

Certified Cost or Pricing Data Surviving the Audit Process

March 3, 2026



Agenda

- Truthful Cost & Pricing - TINA
- Cost or Pricing Data
- Exceptions to Cost or Pricing Data
- Purpose of Subcontract Audits/Proposal Analysis
- Audit Responsibility: EB or Government?
- EB Subcontract Audit Process
- Cost Elements
- Questions

Truthful Cost & Pricing Statute

10 U.S.C. § 2306a(h)(1), 41 USC § 254b

- Formerly known as TINA (Truth in Negotiations Act)
- Requires the purchase of supplies & services from responsible sources at fair & reasonable prices
- Requires the submission of certified cost or pricing data if the procurement exceeds the threshold - \$2M for awards on or after July 1, 2018, unless one of several stated exceptions applies
- **“Cost or Pricing Data”** are broadly defined to include “all facts that . . . prudent buyers and sellers would reasonably expect to affect price negotiations significantly”

What is Cost or Pricing Data? – FAR 2.101

“Cost or pricing data” (10 U.S.C. 2306a(h)(1) and 41 U.S.C. 254b) means **all facts that, as of the date of price agreement, or, if applicable, an earlier date agreed upon between the parties that is as close as practicable to the date of agreement on price, prudent buyers and sellers would reasonably expect to affect price negotiations significantly.**

FAR 15.406-2 – Certificate of Current Cost or Pricing Data

Cost or pricing data are factual, not judgmental; and are verifiable. While they do not indicate the accuracy of the prospective contractor’s judgment about estimated future costs or projections, **they do include the data forming the basis for that judgment.** Cost or pricing data are more than historical accounting data; they are all the facts that can be reasonably expected to contribute to the soundness of estimates of future costs and to the validity of determinations of costs already incurred. They also include such factors as—

- (1) Vendor quotations;
- (2) Nonrecurring costs;
- (3) Information on changes in production methods and in production or purchasing volume;
- (4) Data supporting projections of business prospects and objectives and related operations costs;
- (5) Unit-cost trends such as those associated with labor efficiency;
- (6) Make-or-buy decisions;
- (7) Estimated resources to attain business goals; and
- (8) Information on management decisions that could have a **significant** bearing on costs.

Fact -vs- Judgement

- Contractors are not liable for the accuracy of any judgmental estimate included in a price proposal or disclosed in negotiations, but must disclose all underlying data relating to those judgments, even if such data was not actually used in preparing estimates
- Contractors must disclose all facts necessary for the Government to (a) evaluate contractors estimates, and (b) form its own estimates and judgments
- The fact that a management decision has been made must be disclosed—e.g., a decision to invest in new equipment, a decision on make vs. buy

Why care about TINA?

- It is required by law, regulation, & contract
- Avoids the significant costs of defending against investigations
- Keeps you out of jail



When Does TINA Apply?

- Any Prime Contract or Contract Modification where value is expected to exceed \$2,000,000 for contracts awarded on/after 7/1/2018
 - Any Subcontract
 - Where Higher Tier contractor is required to submit Cost or Pricing Data; **and**
 - Price of Subcontract is expected to exceed \$2,000,000 for awards on/after 7/1/2018 (\$750K before 7/1/2018); **and**
 - No exception applies
- Note: “Subcontract” includes “a transfer of commercial items between divisions, subsidiaries, or affiliates of a contractor or a subcontractor.”
See FAR 15.401

Exceptions to Submittal of Cost or Pricing Data

- **Exception 1:** Prices based on adequate price competition
 - Must have two or more responsible offerors, competing independently, submit priced offers that satisfy the requirement; **and**
 - Award will be made to the offeror whose proposal represents the best value where price is a substantial factor in source selection; **and**
 - There is no finding that the price of the otherwise successful offeror is unreasonable

- **Exception 2:** Prices set by law or regulation

Examples:



Water



Electricity

Exceptions to Submittal of Cost or Pricing Data

- **Exception 3: Commercial Items**

- Must meet definition in FAR 2.101
- Item is of a type “customarily” used by public
- Sold or offered for sale
- Evolved item that will be offered for sale
- Item with “minor modifications” to meet Government requirements
- Services in support of Commercial Item
- Services sold at a catalog or market price

Does not require certified cost or pricing data but may require other data to support fair and reasonable pricing

- **Exception 4: Waiver**

- Requires Head of Contracting Activity (HCA) approval
- Used only in exceptional cases
- Must be able to determine pricing is fair and reasonable without cost or pricing data

Certification - FAR 15.402 (b)

- Cost or Pricing data must be “meaningfully disclosed,” not just made available
- After submission of Cost or Pricing data, Contractor must certify that data is “current, accurate and complete” **as of date of price agreement.** ¹
- TINA requires Seller to disclose to the Buyer all facts that might affect price negotiations



¹ (Note: Certification required only when “prices agreed upon” exceed threshold and exception does not apply – FAR 15.402 (b)).

Purpose of Subcontract Audits/Proposal Analysis

FAR 15.404-1

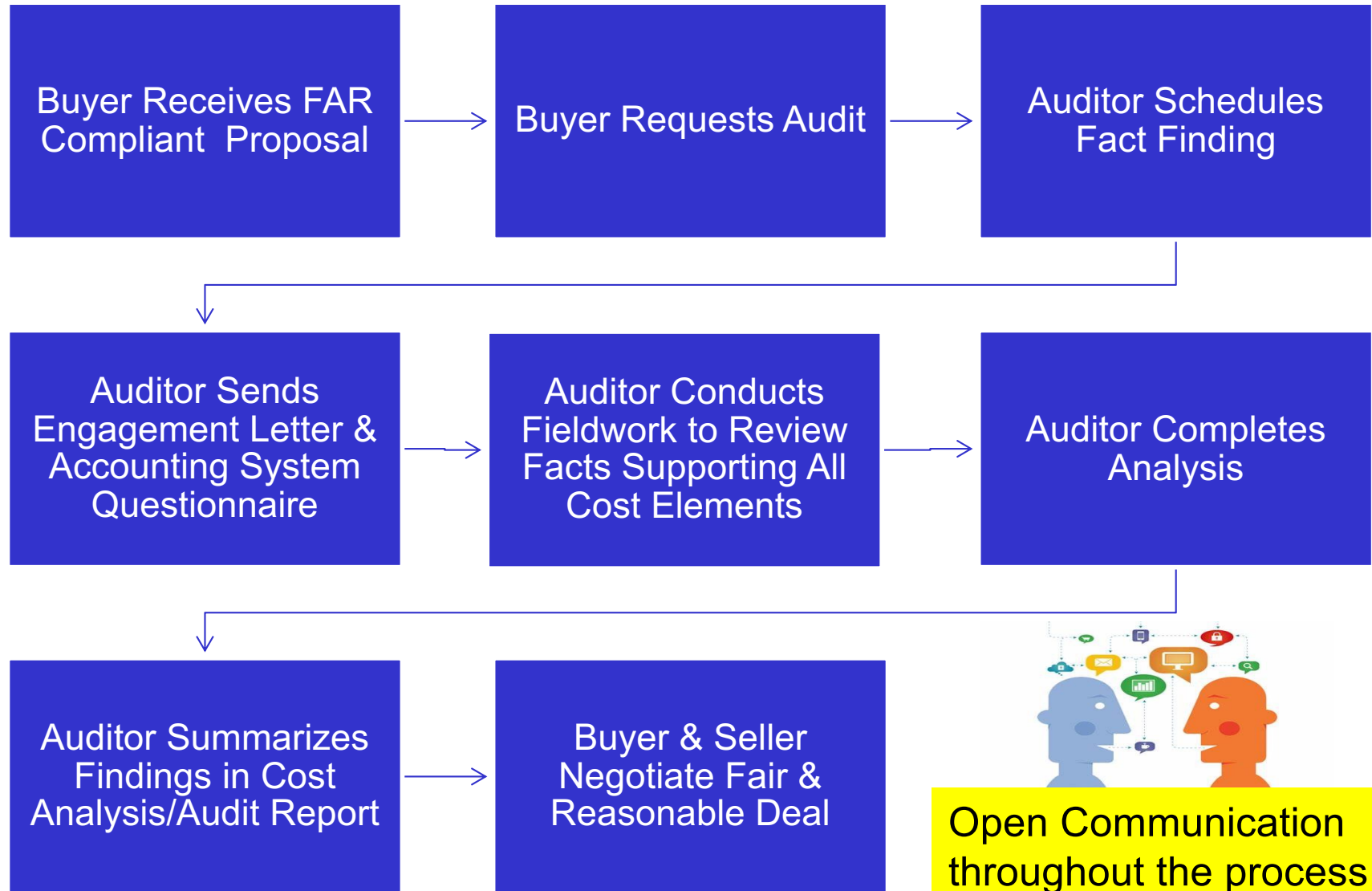
- The objective of proposal analysis is to ensure that the final agreed-to price is fair and reasonable
- *Cost analysis shall be used to evaluate the reasonableness of individual cost elements when certified cost or pricing data are required*
- Ensure compliance with Federal Acquisition Regulations (FAR) and Cost Accounting Standards (CAS)
- Cost elements are evaluated for allowability, allocability, and reasonableness

Audit Responsibility – EB or Government?

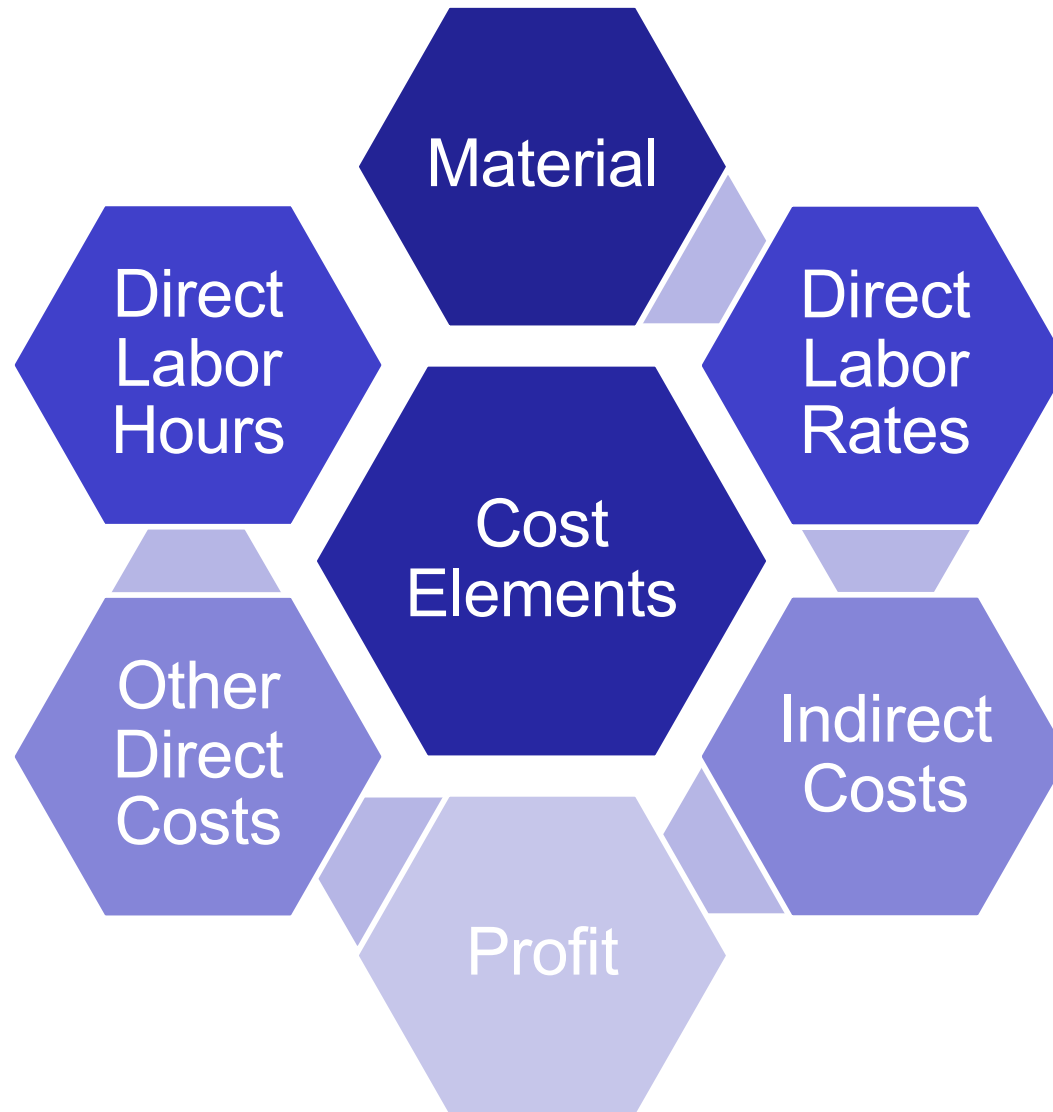
Considerations:

- **Communication & Exceptions**
 - DCMA/DCAA may not provide details surrounding exceptions taken
 - EB Subcontract Audit group provides calculations for review & discussion
 - EB Subcontract Audit readily incorporates updated proposal data and accepts additional costs during fact finding
 - EB Subcontract Audit group is easy to contact and works with the supplier throughout the audit process
- **Small Businesses exempt from CAS**
 - EB Subcontract Audit works to understand small business accounting systems
- **Technical Review**
 - EB Engineers conducting technical reviews are familiar with all technical requirements to facilitate discussions

EB Subcontract Audit Process



Cost Elements



Direct Material

- A priced bill of material listing the required items, the required quantities, the associated price, the source of the price, and any adjustments made to arrive at the proposed price is necessary

The screenshot shows an Excel spreadsheet with the following data:

Final Output	SKU	Category	Name	Quantity	UoM	Unit Cost	Cost
Monitor	12348	LED Panel	Placeholder1	2	Pieces	\$ 17.00	\$ 34.00
PC	87946	RAM 32 GB	Placeholder13	12	Pieces	\$ 48.00	\$ 576.00
PC	74854	RAM 16 GB	Placeholder12	1	Pieces	\$ 24.00	\$ 24.00
PC	85468	RAM 32 GB	Placeholder13	1	Pieces	\$ 48.00	\$ 48.00
Monitor	54231	LED Panel	Placeholder1	12	Pieces	\$ 17.00	\$ 204.00
PC	65412	RAM 16 GB	Placeholder12	13	Pieces	\$ 24.00	\$ 312.00
Monitor	46853	LED Panel	Placeholder1	1	Pieces	\$ 17.00	\$ 17.00
PC	96828	Screws	Placeholder19	1	Pieces	\$ 0.30	\$ 0.30
PC	60091	Power Supply	Placeholder9	1	Pieces	\$ 12.00	\$ 12.00
PC	73842	RAM 16 GB	Placeholder12	1	Pieces	\$ 24.00	\$ 24.00
PC	81662	RAM 32 GB	Placeholder13	2	Pieces	\$ 48.00	\$ 96.00
PC	76919	RAM 16 GB	Placeholder12	2	Pieces	\$ 24.00	\$ 48.00
PC	96024	Graphics card	Placeholder17	1	Pieces	\$ 170.00	\$ 170.00
Monitor	45614	LED Panel	Placeholder1	1	Pieces	\$ 17.00	\$ 17.00
PC	78342	RAM 16 GB	Placeholder12	1	Pieces	\$ 24.00	\$ 24.00
Total				52		\$	1,606.30

Summary Table:

Finished Product	Computer Setup
Total number of pieces	52.0
Total Price	\$ 1,606.30

Direct Material (continued)

- A sample is selected representing ~80% for verification to source documents.
- Supporting documentation is compared to the BOM pricing
- Escalation is evaluated through “S&P Global”

S&P Global
Market Intelligence

North America Long-term Tables

Pricing and Purchasing Service
Fourth Quarter 2024 Forecast

Table A3 Defense/Aerospace Fourth Quarter 2024 Forecast Index		2025	2026	2027	2028	2029	2030
Ship and Boat Building (December 1984=100)							
PPI3366		289.7	294.9	299.5	304.4	309.9	316.3
%		1.7	1.8	1.6	1.6	1.8	2.1
Ship Building and Repair (December 1985=100)							
PPI336611		256.4	260.0	263.3	267.1	271.9	277.2
%		2.0	1.4	1.3	1.4	1.8	2.0
Boat Building and Repair (December 1981=100)							
PPI336612		390.8	400.3	408.8	416.6	424.7	434.4
%		1.4	2.4	2.1	1.9	1.9	2.3
Search, Detection, Navigation, Guidance, Aeronautics							
PPI334511		208.7	216.4	216.3	217.7	222.0	226.6
%		4.7	3.7	0.0	0.7	2.0	2.1

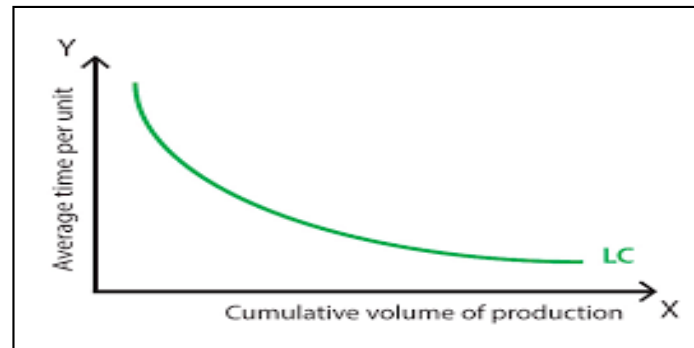
S&P Global
Index
EXAMPLE

Direct Material (continued)

- Quantity adjustments are performed with a Wright (cumulative) learning curve where applicable
- Single or sole source subcontracts exceeding \$2M, not otherwise exempt for the requirement to submit certified cost or pricing data, must be audited

Direct Labor Hours

- If the procurement is for a repeat buy, historical labor hour returns are obtained for as far back as possible
- The historical returns are fitted on a **learning curve** to determine the level of learning the supplier has been achieving throughout the various builds. The proposed work is then extended down the resultant learning curve to project the learning onto the current production



- For a new buy, a technical evaluation is obtained from EB Engineering. Any historical hours from like items should be obtained to assist the engineers in their evaluation

Direct Labor Rates

- Direct labor rates are evaluated to the supplier's accounting records depending upon the type of accounting system maintained by the supplier
- For some suppliers a list of employees by function and their rates must be obtained and verified to payroll records
- If a supplier is unionized, labor rate escalation can be verified by the union agreement for the period that the agreement is in place
- Labor escalation can be verified through "S&P Global" forecasts

Indirect Rates

- Indirect costs are costs that are not directly identifiable to a specific contract or cost objective
- Indirect costs are allocated to indirect cost pools based on the benefits the specific costs provide to the base costs used as the denominator in the rate calculation
- The sum of the allowable costs in each cost pool is divided by the base costs (direct labor, direct material, total cost input, etc.) for each cost pool
- The result is the indirect rate (Material Burden, Manufacturing Overhead, Engineering Overhead, G&A, etc.)

Indirect Rates – Subcontract Audit Review

- Review **actual** incurred rates including cost pools, detailed by cost element, and bases for previous 4 years. Historical details provide insight into the fluctuations that may occur from year to year
- A sample of items will be verified with accounting system general ledger/trial balance. Verification can be visual or via screenshots from system
- Provide detail of cost pools and bases for forecasted rates, if applicable
- Review the business plan for out-years including the material plan, workload, and any other significant business change and methodology for incorporating such details in the forecasted rates

Acceptability of Costs

- **Allowability** – Costs can be allowable for tax purposes, but not for Government contracts. It should be ensured that all costs are allowable in accordance with FAR 31.205
- **Allocability** – To be allocable, a cost must meet one of the following conditions:
 - Incurred specifically for the contract
 - Benefits both the contract and other work, and can be distributed in reasonable proportions to benefits received
 - Is necessary for the overall operation of the business although a direct relationship to any specific cost objective cannot be shown
- **Reasonable** – A cost is reasonable if, in nature and amount, it does not exceed the amount which would be incurred by a reasonable person in the conduct of competitive business

FAR Strictly Unallowable Costs

- Bad Debts
- Donations
- Entertainment
- Fines and Penalties
- Interest & Financing
- Losses of Other Contracts
- Alcoholic Beverages
- Political Activity Costs
- Lobbying Costs
- Federal Income Tax
- Taxes on Financing
- Goodwill
- Corporate Structure Organization Costs

Costs That Are Allowable Within Certain Guidelines

- Rental Costs
- Depreciation
- Bid & Proposal / Independent R&D Costs
- Gains & Losses on Disposition of Capital Assets
- Help Wanted Advertising
- Relocation Costs
- Public Relations
- Termination Costs
- Employee Moral and Well Being
- Bonuses and Incentive Compensation
- Common Control Rental Costs

Questions



An aerial photograph of a ship's wake in the ocean. The water is dark blue-grey, and the wake is a white, frothy trail. A person is visible on the deck of the ship in the distance. A semi-transparent green rectangular box is overlaid in the center of the image, containing white text.

Thank You!

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