52.215-21](#)).

The solicitation/contract must describe the format required for offeror submission of cost information other than cost or pricing data.

- State that the offeror may select an appropriate format unless the contracting officer decides that use of a specific format is essential.
- If the contracting officer decides that a specific format is essential, assure format requirements are clearly described.

Requirement for Access to Records ([FAR 15.403-5\(a\)\(4\)](#), [15.408\(1\)\(4\)](#), [15.408\(m\)\(4\)](#), [52.215-20](#), and [FAR 52.215-21](#)).

The solicitation/contract must describe the requirement for preaward or post award access to the offeror's records.

- Preaward access requirements should normally permit the contracting officer or an authorized representative the right to examine offeror books, records, documents, or other directly pertinent records to verify the reasonableness of proposed costs.
- Post award access is normally not required for cost information other than cost or pricing data.

Requirement for Current Information ([FAR 15.403-3\(a\)\(3\)](#)). Ensure that the information used to support price negotiations is sufficiently current to permit negotiation of a fair and reasonable price. However, you should limit requests for updated offeror information to information that effects the adequacy of the proposal for negotiations.

Never require the offeror to certify that the cost information other than cost or pricing data provided to the Government is accurate, complete, or current. Contracts should not provide for price adjustments because the contractor did not provide accurate, complete, or current cost information.