

PROPOSED ASPR REVISION

3-807.3 Cost or Pricing Data

(a) The contracting officer shall require the contractor to submit, either actually or by specific identification in writing, cost or pricing data in accordance with 16-206 and to certify, by use of the certificate set forth in 3-807.4, that, to the best of his knowledge and belief, the cost or pricing data he submitted was accurate, complete, and current prior to:

- (i) the award of any negotiated contract expected to exceed \$100,000 in amount;
- (ii) any contract modification expected to exceed \$100,000 in amount to any formally advertised or negotiated contract whether or not cost or pricing data was required in connection with the initial pricing of the contract;
- (iii) the award of any negotiated contract not expected to exceed \$100,000 in amount or any contract modification not expected to exceed \$100,000 in amount to any formally advertised or negotiated contract whether or not cost or pricing data was required in connection with the initial pricing of the contract, provided the contracting officer considers that the circumstances warrant such action in accordance with (d) below;

unless the price negotiated is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation. The requirements under (i) and (ii) above may be waived in exceptional cases where the Secretary (or, in the case of a contract with a foreign government or agency thereof, the Head of a Procuring Activity) authorizes such waiver and states in writing his reasons for such determination. Whenever a Certificate of Current Cost or Pricing Data is required, the applicable clause in 7-104.29 shall be included in the contract, and the appropriate clauses in 7-104.41 and 7-104.42 shall be used if required in accordance with these paragraphs.

(b) Any contractor who has been required to submit and certify cost or pricing data in accordance with (a) above shall also be required to obtain cost or pricing data from his subcontractors under the circumstances set forth in the appropriate clause in 7-104.42.

(c) When there is adequate price competition, cost or pricing data shall not be requested regardless of the dollar amount involved. As a general rule, cost or pricing data should not be requested when it has been determined that proposed prices are, or are based on, established catalog or market prices of commercial items sold in substantial quantities to the general public. Where, however, despite the willingness of a number of commercial purchasers to buy an item at such a catalog or market price, the purchaser (*e.g.*, the contracting officer) finds that that price is not reasonable and supports such finding by an enumeration of the facts upon which it is based, cost or pricing data may be requested if necessary to establish a reasonable price; *provided*, that such find-