

ITEM V--PUBLIC LAW 87-653

Pending publication in an ASPR revision, the changes and contract clauses set forth below shall be used upon receipt thereof. This revised material is intended as clarification of the current ASPR implementation of Public Law 87-653.

Paragraphs 3-807.5(d) and (e), which are concerned with the area of sub-contractor coverage, are still under study and may be revised in the near future. In event of revision, the clause in 7-104.29 will likewise be revised.

The various DD Forms 633 are in the process of revision. However, pending these revisions, the existing forms will be used.

3-807.3, .4, and .5 revised

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) the pricing of 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 those 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.