

§ 3503. Exceptions

(a) IN GENERAL.—Submission of certified cost or pricing data shall not be required under section 3502 of this title in the case of a contract, a subcontract, or a modification of a contract or subcontract—

(1) for which the price agreed on is based on—

- (A) adequate price competition; or
- (B) prices set by law or regulation;

(2) for the acquisition of a commercial product or a commercial service; or

(3) in an exceptional case when the head of the procuring activity, without delegation, determines that the requirements of this chapter may be waived and justifies in writing the reasons for the determination.

(b) MODIFICATIONS OF CONTRACTS AND SUBCONTRACTS FOR COMMERCIAL PRODUCTS OR COMMERCIAL SERVICES.—In the case of a modification of a contract or subcontract for a commercial product or a commercial service that is not covered by the exception to the submission of certified cost or pricing data in paragraph (1) or (2) of subsection (a), submission of certified cost or pricing data shall not be required under section 3502 of this title if—

(1) the contract or subcontract being modified is a contract or subcontract for which submission of certified cost or pricing data may not be required by reason of paragraph (1) or (2) of subsection (a); and

(2) the modification would not change the contract or subcontract from a contract or subcontract for the acquisition of a commercial product or a commercial service to a contract or subcontract for the acquisition of an item other than a commercial product or a commercial service.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3766; Pub. L. 115-232, div. A, title VIII, §836(b)(12), Aug. 13, 2018, 132 Stat. 1863.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3503	41:254b(b).	June 30, 1949, ch. 288, title III, §304A(b), as added Pub. L. 103-355, title I, §1251(a)(2), Oct. 13, 1994, 108 Stat. 3279; Pub. L. 104-106, title XLII, §4201(b)(1), Feb. 10, 1996, 110 Stat. 651.

In subsection (b)(2), the words “as the case may be” are omitted as unnecessary.

AMENDMENTS

2018—Subsec. (a)(2). Pub. L. 115-232, §836(b)(12)(A), substituted “a commercial product or a commercial service” for “a commercial item”.

Subsec. (b). Pub. L. 115-232, §836(b)(12)(B), in heading, substituted “Commercial Products or Commercial Services” for “Commercial Items” and, in text, substituted “a commercial product or a commercial service” for “a commercial item” wherever appearing.

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-232 effective Jan. 1, 2020, subject to a savings provision, see section 836(h) of Pub. L. 115-232, set out as an Effective Date of 2018 Amendment; Savings Provision note under section 453b of Title 6, Domestic Security.

§ 3504. Cost or pricing data on below-threshold contracts

(a) AUTHORITY TO REQUIRE SUBMISSION.—Subject to subsection (b), when certified cost or pricing data are not required to be submitted by section 3502 of this title for a contract, subcontract, or modification of a contract or subcontract, the data may nevertheless be required to be submitted by the head of the procuring activity, but only if the head of the procuring activity determines that the data are necessary for the evaluation by the agency of the reasonableness of the price of the contract, subcontract, or modification of a contract or subcontract. In any case in which the head of the procuring activity requires the data to be submitted under this section, the head of the procuring activity shall justify in writing the reason for the requirement.

(b) EXCEPTION.—The head of the procuring activity may not require certified cost or pricing data to be submitted under this section for any contract or subcontract, or modification of a contract or subcontract, covered by the exceptions in section 3503(a)(1) or (2) of this title.

(c) DELEGATION OF AUTHORITY PROHIBITED.—The head of a procuring activity may not delegate the functions under this section.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3767.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3504	41:254b(c).	June 30, 1949, ch. 288, title III, §304A(c), as added Pub. L. 103-355, title I, §1251(a)(2), Oct. 13, 1994, 108 Stat. 3280; Pub. L. 104-106, title XLII, §§4201(b)(1), 4321(e)(3), Feb. 10, 1996, 110 Stat. 651, 675.

§ 3505. Submission of other information

(a) AUTHORITY TO REQUIRE SUBMISSION.—When certified cost or pricing data are not required to be submitted under this chapter for a contract, subcontract, or modification of a contract or subcontract, the contracting officer shall require submission of data other than certified cost or pricing data to the extent necessary to determine the reasonableness of the price of the contract, subcontract, or modification of the contract or subcontract. Except in the case of a contract or subcontract covered by the exceptions in section 3503(a)(1) of this title, the contracting officer shall require that the data submitted include, at a minimum, appropriate information on the prices at which the same item or similar items have previously been sold that is adequate for evaluating the reasonableness of the price for the procurement.

(b) LIMITATIONS ON AUTHORITY.—The Federal Acquisition Regulation shall include the following provisions regarding the types of information that contracting officers may require under subsection (a):

(1) REASONABLE LIMITATIONS.—Reasonable limitations on requests for sales data relating to commercial products or commercial services.

(2) LIMITATION ON SCOPE OF REQUEST.—A requirement that a contracting officer limit, to