

(d) Under 10 U.S.C. 2306(f) and the "Price Reduction for Defective Cost or Pricing Data" clauses set forth in 7-104.29, the Government's right to reduce the prime contract price extends to cases where the prime contract price was increased by any significant sums because a subcontractor furnished defective cost or pricing data in connection with a subcontract where a certificate of cost or pricing data was or should have been furnished. In some cases, as where the defective nature of a subcontractor's data is only disclosed by Government audit, the information necessary to support a reduction to prime contract and subcontractor prices may be available only from the Government. To the extent necessary to secure a prime contract price reduction, the contracting officer should make such necessary information available upon request, to the prime contractor or higher tier subcontractors; however, if the release of such information would compromise military security or disclose trade secrets or other confidential business information, it shall be made available only under conditions that will fully protect it from improper disclosure, as may be prescribed by: the Director of Procurement Policy and Review, the Office of the Assistant Secretary of the Army (Installations and Logistics), for the Army; the Naval Material Command, for the Navy; the Office of the Assistant Secretary of the Air Force; and the Executive Director, Procurement and Production, for the Defense Supply Agency. Information made available pursuant to this paragraph shall be limited to that used as the basis for the prime contract price reduction.

(e) Inasmuch as price reductions under the Price Reduction for Defective Cost or Pricing Data clauses may involve first- and lower-tier subcontractors as well as the prime contractor, the contracting officer should give the prime contractor reasonable advance notice before making a determination to reduce the contract price under such clauses, in order to afford the prime contractor an opportunity to take any action deemed advisable by him, particularly in connection with any subcontracts that may be involved.

3-811(a) revised

3-811 Record of Price Negotiation.

(a) At the conclusion of each negotiation of an initial or a revised price, the contracting officer shall promptly prepare or cause to be prepared, a memorandum, setting forth the principal elements of the price negotiation, for inclusion in the contract file and for the use of any reviewing authorities. The memorandum shall be in sufficient detail to reflect the most significant considerations controlling the establishment of the initial or revised price. The memorandum should include an explanation of why cost or pricing data was, or was not, required (see 3-807) and, if it was not required in the case of any price negotiation in excess of \$100,000, a statement of the basis for determining that the price resulted from or was 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. If cost or pricing data was submitted and a certificate of cost or pricing data was required (3-807.4), the memorandum shall reflect the extent