

mutually determined specified date prior to the date the price of any:

(1) Negotiated contract is determined, if the total contract price is expected to exceed \$100,000, or a smaller amount set by the procurement officer; or

(2) Change order or contract modification is determined which is expected to exceed \$100,000, or a smaller amount set by the procurement officer.

(b) Every contract, change order, or modification under which a cost and price certificate is required shall contain a provision that the price, including profit or fee, shall be adjusted to exclude any significant price increases occurring because the contractor furnished cost or price information which, as of the date agreed upon between the parties, was inaccurate, incomplete, or not current.

(c) This section need not be applied to contracts for which 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.]

#### 11-120. COST AND PRICE CERTIFICATE.

(A) THIS SECTION APPLIES TO A CONTRACT, CHANGE ORDER, OR CONTRACT MODIFICATION, OTHER THAN A LEASE OF REAL PROPERTY OR AMENDMENT TO A LEASE OF REAL PROPERTY, EXPECTED TO EXCEED \$100,000 OR A SMALLER AMOUNT SET BY THE PROCUREMENT OFFICER, IF THE PRICE:

(1) WILL BE ESTABLISHED BY A PROCUREMENT METHOD OTHER THAN COMPETITIVE SEALED BIDDING; AND

(2) WILL NOT BE:

(I) BASED ON ADEQUATE PRICE COMPETITION;

(II) BASED ON ESTABLISHED CATALOG OR MARKET PRICES OF COMMERCIAL ITEMS SOLD IN SUBSTANTIAL QUANTITIES TO A SIGNIFICANT NUMBER OF BUYERS; OR

(III) SET BY LAW OR REGULATION.

(B) EACH OFFEROR OR CONTRACTOR SHALL SUBMIT COST OR PRICE INFORMATION AND SHALL CERTIFY THAT, TO THE BEST OF THE KNOWLEDGE OF THE OFFEROR OR CONTRACTOR, THE INFORMATION SUBMITTED IS ACCURATE, COMPLETE, AND CURRENT AS OF A MUTUALLY DETERMINED SPECIFIED DATE BEFORE THE CONCLUSION OF ANY PRICE DISCUSSIONS OR NEGOTIATIONS.

(C) EVERY CONTRACT, CHANGE ORDER, OR CONTRACT MODIFICATION FOR WHICH A COST AND PRICE CERTIFICATE IS REQUIRED SHALL CONTAIN