

reduction of \$350,000 and an increase of \$200,000 is a pricing adjustment exceeding \$500,000.) 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 modification.

(2) Contracting officers shall, if requested by the prime contractor, modify contracts to change the threshold in the contract to the cost or pricing data threshold in paragraph (a)(1) of this section, without requiring consideration. The contract modification shall be accomplished by inserting into the contract the current version of the clauses 52.215-23, Price Reduction for Defective Cost or Pricing Data—Modifications, and 52.215-25, Subcontractor Cost or Pricing Data—Modifications, or 52.215-24, Subcontractor Cost or Pricing Data, as applicable. These new contract clauses shall apply only to contract modifications and subcontracts for which agreement on price occurs after the contracting officer has inserted the new clauses.

(3) Unless prohibited by 15.804-1(a)(1), the head of the contracting activity, without power of delegation, may authorize the contracting officer to obtain cost or pricing data for pricing actions below the pertinent threshold in paragraph (a)(1) of this section provided the action exceeds the simplified acquisition threshold. The head of the contracting activity shall justify the requirement for cost or pricing data. The documentation shall 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.

(b) When 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 cost or pricing data.

(2) A certificate of current cost or pricing data, in the format specified in 15.804-4, 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 final agreement on price or, if applicable, another date agreed upon between the parties.

(c) If cost or pricing data are requested and submitted by an offeror, but an exception is later found to apply under 15.804-1, the data shall not be considered cost or pricing data as

defined in 15.801 and shall not be certified in accordance with 15.804-4.

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

15.804-3 [Reserved]

16. Section 15.804-3 is removed and reserved.

17. Section 15.804-4 is amended by revising paragraph (a), the double asterisk footnote to the certification statement following paragraph (a), and paragraph (e) to read as follows:

15.804-4 Certificate of Current Cost or Pricing Data

(a) When cost or pricing data are required under 15.804-2, the contracting officer shall require the contractor to execute a Certificate of Current Cost or Pricing Data, shown following this paragraph (a), and shall include the executed certificate in the contract file. The certificate states that the cost or pricing data are accurate, complete, and current as of the date the contractor and the Government agreed on a price or, if applicable, another date agreed upon between the parties.

Certificate of Current Cost or Pricing Data

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* * * Insert the day, month, and year when price negotiations were concluded and price agreement was reached or, if applicable, another date agreed upon between the parties.

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(e) If cost or pricing data are requested and submitted by an offeror, but an exception is later found to apply under 15.804-1, the data shall not be considered cost or pricing data and shall not be certified in accordance with this section.

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18. Section 15.804-5 is added to read as follows:

15.804-5 Requiring Information Other Than Cost or Pricing Data

(a)(1) If cost or pricing data are not required because an exception under 15.804-1 other than paragraph (a)(2) of this section applies, or an action is at or below the threshold set forth at 15.804-2(a)(1), the contracting officer shall make a price analysis to determine the reasonableness of the price and any need for further negotiation.

(2) The contracting officer may require submission of information other than cost or pricing data only to the extent necessary to determine reasonableness of the price or cost

realism. Such data shall not be certified in accordance with 15.804-4.

(3) If cost or pricing data are not requested in the solicitation because the contracting officer has a reasonable expectation that adequate price competition as discussed at 15.804-1(b)(1) will result, the contracting officer may request information to determine the cost realism of competing offers or to evaluate competing approaches. The contractor's format for submitting such information shall be used unless the contracting officer determines that use of a specific format is essential.

(4) When acquiring commercial items, if the action is based on adequate price competition, generally no additional information is necessary to determine the reasonableness of price. However, if it is determined that additional information is necessary to determine the reasonableness of the price, the contracting officer shall, to the maximum extent practicable, obtain the additional information from sources other than the offeror.

(5) When cost or pricing data are not required because an action is at or below the threshold set forth at 15.804-2(a)(1), information requested under paragraph (a)(2) of this section shall include, as a minimum, appropriate information on the prices and quantities at which the same or similar items have previously been sold, that is adequate for evaluating the reasonableness of the proposed price. Partial or limited cost information may also be required. For example, cost information might be necessary to support an analysis of material costs, but not for labor and overhead costs.

(6) When acquiring commercial items, unless adequate information is available from government sources, it may be necessary to obtain from the prospective contractor information such as that regarding—

(i) The supplier's marketing system (e.g., use of jobbers, brokers, sales agencies, or distributors);

(ii) The services normally provided commercial purchasers (e.g., engineering, financing, advertising or promotion);

(iii) Normal quantity per order;

(iv) Annual volume of sales to largest customers;

(v) Adjustments such as rebates, credits, or trade-ins available commercially but not available or used by the Government;

(vi) Additional sales inducements such as training or extended warranty periods provided to some customers if not provided to the Government; or

(vii) Prices charged by the primary source of an item offered by a reseller.