## Offeror Information for Cost Analysis

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### Module Introduction

Welcome to Offeror Information for Cost Analysis!

You might be wondering, "How will the information in this module help me in my job as a contract specialist?"

Cost analysis involves the need for offerors to gather, document, and submit information prior to the close of negotiations.

Ensuring that this information is **current**, **accurate**, and **complete** enables you to determine if you are getting a fair and reasonable price for the services rendered and products procured.

*"How do I ensure that the information I receive from the offeror is current, accurate, and complete?"*

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## Offeror Information for Cost Analysis

### Objectives

At the end of this module, you will be able to:

- Identify key terms associated with the Truth in Negotiations Act (TINA)
- Determine if an exception to the Truth in Negotiations Act applies
- Select the appropriate authority for requiring an offeror to provide certified cost or pricing data
- Identify the remedy to the government in the event that a contractor submits defective data

Sound good? All right, let's get started!

Select Next for a high-level overview of the content that will be presented in this module.

OBJECTIVES

**User Instructions:** Select Next to continue.

**Offeror Information for Cost Analysis**

## Overview - Truth in Negotiations Act (TINA)

At the heart of this module is the Truth in Negotiations Act, which you will usually hear referred to as "TINA."

TINA is a public law enacted in 1962 for the purpose of providing full and fair disclosure by contractors in the conduct of negotiations with the government. TINA requires:

1. Contractors and subcontractors submit certified cost or pricing data for negotiated procurements over $700,000
2. Downward adjustment to the contract price, including profit or fee, where it is determined that the contract price was increased because the contractor submitted defective certified cost or pricing data

As you can see, TINA offers some important protections to the government.

**TINA**

TINA is a public law (P.L. 87-653) which is codified at 10 U.S.C. 2306(a)

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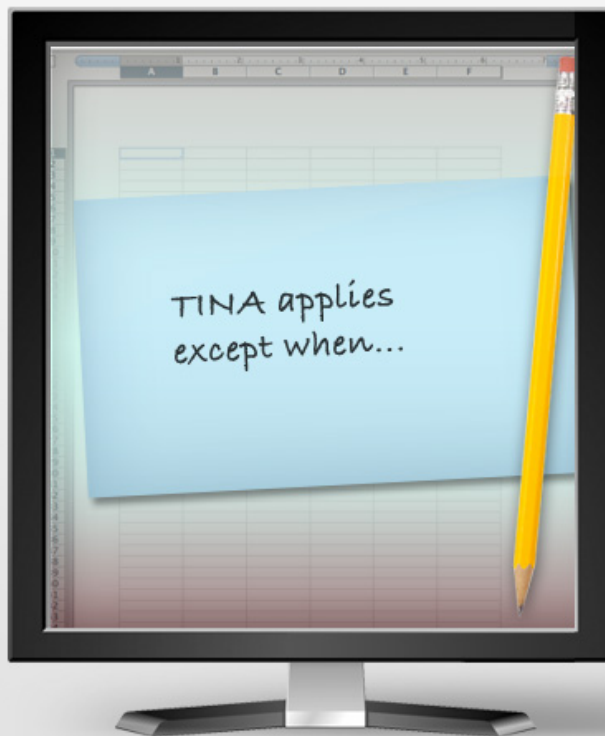3 of 20     Back     Next
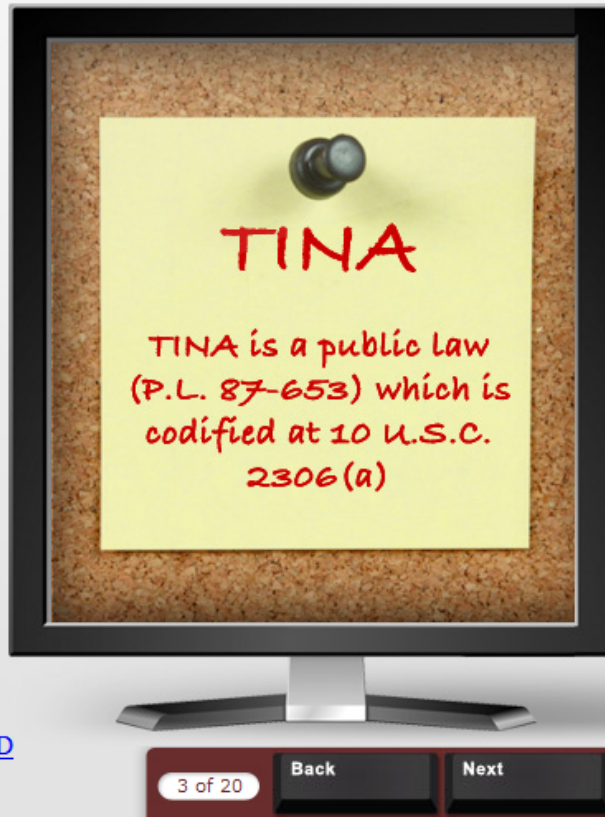
## Offeror Information for Cost Analysis

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### Overview - Exceptions to TINA

While TINA protects the government, the same laws that establish requirements for certified cost or pricing data also provide for mandatory exceptions. **Never** require certified cost or pricing data when an exception applies. Refer to FAR 15.403-1 to learn more.

Except a procurement from TINA requirements if:

- The negotiated price is based on adequate price competition
- The price is set by law or regulation
- The item is considered a "commercial" item (see FAR 2.101), unless it is a non-commercial modification of a commercial item where the modification exceeds the greater of $700K or 5% of the contract price
- The head of the contracting activity waives the requirement

TINA applies except when...

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**Offeror Information for Cost Analysis**
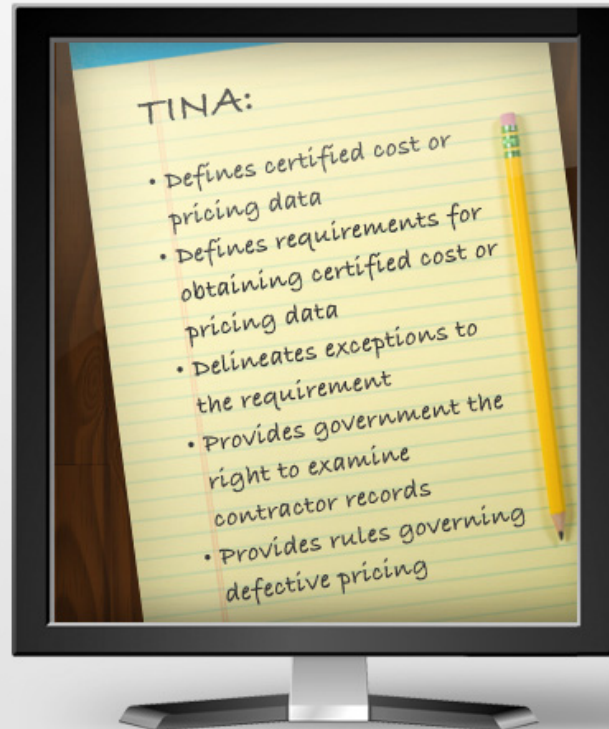
## Overview - TINA Certification

TINA helps you as a Contracting Officer because it requires offerors to certify that their certified cost or pricing data is **current**, **accurate**, and **complete**.

The certification TINA requires establishes information parity for the government when having to negotiate fair and reasonable prices based on cost analysis, which in turn, helps you achieve your ultimate goal of negotiating a fair and reasonable price.

For this reason, you must ensure that the certified cost or pricing data the contractor or subcontractor submits is current, accurate, and complete as of the date of the agreement on price or, if applicable, an earlier date agreed upon between the parties that is as close as practicable to the date of agreement on price.

TINA:

- Defines certified cost or pricing data
- Defines requirements for obtaining certified cost or pricing data
- Delineates exceptions to the requirement
- Provides government the right to examine contractor records
- Provides rules governing defective pricing

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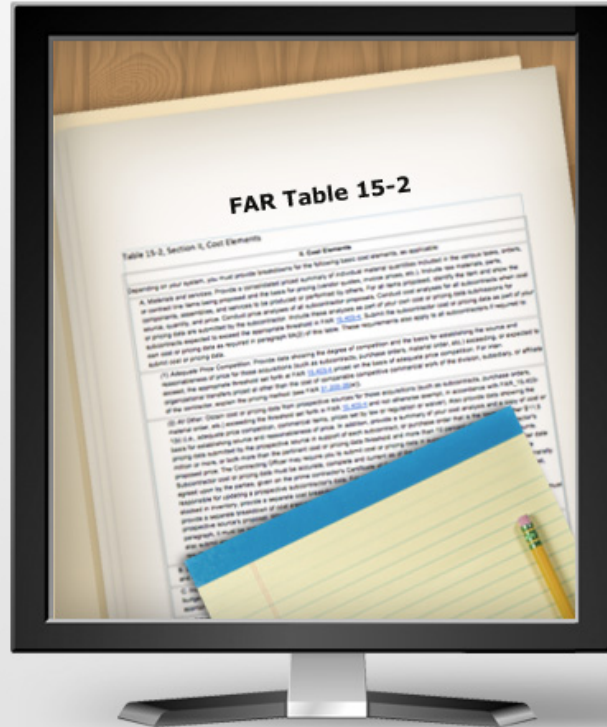
**Offeror Information for Cost Analysis**

## Overview – Soliciting Certified Cost or Pricing Data

How do we obtain Certified Cost or Pricing data?

The FAR requires that certified cost or pricing data be submitted in one of three formats:

- The format outlined in FAR Table 15-2, which you can review under the Resources tab
- An alternate format outlined in the solicitation/contract
- A format selected by the offeror

Refer to FAR 15.403-5(b)(1) and FAR 15.408(l), 15.408(m) for more information.

FAR Table 15-2

Table 15-2, Section I, Cost Elements

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## Module Resources

Review the graphic to the right to see what specific resources are used as references for the content in this module.

It is strongly recommended that you review these resources before proceeding with the module. Doing so will put you "ahead of the game" and will help you to answer the challenge questions to come!

Select the Resources tab for links to these and other references.

### Content Resources

✓ CPRG Volume 1, Chapter 0, specifically section I.2.1

✓ Section B of the Acquisition Plan

✓ FAR 15.4, and 52.215-10 and 52.215-11

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## Offeror Information for Cost Analysis
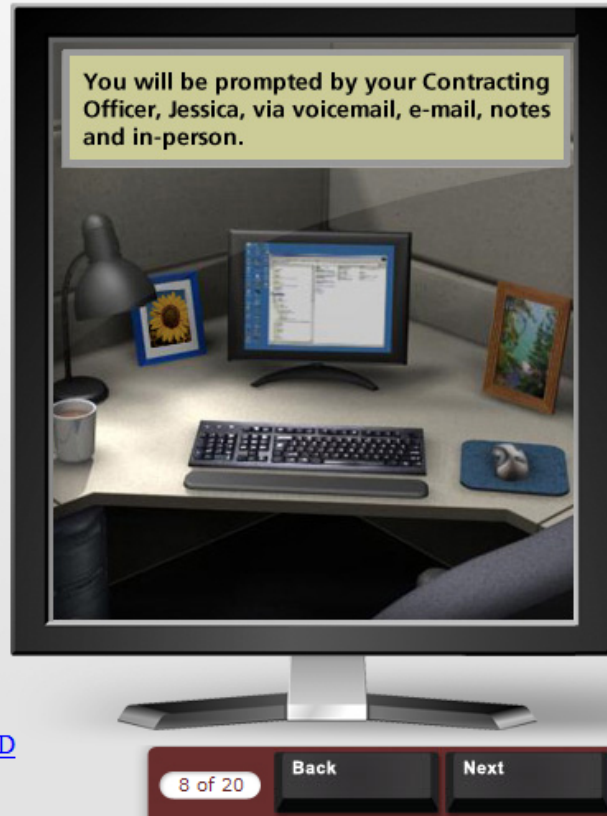
Resources     Glossary     Help

### Simulation Overview

In this module, you are going to answer a series of Challenge Questions about offeror information for cost analysis. Do not worry if you miss a question - you will be directed to pertinent content and then given a chance to answer the question again.

Even if you get a question right the first time, it is **strongly** recommended that you elect to review the pertinent content by selecting the Review button. This review will help you answer the practice test questions at the end of the module.

Remember to use the Resources and Glossary tabs at any time during the simulation to access helpful information.

You will be prompted by your Contracting Officer, Jessica, via voicemail, e-mail, notes and in-person.

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REWIND    PLAY    CAPTIONS

Hi, it's Jessica, your Contracting Officer. I'm looking over this modification to the initial Berent's Base Operating and Maintenance contract.

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REWIND    PAUSE    CAPTIONS

Do you know if the Truth in Negotiations Act applied to the initial procurement? Come to think of it, how familiar are you with TINA? Make sure you know the key terms before we go any further.

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**Challenge Question #1**

Which of the following are key terms associated with TINA?

- ☐  A.  Certified Cost or Pricing Data

- ☐  B.  Cost or Pricing Data

- ☐  C.  Cost Accounting Standards

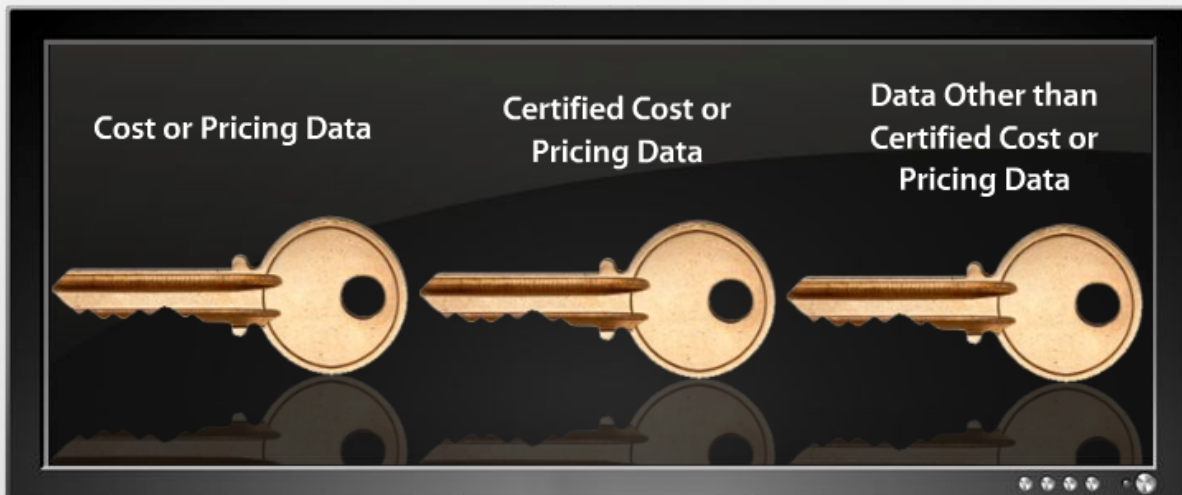- ☐  D.  Data Other than Certified Cost or Pricing Data

[ Check Answer ]

**User Instructions:** Select the correct answers and then select the Check Answer button.

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**Offeror Information for Cost Analysis**          Resources   Glossary   Help

**Key Terms: Truth in Negotiations Act (TINA)**

Here are some key terms associated with TINA. Select each graphic below to learn more.

Cost or Pricing Data        Certified Cost or        Data Other than
                            Pricing Data             Certified Cost or
                                                     Pricing Data

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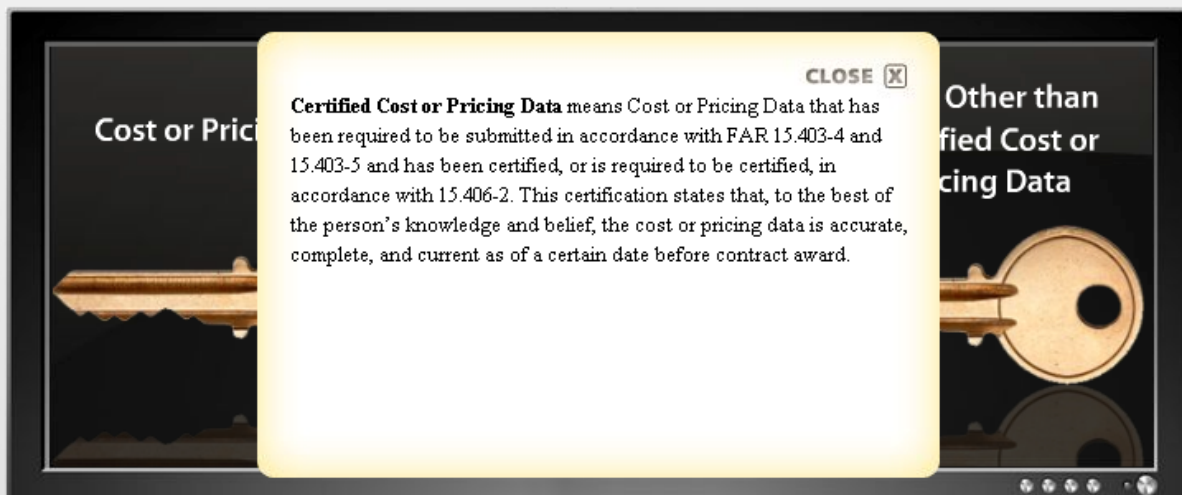
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**Offeror Information for Cost Analysis**                     Resources    Glossary    Help

**Key Terms: Truth in Negotiations Act (TINA)**

Here are some key terms associated with TINA. Select each graphic below to learn more.

CLOSE ☒

Cost or Prici...                                              Other than
                                                             ...fied Cost or
**Cost or Pricing Data** refers to all facts that, as of the date of price   ...cing Data
agreement, can be reasonably expected to contribute to the
soundness of estimates of future costs and to the validity of
determinations of costs already incurred. Cost or pricing data are
factual, not judgmental, and are verifiable.

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**Key Terms: Truth in Negotiations Act (TINA)**

Here are some key terms associated with TINA. Select each graphic below to learn more.

Cost or Prici[...]                                                   Other than
                                                                    [...]fied Cost or
                                                                    [...]cing Data

CLOSE [X]

**Certified Cost or Pricing Data** means Cost or Pricing Data that has been required to be submitted in accordance with FAR 15.403-4 and 15.403-5 and has been certified, or is required to be certified, in accordance with 15.406-2. This certification states that, to the best of the person's knowledge and belief, the cost or pricing data is accurate, complete, and current as of a certain date before contract award.

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## Offeror Information for Cost Analysis

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### Key Terms: Truth in Negotiations Act (TINA)

Here are some key terms associated with TINA. Select each graphic below to learn more.

Cost or Prici[ng]

**CLOSE** ☒

**Data Other than Certified Cost or Pricing Data** means pricing data, cost data, and judgmental information necessary for the contracting officer to determine a fair and reasonable price or to determine cost realism. Such data may include the identical types of data as certified cost or pricing data, consistent with Table 15-2 of 15.408, but without the certification. The data may also include, for example, sales data and any information reasonably required to explain the offeror's estimating process.

Other than [Certi]fied Cost or [Pri]cing Data

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REWIND          PLAY    CAPTIONS

Looks like you brushed up on your key terms. Good. We'll need those moving forward.

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REWIND | PLAY | CAPTIONS

Do you know why I like TINA? It levels the playing field. It gives the government access to the same certified cost or pricing data reasonably available to the contractor when analyzing contract costs,

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and if we get defective data from the contractor, TINA empowers us to reduce contract payments by the amount attributable to the defective data.

REWIND                                    PLAY    CAPTIONS

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REWIND                    PLAY    CAPTIONS

At the same time, there are exceptions to TINA that you need to know about. If an exception applies, we cannot require certified cost or pricing data.

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REWIND    PLAY    CAPTIONS

Review the Acquisition Plan for the initial procurement by selecting the Resources tab. I want to know if TINA applied to the initial procurement before we determine whether or not it applies to the modification.

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**Offeror Information for Cost Analysis**

**Challenge Question #2**

Review Section B of the Acquisition Plan for the initial BBOMS contract.

Did the Truth in Negotiation Act apply to this initial procurement? Why or why not?

- A. Yes. This total value of this acquisition was initially estimated at $192,974,052, which is over the TINA threshold of $700,000. Therefore, submission of certified cost or pricing data was required.

- B. No. While the initial award amount exceeded the TINA threshold of $700,000 the Contracting Officer determined, through market research, that adequate price competition would exist for this requirement. Therefore, the exception at FAR 15.403-1(b)(1) applied. Offerors were not required to submit certified cost or pricing data.

- C. No. While the initial award amount exceeded the TINA threshold of $700,000, the Contracting Officer determined, through market research, that this is a commercial service. Therefore, the exception at FAR 15.403-1 (b)(3) applied.

  Check Answer

**User Instructions:** Select the correct answer.

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### FAR 15.403-1 (b) (1)

FAR 15.403-1 (b) (1) states, "Even if only one offer is received, a price may still be based on adequate price competition if:

- The Contracting Officer can conclude there was a reasonable expectation of adequate price competition, the price is reasonable, and this is approved at a level above the Contracting Officer.
- The proposed price is reasonable when compared with other prices obtained and properly normalized for economics, quantity, etc., from contracts that resulted from adequate price competition.

However, on November 24, 2010, the Director of Defense Procurement issued a memo entitled, "Improving Competition in Defense Procurements", which provides additional guidance in competitive situations when only one offeror is received.
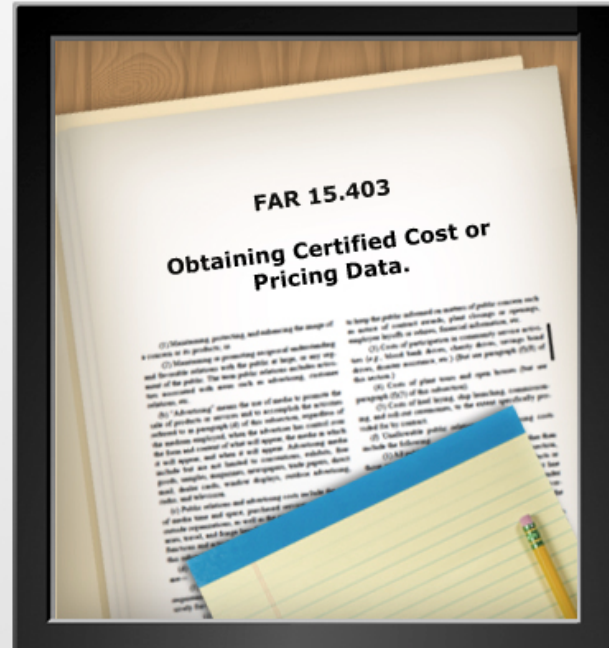
FAR 15.403

Obtaining Certified Cost or Pricing Data.

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## Offeror Information for Cost Analysis

### Improving Competition in Defense Procurements Memo

As of the date of that memo, it is the Department's policy that FAR 15.403-1(c)(1)(ii) or (iii) cannot be used to determine that an offer is based on adequate price competition when only one offer is received.

Since the exception to certified cost or pricing data at FAR 15.403-1(b)(1) cannot be applied under this policy, Contracting Officers must obtain certified cost or pricing data unless one of the exceptions at FAR 15.403-1(b)(2) through (5) apply, or a waiver is obtained in accordance with FAR 15.403-1(c)(4).

Furthermore, adequate price competition cannot be used to justify price reasonableness. As stated in the November 24, 2010 memo, the basis for negotiations shall be either certified cost or pricing data or data other than certified cost or pricing data.

Select here to view a copy of the memo.

FAR 15.403-1(c)(1)(ii) and (iii) cannot be used as an exception to obtaining cost or pricing data. Additionally, the exception can no longer be used as the basis for documenting price reasonableness

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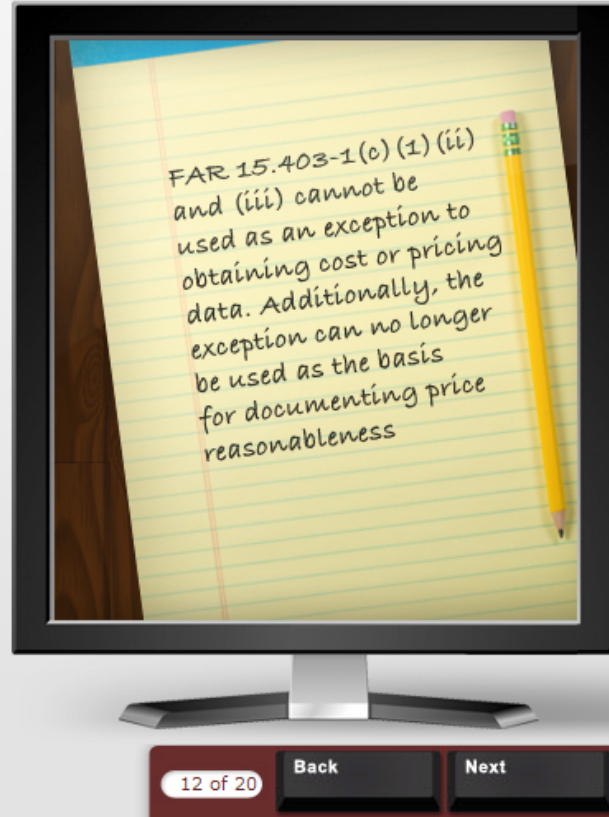
## Offeror Information for Cost Analysis

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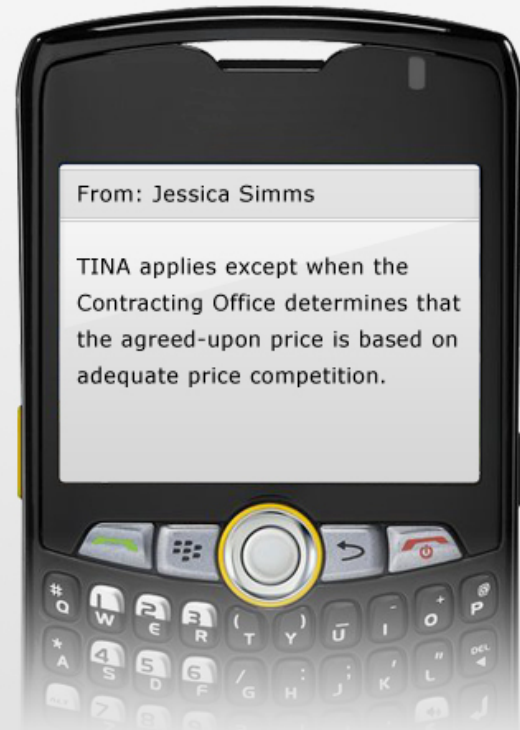### Exceptions to TINA – Adequate Price Competition

A price is based on adequate price competition if there are two or more responsible offerors competing independently where price is a substantial evaluation factor for award and there is no finding that the successful offeror's price is unreasonable.

Even if only one offer is received, a price may still be based on adequate price competition if:

- The Contracting Officer can conclude there was a reasonable expectation of adequate price competition, the price is reasonable, and this is approved at a level above the Contracting Officer.
- The proposed price is reasonable when compared with other prices obtained and properly normalized for economics, quantity, etc., from contracts that resulted from adequate price competition.

See FAR 15.403-1(c)(1)(i) for more information.

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**User Instructions:** Select Next to continue.

From: Jessica Simms

TINA applies except when the Contracting Office determines that the agreed-upon price is based on adequate price competition.

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**Exceptions to TINA – Law or Regulation**

When the item price is set by law or regulation, that procurement shall be excepted from TINA requirements.

Pronouncements in the form of periodic rulings, reviews, or similar actions of a governmental body, or embodied in the laws, are sufficient to demonstrate a set price.

## NEWS

TINA applies except when the Contracting Office determines that the item price is set by law or regulation.

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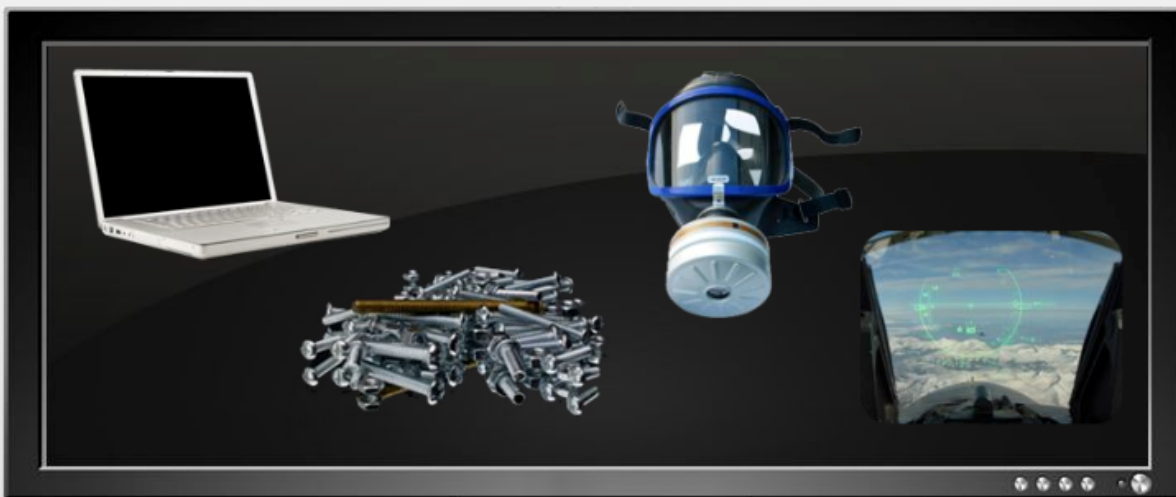
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**Exceptions to TINA – Commercial Item**

When the Contracting Officer determines that you are acquiring a commercial item, that procurement can be excepted from TINA requirements.

Select each image below to learn more.

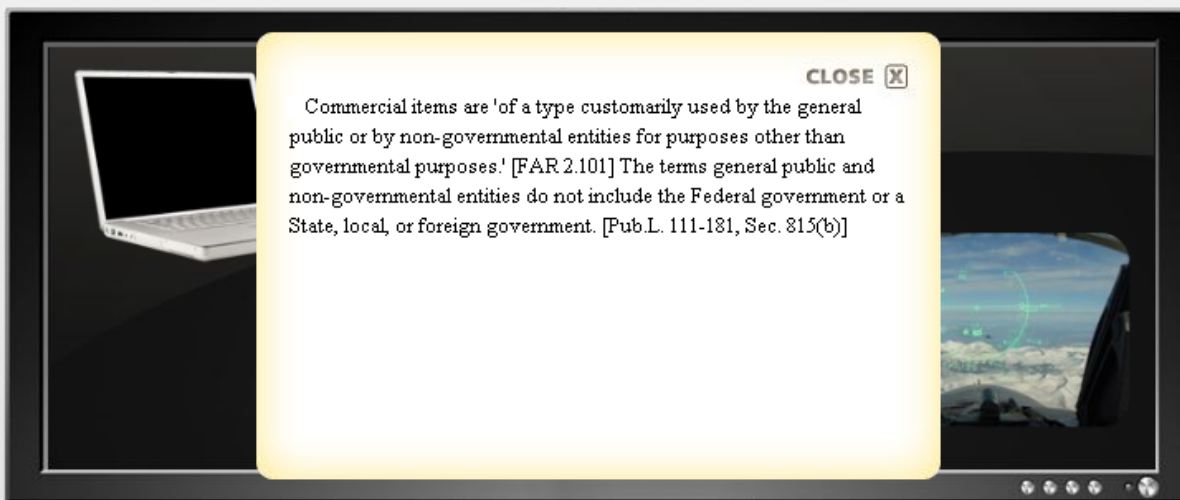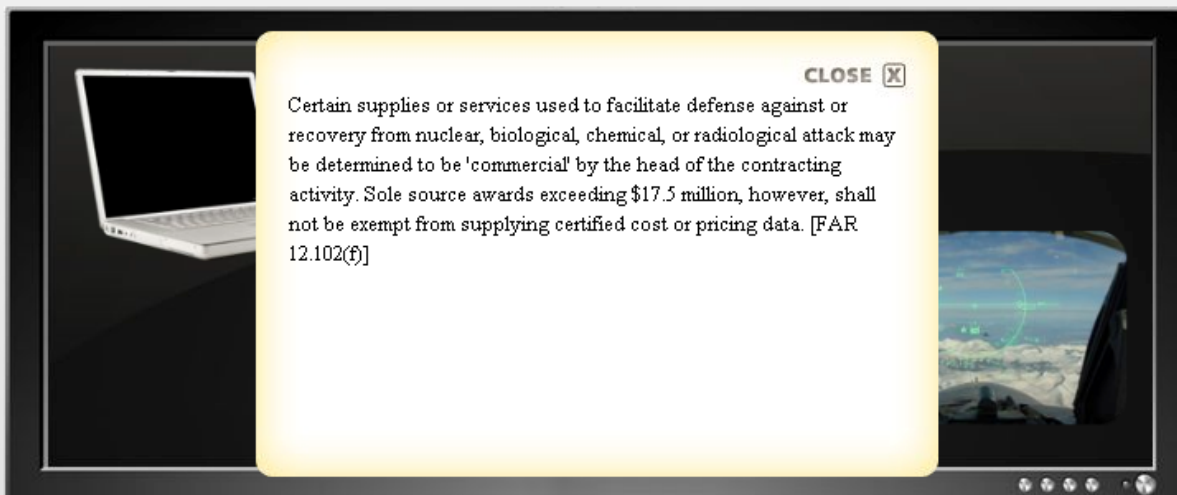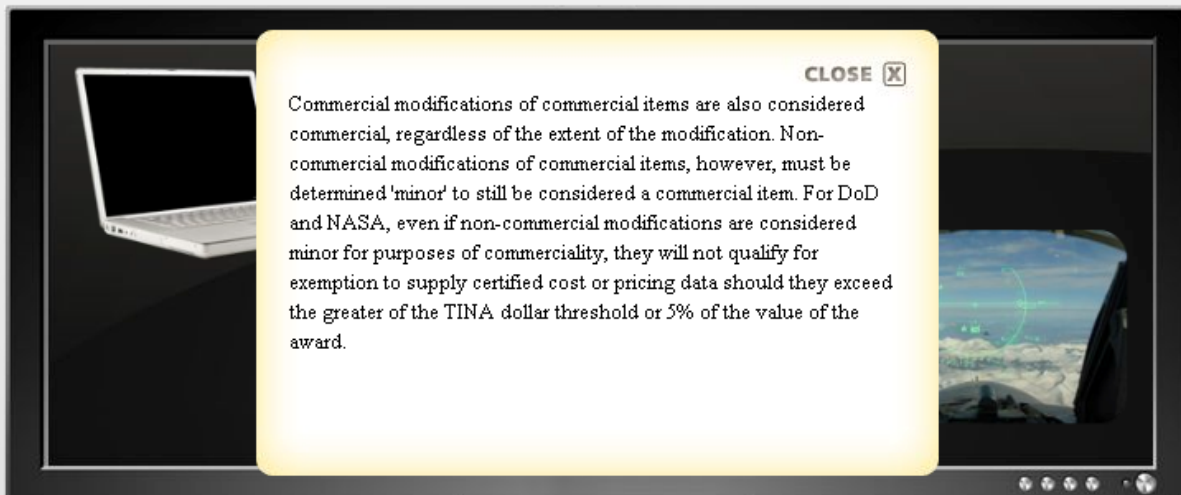**User Instructions:** Select Next to continue.

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**Exceptions to TINA – Commercial Item**

When the Contracting Officer determines that you are acquiring a commercial item, that procurement can be excepted from TINA requirements.

Select each image below to learn more.

CLOSE ⊠

Commercial items, as defined in FAR 2.101, are generally exempt from the requirement for the contractor to supply certified cost or pricing data. They must, however, be determined to be commercial item based upon market research. For DoD, items over $1 million require a written determination and awards exceeding $15 million must be reported to Congress.

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## Exceptions to TINA – Commercial Item

When the Contracting Officer determines that you are acquiring a commercial item, that procurement can be excepted from TINA requirements.

Select each image below to learn more.

CLOSE ☒

Commercial items are 'of a type customarily used by the general public or by non-governmental entities for purposes other than governmental purposes.' [FAR 2.101] The terms general public and non-governmental entities do not include the Federal government or a State, local, or foreign government. [Pub.L. 111-181, Sec. 815(b)]

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**Exceptions to TINA – Commercial Item**

When the Contracting Officer determines that you are acquiring a commercial item, that procurement can be excepted from TINA requirements.

Select each image below to learn more.

CLOSE ☒

Certain supplies or services used to facilitate defense against or recovery from nuclear, biological, chemical, or radiological attack may be determined to be 'commercial' by the head of the contracting activity. Sole source awards exceeding $17.5 million, however, shall not be exempt from supplying certified cost or pricing data. [FAR 12.102(f)]

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**Offeror Information for Cost Analysis**

**Exceptions to TINA – Commercial Item**

When the Contracting Officer determines that you are acquiring a commercial item, that procurement can be excepted from TINA requirements.

Select each image below to learn more.

**CLOSE** ☒

Commercial modifications of commercial items are also considered commercial, regardless of the extent of the modification. Non-commercial modifications of commercial items, however, must be determined 'minor' to still be considered a commercial item. For DoD and NASA, even if non-commercial modifications are considered minor for purposes of commerciality, they will not qualify for exemption to supply certified cost or pricing data should they exceed the greater of the TINA dollar threshold or 5% of the value of the award.

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## Exceptions to TINA – Waivers

In exceptional cases, the TINA requirements can be waived by head of the contracting activity (HCA).

The HCA's determination must be made **in writing**, without delegation, and is reported to Congress if it exceeds $15 million. An exceptional case waiver shall be made only upon a determination that:

1. The property or services cannot reasonably be obtained under the contract, subcontract, or modification, without the grant of the waiver.
2. The price can be determined to be fair and reasonable without the submission of certified cost or pricing data.
3. There are demonstrated benefits to granting the waiver. (Pub. L. 107-314, Sec. 817)

TINA applies except when the head of the contracting activity waives the requirements in writing.

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### Exceptions to TINA – Waivers

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**More Information - Waivers**

Even if the HCA has waived the prime contractor or higher-tier subcontractor of the requirement to submit cost or pricing data, they shall be considered as having been required to provide cost or pricing data.

Consequently, award of any lower-tier subcontract expected to exceed the certified cost or pricing data threshold requires the submission of certified cost or pricing data unless an exception otherwise applies to the subcontract or the waiver specifically included the lower-tier subcontractor and the rationale is documented in writing.

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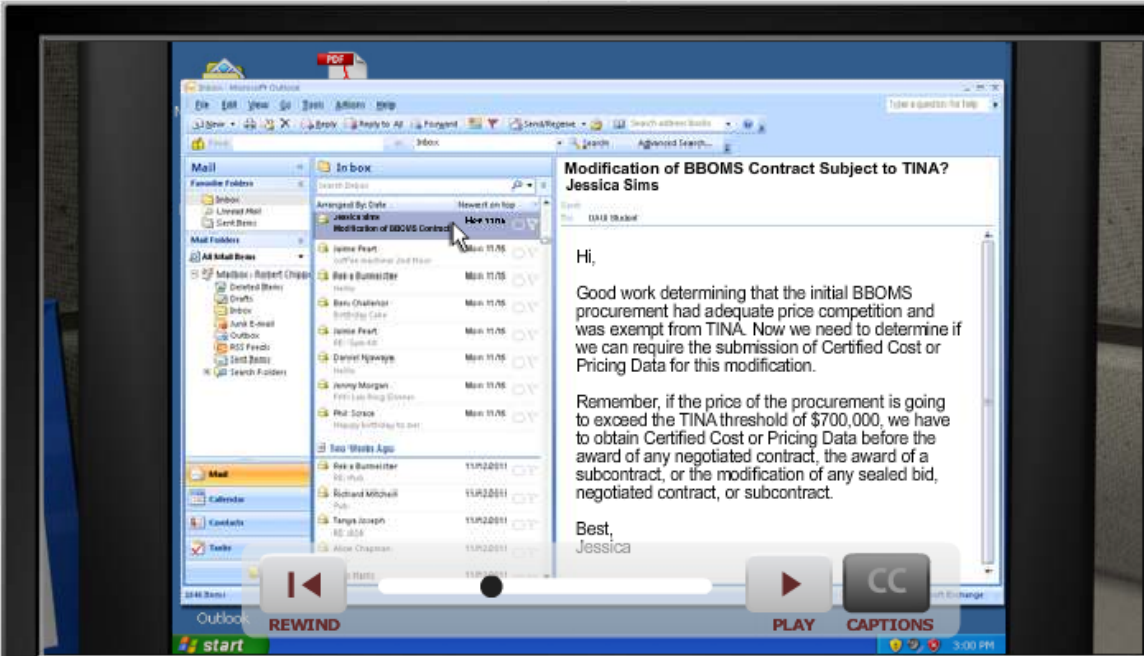**User Instructions:** Select Next to continue.

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### Other Prohibitions Against Requiring Certified Cost or Pricing Data

In addition to the exceptions that you have learned so far, FAR 15.403-1(a) and 15.403-2 also specify other conditions under which certified cost or pricing data cannot be required.

**Never** require certified cost or pricing data for:

- Any contract or subcontract action with a price that is equal to or less than the simplified acquisition threshold
- The exercise of a contract option at the price established at contract award or initial negotiation
- Proposals used solely for overrun funding or interim billing price adjustments

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[Resources] [Glossary] [Help]

**Other Prohibitions Against Requiring Certified C**

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**Price**

When calculating the price adjustment related to a contract modification, consider both increases and decreases, unless unrelated and separately priced changes for which certified cost or pricing data would not otherwise be required are included for administrative convenience in the same contract modification.

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Modification of BBOMS Contract Subject to TINA?
Jessica Sims

Hi,

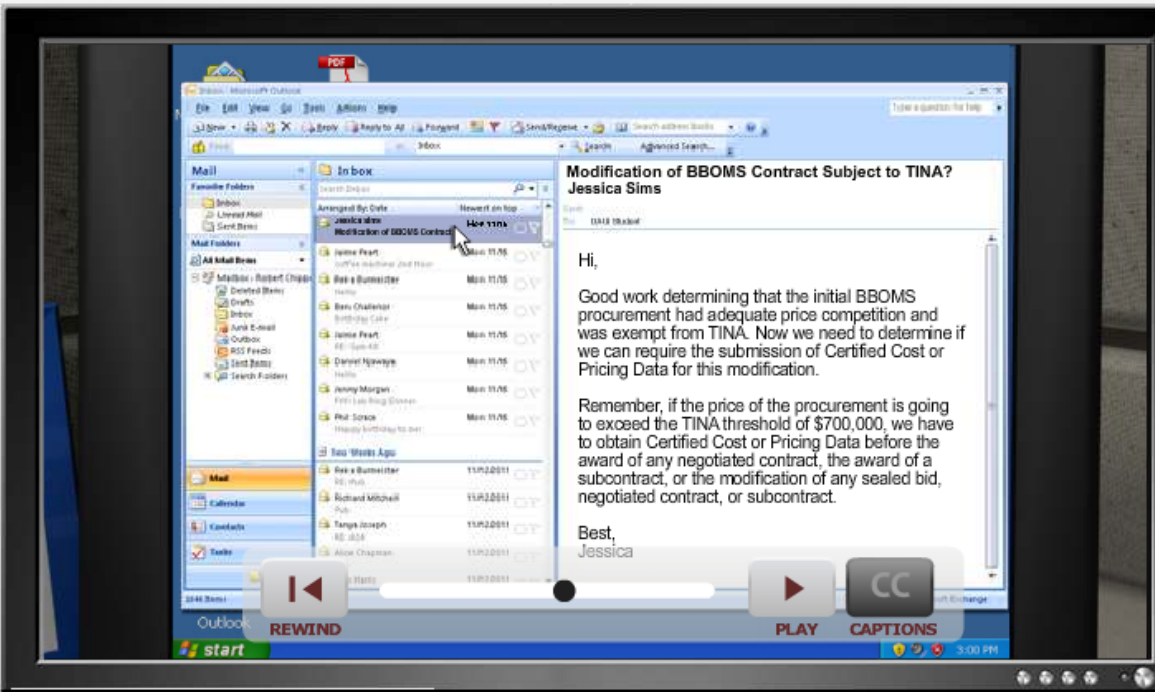Good work determining that the initial BBOMS procurement had adequate price competition and was exempt from TINA. Now we need to determine if we can require the submission of Certified Cost or Pricing Data for this modification.

Remember, if the price of the procurement is going to exceed the TINA threshold of $700,000, we have to obtain Certified Cost or Pricing Data before the award of any negotiated contract, the award of a subcontract, or the modification of any sealed bid, negotiated contract, or subcontract.

Best,
Jessica

REWIND          PLAY    CAPTIONS

Hi, Good work determining that the initial BBOMS procurement had adequate price competition and was exempt from TINA.

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**Modification of BBOMS Contract Subject to TINA?**
**Jessica Sims**

Hi,

Good work determining that the initial BBOMS procurement had adequate price competition and was exempt from TINA. Now we need to determine if we can require the submission of Certified Cost or Pricing Data for this modification.
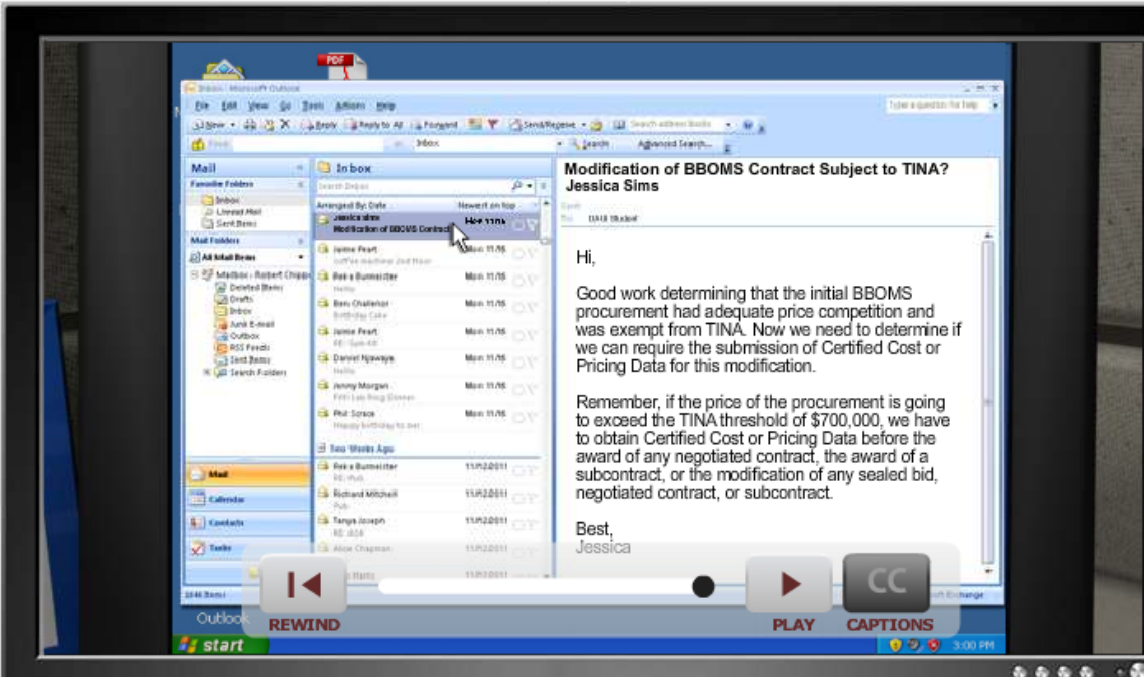
Remember, if the price of the procurement is going to exceed the TINA threshold of $700,000, we have to obtain Certified Cost or Pricing Data before the award of any negotiated contract, the award of a subcontract, or the modification of any sealed bid, negotiated contract, or subcontract.

Best,
Jessica

REWIND          PLAY   CAPTIONS

the award of a subcontract, or the modification of any sealed bid, negotiated contract, or subcontract. Best, Jessica

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**Challenge Question #3**

Review the contract file by selecting the Resources Tab, and answer the following question:

Will we require the submission of certified cost or pricing data on this modification?

- A. Yes. Since the initial estimate of this modification is $20.9M, it is over the threshold of $700,000 and therefore we will require the offeror to submit certified cost or pricing data.

- B. No. Since TINA did not apply to the initial procurement, it does not apply to any modifications.

- C. No. Since this is a commercial modification, we will not require the submission of certified cost or pricing data.

[ Check Answer ]

**User Instructions:** Select the correct answer.

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## Offeror Information for Cost Analysis

### Certified Cost or Pricing Data

Now you know that TINA requires certified cost or pricing data for procurements over $700,000. **What does this mean for you?**

If you expect the price for any procurement to exceed $700,000, you must obtain this data before accomplishing any of the following actions:

- The **award of any negotiated contract** (except for undefinitized actions such as letter contracts and competitively negotiated contracts where adequate price competition is present)
- The **award of a subcontract** at any tier, if the contractor and each higher-tier subcontractor have been required to furnish cost or pricing data
- The **modification of any sealed bid, negotiated contract** (whether or not certified cost or pricing data were initially required) or **subcontract**

*FAR 15.403 Requiring Certified Cost or Pricing Data*

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**User Instructions:** Select Next to continue.

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## Offeror Information for Cost Analysis

### Contract Price Adjustment for TINA Purposes

When calculating the amount of the contract price adjustment for modifications or equitable adjustments, consider both increases and decreases.

For example, a $200,000 modification resulting from a reduction of $500,000 and an increase of $300,000 is a pricing adjustment exceeding the current certified cost or pricing data threshold of $700,000.

In other words, add the absolute value of each adjustment to obtain the total amount of the price adjustment for TINA purposes.

A decrease of $500,000 and an increase of $300,000 is a price adjustment, for TINA purposes, of $800,000.

**($500,000) + $300,000 = |$500,000| + |$300,000| = $500,000 + $300,000 or $800,000.**

D

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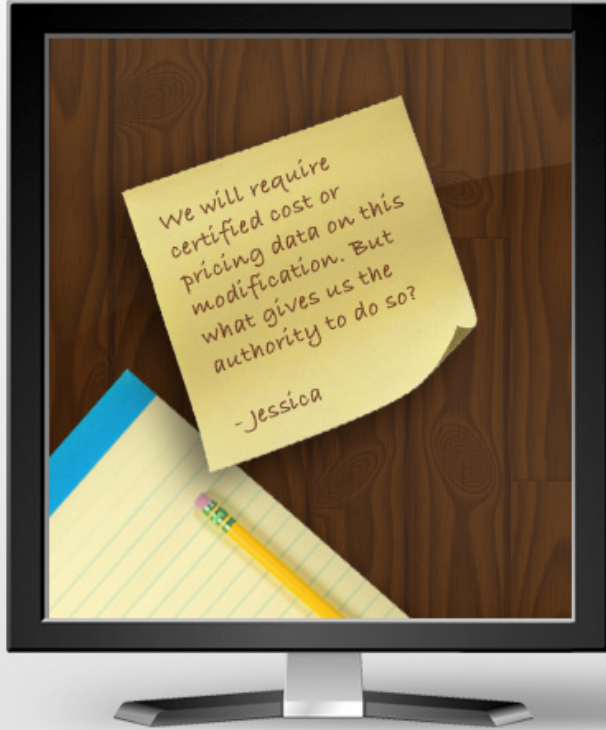
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**Offeror Information for Cost Analysis**

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**Jessica Left You a Note...**

It looks like Jessica left a note on your desk while you were away.

Review the note and then select Next to continue.

We will require certified cost or pricing data on this modification. But what gives us the authority to do so?

-Jessica

D

**User Instructions:** Select Next to continue.

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## Offeror Information for Cost Analysis

### Challenge Question #4

What gives us the authority to request the submission of certified cost or pricing data on this modification?

○  A.  FAR 52.215-10

○  B.  FAR 52.215-11

○  C.  The Contracting Officer's inclusion of the requirement in the request for a change proposal

[ Check Answer ]

**User Instructions:** Select the correct answer.

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## Offeror Information for Cost Analysis

### Authority to Request Certified Cost or Pricing Data

In the 1950s and early 1960s, the General Accounting Office (now the Government Accountability Office) discovered numerous instances of overpricing by government contractors on negotiated contracts. At the time, the government had no legal redress to re-price the contracts unless it could show fraud or deliberate misrepresentation by the contractor.

In 1962, Congress passed the Truth in Negotiations Act. The Act required, among other things, submission of complete and current certified cost and pricing data to the government during pre-award negotiations for all for certain contract actions.

The requirement at FAR 15.403-4 (a) (1) (iii) is based in statute. The Truth in Negotiations Act (TINA), 10 USC § 2306a (1) (b), provides this authority which is implemented by regulation in the FAR.



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## Offeror Information for Cost Analysis

### Requiring Certified Cost or Pricing Data When TINA Does Not Apply

So far in this lesson, you have learned that TINA requires certified cost or pricing data to be submitted for procurements over $700,000 unless certain exceptions apply.

Does this mean that you can only require certified cost or pricing data when TINA mandates it?

No. If none of the exceptions or prohibitions apply, **the HCA may authorize you to require certified cost or pricing data for any contract action at or below the certified cost or pricing data threshold** provided the action exceeds the simplified acquisition threshold.

Of course the HCA must justify the requirement and document a written finding that certified cost or pricing data are necessary to determine the price fair and reasonable, including the facts supporting that position, but it is possible. What are the costs and benefits of requiring certified cost or pricing data?

*Can I require certified cost or pricing data even when TINA does not apply?*

D

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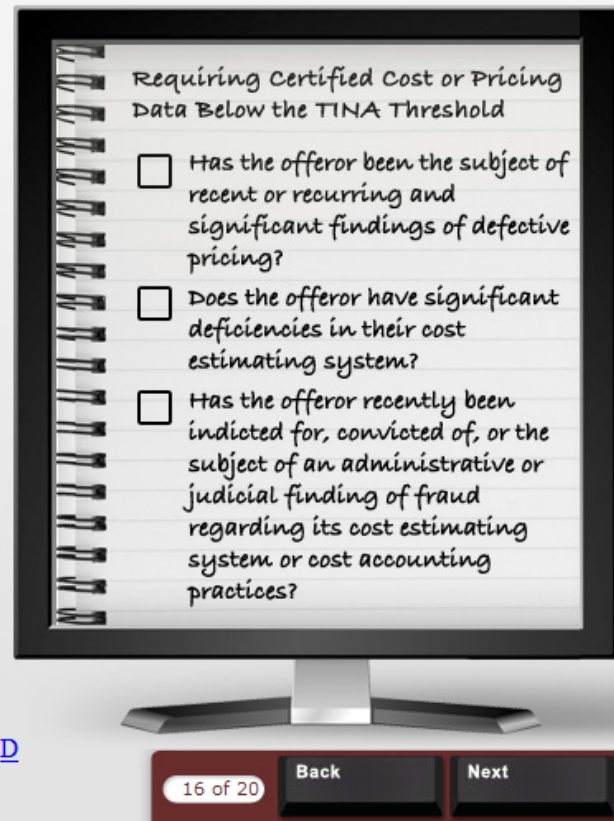
## Offeror Information for Cost Analysis

### Requiring Certified Cost or Pricing Data – Pros and Cons

Before you request authorization to require certified cost or pricing data below the certified cost or pricing data threshold of $700,000, you need to consider both the costs and benefits of requiring this information.

Ask yourself the three questions to the right.

If your answer to any of these questions is "Yes," you may want to consider requesting authorization to require certified cost or pricing data.

Requiring Certified Cost or Pricing Data Below the TINA Threshold

☐ Has the offeror been the subject of recent or recurring and significant findings of defective pricing?

☐ Does the offeror have significant deficiencies in their cost estimating system?

☐ Has the offeror recently been indicted for, convicted of, or the subject of an administrative or judicial finding of fraud regarding its cost estimating system or cost accounting practices?

D

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**Offeror Information for Cost Analysis**

## Obtaining Certified Cost or Pricing Data

Let's say that you have determined that certified cost or pricing data is required. No exceptions apply, and the procurement is above the TINA threshold of $700,000. How exactly do you communicate the requirement to submit certified cost or pricing data to the offeror?

The Contracting Officer is required to specify in the solicitation the instructions for the offeror to submit certified cost or pricing data or data other than certified cost or pricing data. FAR Part 15.408 (l) and (m) identify the provisions that should be used to communicate this information to the potential offeror depending on the circumstances of your acquisition.

Identifying the submission requirements in the solicitation permits offerors to gather and document information during proposal preparation. If you require the data after proposals are submitted, it delays the process.

*Identify your data requirements in the solicitation*

D

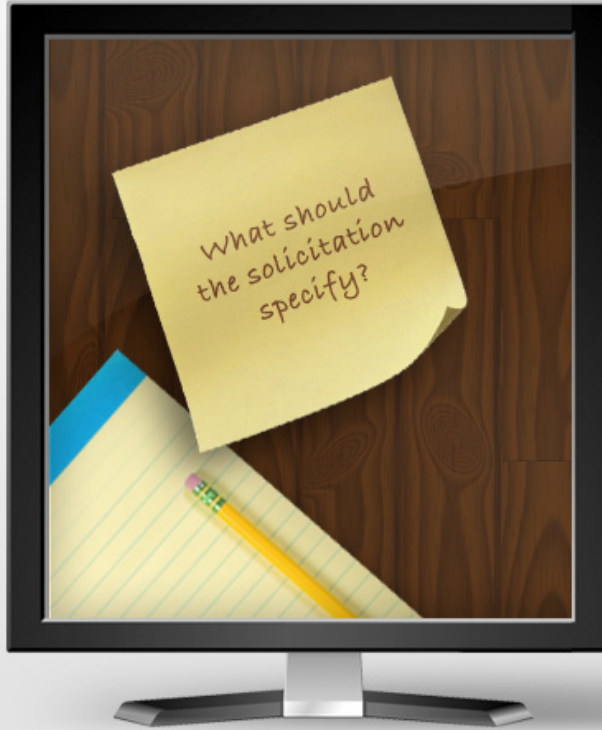**User Instructions:** Select Next to continue.

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## Offeror Information for Cost Analysis

### The Solicitation - What to Specify

The solicitation you prepare should specify:

- Whether certified cost or pricing data are required
- That, when certified cost or pricing data are required, the offeror may submit a request for exception from the requirement to submit certified cost or pricing data
- Whether data other than certified cost or pricing data is required, if certified cost or pricing data are not necessary
- Necessary pre-award or post award access to the offeror's records

What should the solicitation specify?

**User Instructions:** Select Next to continue.

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## Offeror Information for Cost Analysis
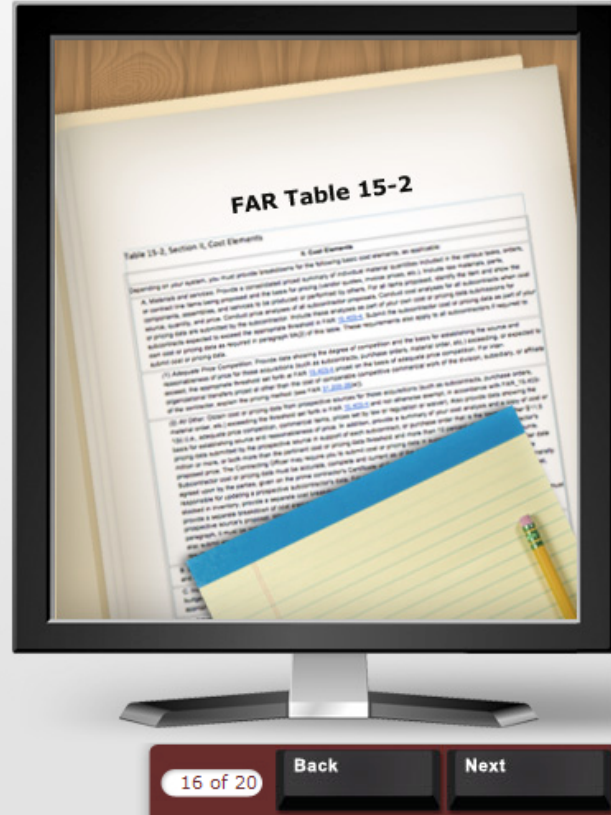
### Formatting the Solicitation

The FAR requires that certified cost or pricing data be submitted in one of three formats:

- The format outlined in FAR Table 15-2
- An alternate format outlined in the solicitation/contract
- A format selected by the offeror

FAR Table 15-2 provides instructions for preparing a contract pricing proposal when certified cost or pricing data are required. It has three main sections:

1. General Instructions
2. Cost Elements
3. Formats for Submission of Line Item Summaries

Select here to view a copy of FAR Table 15-2.



FAR Table 15-2

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**Offeror Information for Cost Analysis**

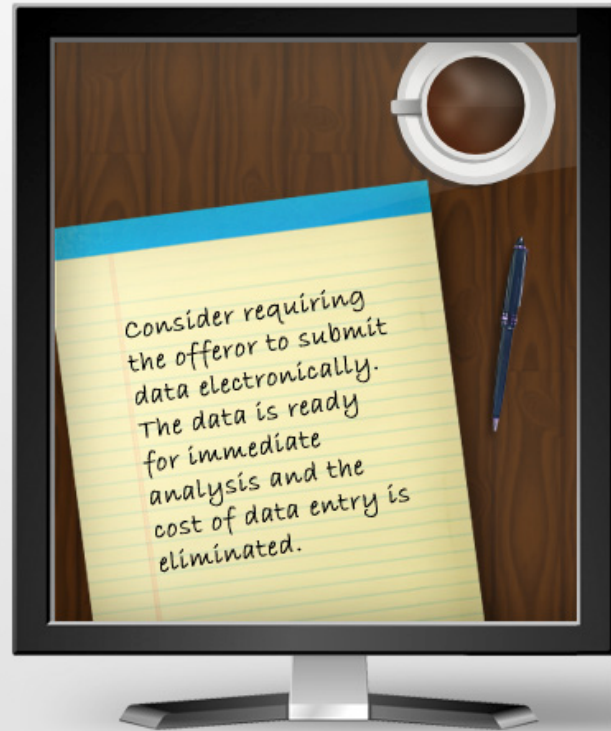Resources     Glossary     Help

## Formatting the Solicitation (cont.)

A few more words on formatting...

In addition to the formatting requirements you have learned so far, many contracting activities establish specific format and data requirements tailored to the products typically acquired by the activity.

In addition to FAR and local requirements, the Contracting Officer may establish format and data requirements for a specific contract.

Be careful. You must obtain the data required for cost analysis, but collection, formatting, manipulation, and analysis of unnecessary data can unreasonably increase contract costs. Be sure to only request data that prudent buyers and sellers would reasonably expect to affect price negotiations significantly.

Consider requiring the offeror to submit data electronically. The data is ready for immediate analysis and the cost of data entry is eliminated.

D

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REWIND                                        PLAY   CAPTIONS

Hi, You're doing a great job. We're almost there. One of my concerns is if the contractor submits certified cost or pricing data that is not current, accurate, or complete.

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**Offeror Information for Cost Analysis**

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REWIND PAUSE CC CAPTIONS

Review the FAR and tell me which clause provides the Government a remedy in case we get defective data. Thanks, Jessica

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## Offeror Information for Cost Analysis

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### Challenge Question #5

What clause in the FAR provides a remedy to the government in the event the contractor submits defective certified cost or pricing data on this modification?

**Hint:** In addition to reviewing the FAR, you may want to review Section I: Clauses of the original contract under the Resources tab. Note which clauses were and were not included.

- ○ A. FAR 52.215-11, Price Reduction for Defective Certified Cost or Pricing Data – Modifications
- ○ B. FAR 52.215-10, Price Reduction for Defective Certified Cost or Pricing Data
- ○ C. FAR 52.215-12, Subcontractor Certified Cost or Pricing Data
- ○ D. FAR 52.215-13, Subcontractor Certified Cost or Pricing Data – Modifications

[Check Answer]

**User Instructions:** Select the correct answer.

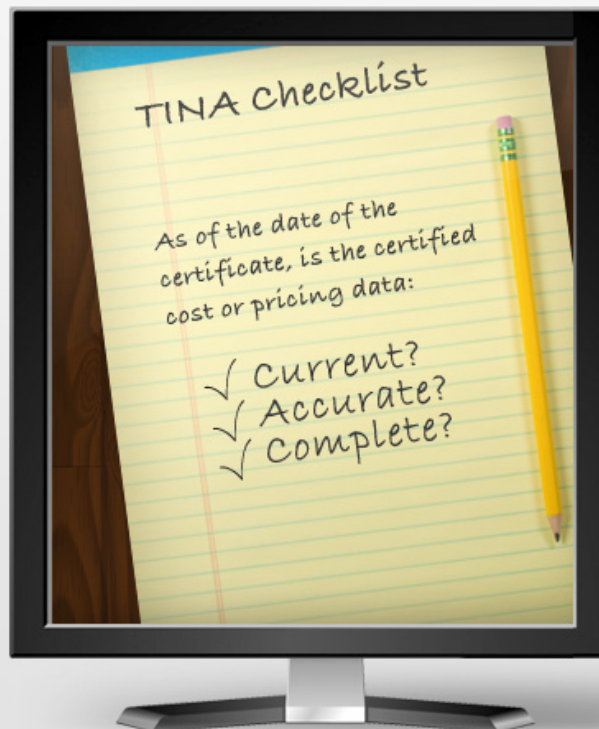18 of 20    Back    Next

**Offeror Information for Cost Analysis**

**Defective Pricing**

Remember that the goal of TINA is to establish information parity between the government and the contractors and subcontractors. If the certified cost or pricing data is defective, how can you determine the fairness of the offers?

If the data is subsequently found to **not** have been current, complete, or accurate, TINA provides an administrative remedy to the government to recover any overpricing as a result of this defective data.

See FAR 15.408(b) through FAR 15.408(d) for more information.

*TINA Checklist*

*As of the date of the certificate, is the certified cost or pricing data:*

✓ *Current?*
✓ *Accurate?*
✓ *Complete?*

D

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**Obtaining Data After Proposals Are Received**

Inevitably there will be instances when you need to obtain certified cost or pricing data after proposals are received.

- If offerors were required to submit certified cost or pricing data and you find out later that certification was not required, treat the data as data other than certified cost or pricing data.
- If the offeror refuses to provide the required data (or the data is deficient in some way), attempt to obtain the data again. If the offeror continues to refuse, withhold contract award and refer the contract action to higher authority.

What happens if the solicitation did not require certified cost or pricing data but you determine that you need to obtain it after you have received the proposals? Are you out of luck?

*Is it too late to get certified cost or pricing data information after I have all the proposals?*

D

**User Instructions:** Select Next to continue.

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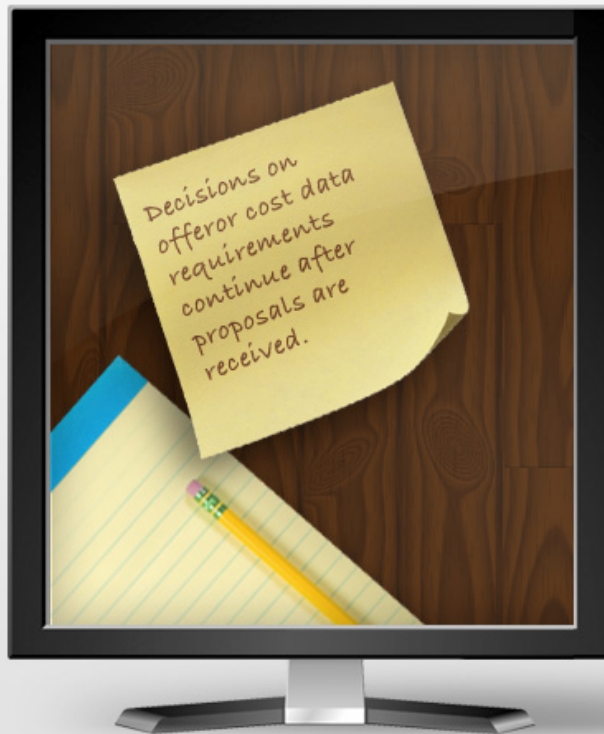## Offeror Information for Cost Analysis

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### Obtaining Data After Proposals Are Received (cont.)

If the solicitation does not require the submission of certified cost or pricing data, but the Contracting Officer later determines that the data are necessary to determine price reasonableness, go ahead and require the offeror to submit the required data prior to the close of contract negotiations.

This will delay the process, but may save you from paying too much.

Decisions on offeror cost data requirements continue after proposals are received.

D

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**Offeror Information for Cost Analysis**

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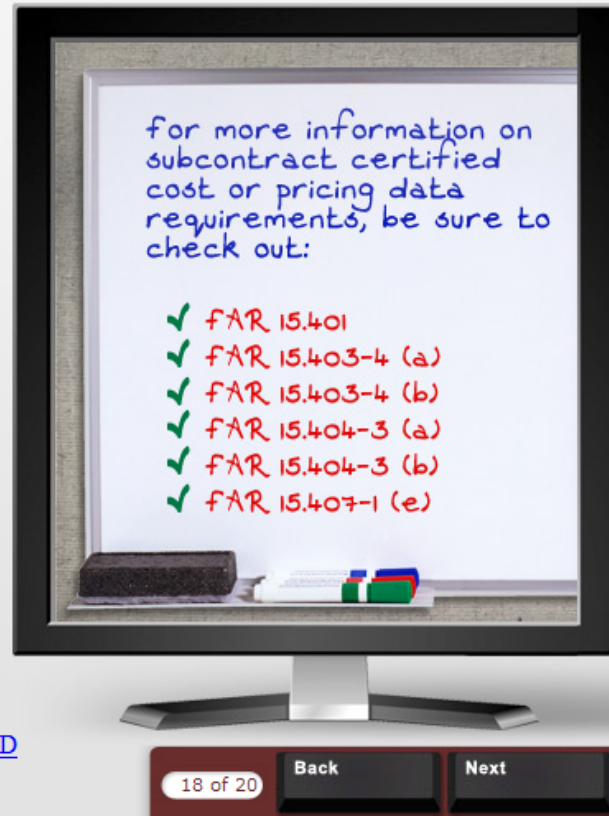## Certified Cost or Pricing Data for Subcontracts

As the Contracting Officer, you are responsible for the determination of price reasonableness for the prime contract, including subcontracting costs.

When certified cost or pricing data is required, any subcontractor or prospective subcontractor will submit to the prime contractor or appropriate subcontractor tier the following in support of any proposal:

- Certified cost or pricing data
- A certificate of current certified cost or pricing data in the format specified in FAR 15.406-2

Just like with the prime contractor, the government is entitled to a price adjustment, including profit or fee, for subcontractor certified cost or pricing data found to be inaccurate, incomplete, or noncurrent as of the date of final agreement on price or an earlier date agreed upon by the parties.

for more information on subcontract certified cost or pricing data requirements, be sure to check out:

✓ FAR 15.401
✓ FAR 15.403-4 (a)
✓ FAR 15.403-4 (b)
✓ FAR 15.404-3 (a)
✓ FAR 15.404-3 (b)
✓ FAR 15.407-1 (e)

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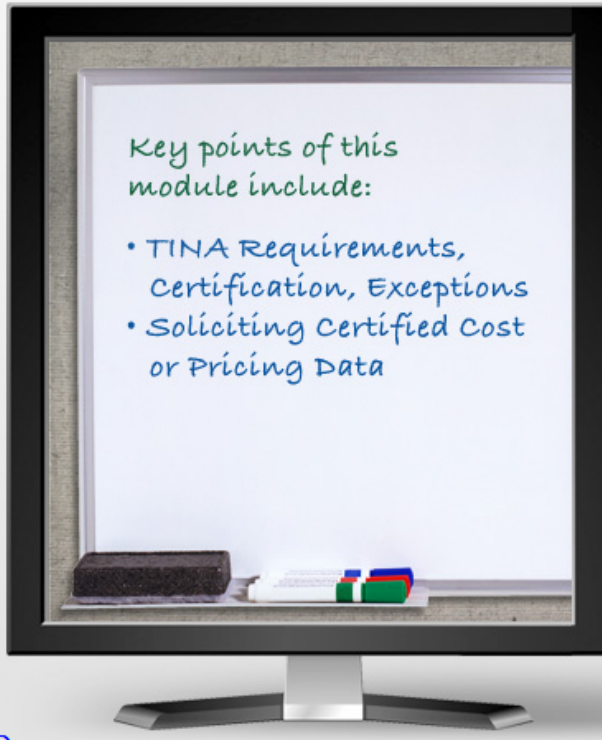## Offeror Information for Cost Analysis

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### Summary

Congratulations! You have completed this module that discussed how cost analysis involves the need for offerors to gather, document, and submit information prior to the close of negotiations.

Review the graphic on the right to see the key points for this module.

Key points of this module include:

• TINA Requirements, Certification, Exceptions
• Soliciting Certified Cost or Pricing Data

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**Summary (cont.)**

Now that you have completed this module, you should be able to:

- Identify key terms associated with the Truth in Negotiations Act (TINA)
- Determine if an exception to the Truth in Negotiations Act applies
- Select the appropriate authority for requiring an offeror to provide certified cost or pricing data
- Identify the remedy to the government in the event that a contractor submits defective data

**User Instructions:** Select the next module from the Table of Contents to continue.

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