

(b)(1) When acquiring commercial items for which an exception under 15.804-1(a)(2) may apply, the contracting officer shall seek to obtain from the offeror or contractor information on prices at which the same or similar items have been sold in the commercial market, that is adequate for evaluating, through price analysis, the reasonableness of the price of the action.

(2) If such information is not available from the offeror or contractor, the contracting officer shall seek to obtain such information from another source or sources.

(3) Requests for sales data relating to commercial items shall be limited to data for the same or similar items during a relevant time period.

(4) In requesting information from an offeror under this paragraph (b), the contracting officer shall, to the maximum extent practicable, limit the scope of the request to include only information that is in the form regularly maintained by the offeror in commercial operations. The SF 1412 shall not be used for this purpose.

(5) Any information obtained pursuant to this paragraph (b) that is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552(b)) shall not be disclosed by the Government.

(c) If, after receipt of offers, the contracting officer concludes there is insufficient information available to determine price reasonableness and none of the exceptions under 15.804-1 applies, then cost or pricing data shall be obtained, unless a waiver is granted (see 15.804-1(b)(5)).

19. Section 15.804-6 is amended by revising the heading and paragraphs (a) and (b) and amending Table 15-2 by:

- (a) Revising the heading;
- (b) Adding introductory text;
- (c) Revising the first paragraph of item 1 and revising the "Established Catalog" subparagraph;—
- (d) Revising item 4;
- (e) Amending in Table B of item 8 by revising the "under column (2)" instructions under the table and;

Adding Table 15-3 above paragraph (c) and revising the first sentence of paragraph (d).

The revised and added text reads as follows:

15.804-6 Submission of Cost or Pricing Data or Other Information—

(a) Taking into consideration the policy at 15.802, the contracting officer shall specify in the solicitation (see 52.215-40 and 52.215-41)---

- (1) Whether cost or pricing data are required;—
- (2) That, in lieu of submitting cost or pricing data, the offeror may submit a

request for exemption from the requirement to submit cost or pricing data, as specified by the contracting officer in accordance with 15.804-1(c);—

(3) Other information required, if cost or pricing data are not necessary;—

(4) The format (see paragraph (b) of this section) in which the cost or pricing data or other information shall be submitted; and—

(5) Necessary preaward or postaward access to offeror's records if not provided by use of Standard Form (SF) 1411, Contract Pricing Proposal Cover Sheet (Cost or Pricing Data Required), Standard Form (SF) 1412, Request for Exemption from Submission of Cost or Pricing Data, or Standard Form (SF) 141X, Proposal Cover Sheet (Cost or Pricing Data Not Required); or a standard clause such as 52.214-26, Audit and Records Sealed—Bidding, 52.215-1, Audit and Records—Negotiation, or 52.215-XX, Audit—Commercial Items.—

(b)(1) Cost or pricing data shall be submitted on a SF 1411 unless required to be submitted on one of the termination forms specified in 48 CFR part 49, subpart 49.6. The SF 1411 shall not be used to submit any information other than cost or pricing data. Contract pricing proposals submitted on SF 1411 with supporting attachments shall be prepared in accordance with Table 15-2. Data supporting forward pricing rate agreements or final indirect cost proposals shall be submitted in a format acceptable to the contracting officer.—

(2) If information other than cost or pricing data is required to support price reasonableness or cost realism, the contracting officer may require such information to be submitted using a SF 141X. The information is not considered cost or pricing data in accordance with 15.804-2, and shall not be certified in accordance with 15.804-4. Information submitted on a SF 141X shall be prepared following the instructions provided in Table 15-3.

Table 15-2 Instructions for Submission of a Contract Pricing Proposal When Cost or Pricing Data are Required

The SF 1411 provides a cover sheet for use by offerors to submit to the Government a pricing proposal of estimated and/or actual costs only when cost or pricing data are required.

1. The pricing proposal shall be segregated by contract line item with sufficient detail to permit cost analysis. Attach cost-element breakdowns, using the applicable formats prescribed in item 8A, B, or C of this section for each proposed line item. These breakdowns must conform to the instructions in the solicitation and any specific requirements established by the contracting officer. Furnish supporting breakdowns for

each cost element, consistent with offeror's cost accounting system.

* * * * *

Established Catalog or Market Prices/Prices Set by Law or Regulation/Commercial Item Not Covered By Another Exception—When an exemption from the requirement to submit cost or pricing data is requested, whether the item was produced by others or by the offeror, provide justification for the exemption as required by 15.804-1(c).

* * * * *

4. 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 the offeror's possession, it should be promptly submitted to the contracting officer in a manner that clearly shows how the information impacts the offeror's price proposal. The requirement for submission of cost or pricing data continues up to the time of final agreement on price, or another date agreed upon between the parties if applicable.

* * * * *

8. Headings for Submission of Line-Item Summaries

* * * * *

B. Change Orders, Modifications, and Claims.

* * * * *

Under Column (2)—Include (i) the current estimates of the cost to complete the deleted work not yet performed (not the original proposal estimates), and (ii) the cost of deleted work already performed.

* * * * *

Table 15-3 Instruction for Submission of Information Other Than Cost or Pricing Data

SF 141X is a cover sheet for use by offerors to submit information to the Government when cost or pricing data are not required but the contracting officer has requested information to help establish price reasonableness or cost realism. Such information is not considered cost or pricing data, and shall not be certified in accordance with 15.804-4. Requests for information should be tailored so that only necessary data are requested.

1. The information submitted shall be at the level of detail described in the solicitation or specified by the contracting officer. The offeror's own format is acceptable unless the contracting officer determines that use of a specific format is essential.

A. If adequate price competition is expected, the information may include cost or technical information necessary to determine the cost realism and adequacy of the offeror's proposal, e.g., information adequate to validate that the proposed costs are consistent with the technical proposal, or cost breakdowns to help identify unrealistically low cost proposals.