

UNIT 32: PRICING INFORMATION FROM OFFERORS

October 2003

Overall Duty Determine what pricing information (if any) to require from offerors.

Conditions Given acquisition planning, including a commerciality decision.

Overall Standard Require offerors to provide pricing information required to support a decision on price reasonableness or cost realism, but never require offerors to provide more information than necessary.

Part A: Obtaining Cost or Pricing Data

Sub-Duty Determine whether to require submission of cost or pricing data.

Sub-Duty Standard Do not require cost or pricing data if an exception applies.

Part B: Information Other Than Cost or Pricing Data

Sub-Duty Determine the pricing information (if any) to request of offerors.

Sub-Duty Standard Require offerors to provide information other than cost or pricing data required to support a decision on price reasonableness or cost realism, but never require offerors to provide more information than necessary.

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Part C: Cost or Pricing Data

Sub-Duty Obtain cost or pricing data.

**Sub-Duty
Standard** Correctly follow the procedures at FAR 15.403-4.

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Policies

<i>FAR</i>	<i>Agency Suppl.</i>	<i>Subject</i>
2.101		Definitions.
15.401		Contract pricing definitions.
15.402		Pricing policy – order of precedence in requesting information to support price and cost analysis.
15.403-1		Prohibition against obtaining cost or pricing data.
15.403-2		Other circumstances where cost or pricing data are not required.
15.403-3		Requiring information other than cost or pricing data.
15.403-4		Requiring cost or pricing data.
15.403-5		Instructions for submission of cost or pricing data or information other than cost or pricing data.
15.404-3		Subcontract pricing considerations.
15.406-2		Certificate of current cost and pricing data.
15.406-3		Documenting the negotiation including cost or pricing data that are inaccurate, incomplete, or noncurrent.
15.408		Solicitation provisions and contract clauses.
52.214-28		Subcontractor cost or pricing data – modifications – sealed bidding.
52.215-12		Subcontractor cost or pricing data.
52.215-13		Subcontractor cost or pricing data – modifications.
52.215-20		Requirements for cost or pricing data or information other than cost or pricing data.
52.215-21		Requirements for cost or pricing data or information other than cost or pricing data – modifications.

Other KSAs

1. Knowledge of sources of data on market prices, market segmentation, product differentiation, and market measurement and forecasting.
2. Skill at forecasting market prices and analyzing the pricing decisions of business entities.
3. Ability to read and understand complex information related to cost or pricing data and information other than cost or pricing data.
4. Ability to identify the relationship between unnecessary requirements for offeror information, reduced competition, and increased prices.

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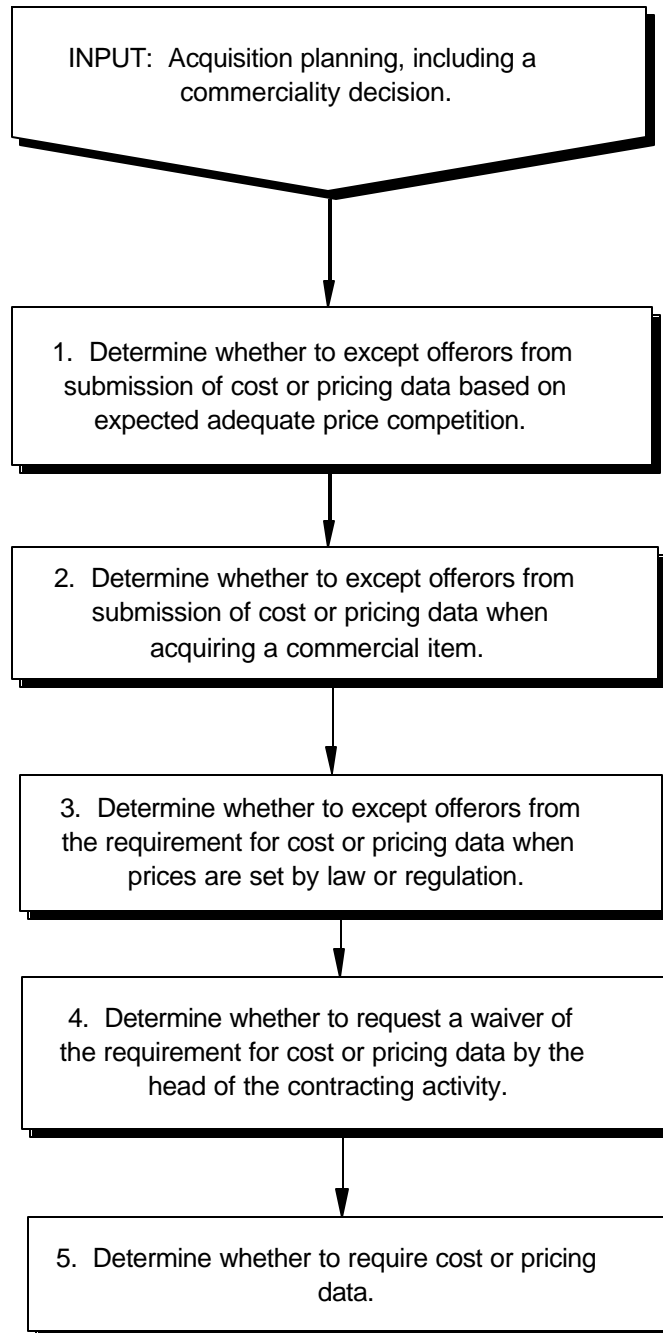
5. Ability to demonstrate the attention to detail necessary to identify appropriate requirements of offeror pricing information.
6. Ability to determine the necessity for and relevance of offeror/quoter pricing information in determining whether a price is fair and reasonable.
7. Ability to maintain the honesty and integrity of the acquisition process.

Other Policies and References (Annotate As Necessary):

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Part A: Obtaining Cost or Pricing Data

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Part A: Obtaining Cost or Pricing Data

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Tasks	Related Standards
1. Determine whether to except offerors from submission of cost or pricing data based on expected adequate price competition.	<p>Except offerors from submission of cost or pricing data based on expected adequate price competition when available information indicates that:</p> <ul style="list-style-type: none"> • Two or more responsible offerors, • Competing independently, • Will submit priced offers that satisfy the Government's expressed requirement; and • Award will be made: <ul style="list-style-type: none"> - At a fair and reasonable price. - To the offeror whose proposal represents the best value where price is a substantial factor in source selection.
2. Determine whether to except offerors from submission of cost or pricing data when acquiring a commercial item.	Except offerors from submission of cost or pricing data when acquiring a commercial item as defined in FAR 2.101.
3. Determine whether to except offerors from the requirement for cost or pricing data when prices are set by law or regulation.	Except offerors from submission of cost or pricing data when prices are set by pronouncements in the form of periodic rulings, reviews, or similar actions of a governmental body, or embodied in law(s).
4. Determine whether to request a waiver of the requirement for cost or pricing data by the head of the contracting activity.	<p>Only request a written waiver from the head of the contracting activity (HCA) in exceptional cases.</p> <p>Never request a waiver unless available information indicates that the price can be determined fair and reasonable without submission of cost or pricing data. For example, price reasonableness might be determined using cost or pricing data furnished on previous production buys combined with updated market information.</p> <p>Note: If the HCA waived the requirement for submission of cost or pricing data on a contract or subcontract, lower-tier subcontractors are not covered by that exception.</p>

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Part A: Obtaining Cost or Pricing Data

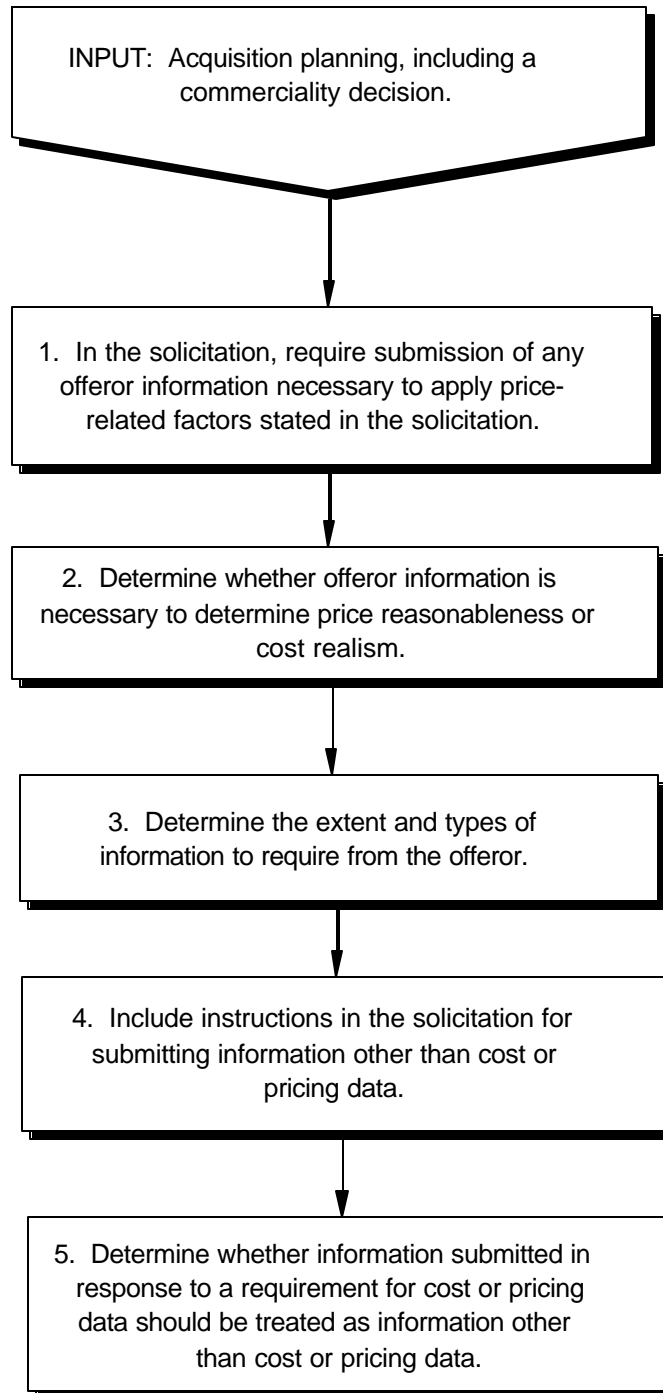
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Tasks	Related Standards
<p>5. Determine whether to require cost or pricing data.</p>	<p>Never obtain cost or pricing data when one of the following exceptions applies:</p> <ul style="list-style-type: none"> • Adequate price competition; • Acquiring a commercial item; • Prices are based on prices set by law or regulation; • The HCA has waived the requirement; or • Modifying a contract or subcontract for a commercial item. <p>Unless an exception applies, require cost or pricing data when any of the following exceeds the cost or pricing data threshold:</p> <ul style="list-style-type: none"> • Negotiated new contract price. • Contract modification aggregate price adjustment (the sum of related increases and decreases). • New subcontract price when the higher tier is required to submit cost or pricing data. • Subcontract modification aggregate price adjustment when the higher tier is required to submit cost or pricing data. <p>Unless prohibited because an exception applies, the HCA, without power of delegation, may authorize obtaining cost or pricing data for a contract action with an estimated price below the cost or pricing data threshold provided:</p> <ul style="list-style-type: none"> • The estimated price (for modifications, the aggregate price adjustment) exceeds the simplified acquisition threshold; • The HCA justifies the requirement for cost or pricing data; • File documentation includes a written finding that cost or pricing data are necessary to determine whether the price is fair and reasonable; and • The facts support the finding.

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Part B: Pricing Information Other Than Cost or Pricing Data

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Tasks	Related Standards
<p>1. In the solicitation, require submission of any offeror information necessary to apply price-related factors stated in the solicitation.</p>	<p>See the Price-Related Factors unit for the type of information required.</p> <p>Do not require offerors to submit information already available to contracting personnel from other Government and market sources.</p>
<p>2. Determine whether offeror information is necessary to determine price reasonableness or cost realism.</p>	<p>When there is adequate price competition, generally no additional information is required. However, for unique or complex fixed-price requirements or under cost-reimbursement contracts, additional information may be needed to evaluate price/cost reasonableness or cost realism.</p> <p>When prices are not based on adequate price competition or prices set by law or regulation, additional information may be necessary to determine price reasonableness.</p> <p>Consider the following order of preference for obtaining pricing information:</p> <ul style="list-style-type: none"> • Information available from within the Government. • Information from sources other than the offeror. • Information obtained from the offeror. <p>However, if sufficient pricing information is not available from other sources, it must be obtained from the offeror.</p>

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Tasks	Related Standards
<p>3. Determine the extent and types of information to require from the offeror.</p>	<p>Do not obtain more offeror information than necessary to determine price reasonableness.</p> <p>Information may relate to:</p> <ul style="list-style-type: none"> • Sales; • Pricing; or • Cost. <p>When acquiring commercial items, limit requests for sales data relating to commercial items to data for the same or similar items during a relevant time period.</p>
<p>4. Include instructions in the solicitation for submitting information other than cost or pricing data.</p>	<p>Describe the specific information to be submitted by offerors.</p> <p>Determine whether or not to require a common format for data submission or allow each firm to use its own format. To the maximum extent practicable, limit the scope of the request for information relating to commercial items to include only information that is in the form regularly maintained by the offeror as part of its commercial operations.</p> <p>Use the Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data clause (FAR 52.215-20), Alternate IV to establish the Government's right to access to the offeror records necessary to support price analysis.</p>

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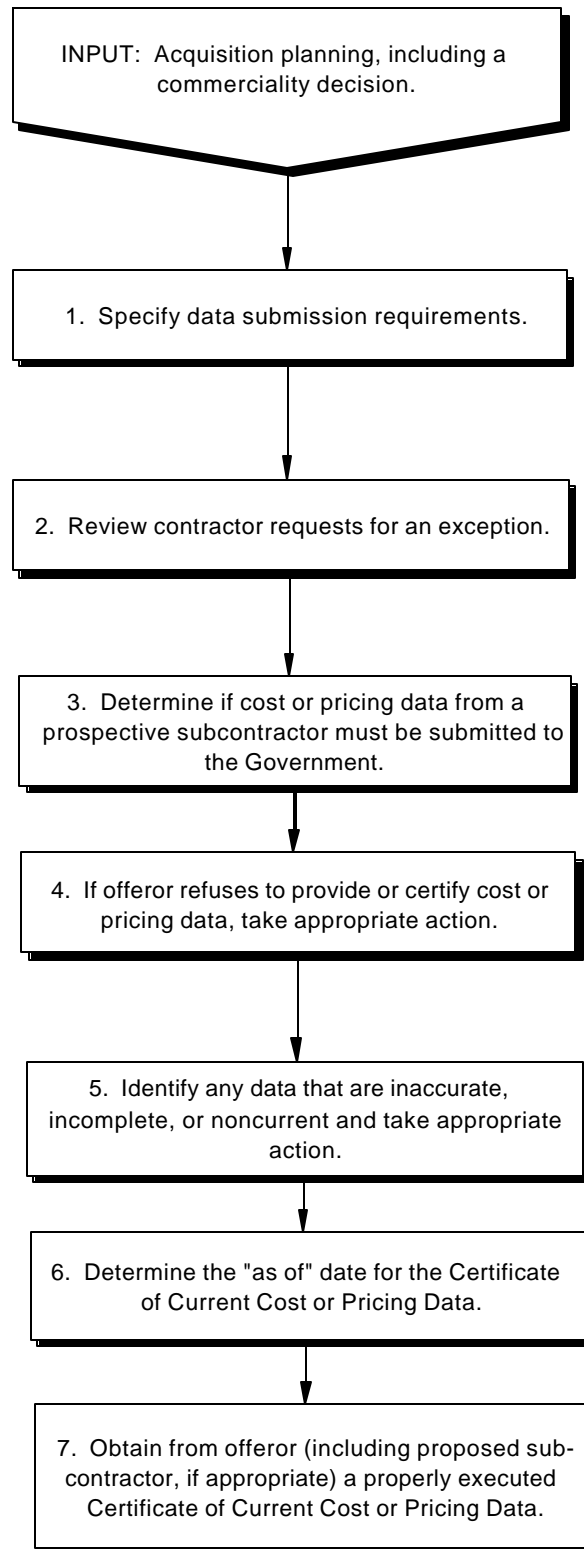
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Tasks	Related Standards
<p>5. Determine whether information submitted in response to a requirement for cost or pricing data should be treated as information other than cost or pricing data.</p>	<p>When cost or pricing data are submitted by an offeror and it is later determined that an exception applies, that data must be treated as information other than cost or pricing data. Exceptions are:</p> <ul style="list-style-type: none"> • Adequate price competition. This normally results from two or more competitive offers competing independently for contract award. However, a price can also be based on adequate price competition, when only one offer is received, if the: <ul style="list-style-type: none"> - Contracting Officer determines that the only offer received was submitted with the expectation of competition; - The determination is reasonable; and - The determination is approved at a level above the Contracting Officer. • Acquiring a commercial item; • Prices are based on prices set by law or regulation; • The HCA has waived the requirement; or • Modifying a contract or subcontract for a commercial item.

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Part C: Cost or Pricing Data

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Tasks	Related Standards
1. Specify data submission requirements.	<p>Correctly use the Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data clause (FAR 52.215-20) or its Alternate I, to specify the cost or pricing data submission requirements.</p> <p>Use the Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data – Modifications clause (FAR 52.215-21) or its Alternate I to specify the cost or pricing data submission requirements for proposals related to contract modifications.</p>
2. Review contractor requests for an exception.	<p>Consider requests for an exception to cost or pricing data requirements. Exceptions are:</p> <ul style="list-style-type: none"> • Adequate price competition. This normally results from two or more competitive offers competing independently for contract award. However, a price can also be based on adequate price competition, when only one offer is received, if the: <ul style="list-style-type: none"> - Contracting Officer determines that the only offer received was submitted with the expectation of competition; - The determination is reasonable; and - The determination is approved at a level above the Contracting Officer. • Acquiring a commercial item; • Prices are based on prices set by law or regulation; • The HCA has waived the requirement; or • Modifying a contract or subcontract for a commercial item.

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Tasks	Related Standards
<p>3. Determine if cost or pricing data from a prospective subcontractor must be submitted to the Government.</p>	<p>Unless the Contracting Officer believes such submission is unnecessary, the offeror must submit, or cause to be submitted to the Government by the subcontractor(s), cost or pricing data for subcontracts that are the lower of either:</p> <ul style="list-style-type: none"> • \$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. <p>The Contracting Officer may require the contractor or subcontractor to submit to the Government (or cause submission of) subcontractor cost or pricing data below the thresholds above that the Contracting Officer considers necessary for adequately pricing the prime contract.</p>
<p>4. If offeror refuses to provide or certify cost or pricing data, take appropriate action.</p>	<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>

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Tasks	Related Standards
<p>5. Identify any data that are inaccurate, incomplete, or noncurrent and take appropriate action.</p>	<p>During proposal review:</p> <ul style="list-style-type: none"> • Assure that the cost or pricing data submitted conforms to the requirements in the solicitation. • Double-check for data that are inaccurate, incomplete, or noncurrent during price and/or cost analysis. • When audit or other field pricing support is required, review reports for any indication that the data are inaccurate, incomplete, or noncurrent. • Question suspect data during discussions. 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. • Require corrected data or make allowance for incorrect data. • In the price negotiation memorandum, identify any data that are known to be inaccurate, incomplete, or noncurrent, the action taken to rectify the problem, the result, and the affect of any defective data on contract price.
<p>6. Determine the "as of" date for the Certificate of Current Cost or Pricing Data.</p>	<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. <p>When negotiating an earlier date establish a reasonable allowance for the time required by corporate personnel (e.g., corporate buyers) to recognize and transmit relevant data to corporate negotiators, assuming reasonable efficiency and competence.</p>

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Tasks	Related Standards
7. Obtain from offeror (including proposed sub-contractor, if appropriate) a properly executed Certificate of Current Cost or Pricing Data.	The certificate must conform to the requirements of FAR 15.406-2.