Date - Month Day, Year>

MEMORANDUM FOR RECORD

SUBJECT: Commercial Item Determination: <Part Number/Service, Program, Prime Contractor name / Subcontractor name and proposal identifier (e.g., proposal number, RFP number, contract number>

# EXECUTIVE SUMMARY OF COMMERCIAL ITEM DETERMINATION (CID)

The DCMA Commercial Item Group (CIG) Contracting Officer determines, as implemented by the Defense Federal Acquisition Regulation Supplement (DFARS) 212.102(a)(i)(A), that the <item/service> meets/does not meet the commercial item definition in the Federal Acquisition Regulation (FAR) 2.101 < state the subpart definition that applies if it’s an affirmative determination >.

<This is a summary and includes only a high-level overview of the Contracting Officer’s CID. Detailed support for the findings is presented in the appropriate CID sections. The format can be a brief narrative, table, bullet statements, or any combination of formats.>

Commercial Item Determination Summary:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Prime Contractor P/N** | **Subcontractor P/N** | **NSN** | **Nomenclature** | **Contracting Officer’s CID** |
|  |  |  |  | (e.g. Paragraph 1,  Paragraph 3(i)) |
|  |  |  |  |  |

<For Commercial Item Determinations on services, include one of the following paragraphs as applicable:>

<For pre-solicitations:> This determination is associated with a pre-solicitation request from the customer. Therefore, DCMA CIG was unable to review the terms and conditions for the anticipated contract. Also, the undersigned recognizes that even if the services stay the same from one acquisition to the next, the terms and conditions can change. Therefore, current and future use of this determination for the services is dependent upon the services remaining the same and the terms and conditions being similar to those offered to the general public.

<For non- pre-solicitations:> The undersigned recognizes that even if the services stay the same from one acquisition to the next, the terms and conditions can change. Therefore, current and future use of this determination for the services is dependent upon the services remaining the same and the terms and conditions being similar to those offered to the general public.

Note: the COMMERCIALITY ASSESSMENT section of this memorandum addresses the above determination in greater detail.

# DESCRIPTION OF ITEM OR SERVICE

The format can be a brief narrative, table, bullet statements, or any combination of formats but must contain a description of the acquisition (i.e., what commercial items or services are the subject of the CID), as well as the purpose/functionality of the item/service.

# COMMERCIALITY ASSESSMENT

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| --- | --- | --- | --- | --- |
| Prime Contractor P/N | Subcontractor P/N | NSN | Nomenclature | Contracting Officer’s CID |
|  |  |  |  | (i.e., Paragraph 1,  Paragraph 3(i)) |

Include a narrative summary of the contractor’s Commercial Item Justification, including the contractor’s basis.>

Include a clear statement of determination along with the details supporting how the item/service meets the FAR definition of commercial. Identify the specific FAR 2.101 commercial item subparagraph (i.e., paragraph (1), (3)(i), etc.) definition in its entirety (i.e. verbatim quote of the entire subparagraph) for the CID.

The contracting officer should include a description of the essential physical characteristics and function of the proposed product or service and how it compares to a comparable (“of a type”) product or service. Recommend showing a side-by-side comparison of the contractor’s proposed product or service and the commercial comparable product or service using a comparison table. Be sure to include the commercial similar-to part number or service that was utilized in the assessment.

Use the following tables as guidelines to assure there is substantiation for each part of the applicable definition that is determined. All boxes within a definition must be checked in order for the item to meet the definition:

DEFINITION 1: Any item, other than real property, that is of a type customarily used by the general public or by non-governmental entities for purposes other than governmental purposes, and--

(i) Has been sold, leased, or licensed to the general public; or,

(ii) Has been offered for sale, lease, or license to the general public;

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| Is the item of a type customarily used by the general public or non-government entities for purposes other than governmental purposes?  Has the item been sold, leased, or licensed to the general public or offered for sale, lease or license to the general public? | 1. Substantiate how the proposed and of a type item(s) are similar (form, fit, function, features, specs, etc) 2. Substantiate where the item has been   (i) sold, leased, or licensed to the general public; or,  (ii) offered for sale, lease, or license to the general public; |

DEFINITION 2: Any item that evolved from an item described in paragraph (1) of this definition through advances in technology or performance and that is not yet available in the commercial marketplace, but will be available in the commercial marketplace in time to satisfy the delivery requirements under a Government solicitation;

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| Has the item evolved from an item that meets definition 1 above, but is not yet available in the commercial marketplace?  Will the item be available in the commercial marketplace in time to satisfy delivery requirements under a Government solicitation? | 1. Substantiate per definition 1 above the item from which the proposed item evolved 2. Substantiate when the evolved item will be available in the commercial marketplace and when the delivery requirements under a Government solicitation will occur |

DEFINITION 3(i): Any item that would satisfy a criterion expressed in paragraphs (1) or (2) of this definition, but for --

(i) Modifications of a type customarily available in the commercial marketplace; or

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| Does the proposed item meet definition (1) except for modification(s)?  Are the modification(s) customarily available in the commercial marketplace? | 1. Substantiate per definition (1) or (2) for the item that is being modified 2. Substantiate each modification and describe 3. Substantiate where each modification is commercially available in the marketplace |

DEFINITION 3(ii): Any item that would satisfy a criterion expressed in paragraphs (1) or (2) of this definition, but for -- (ii) Minor modifications of a type not customarily available in the commercial marketplace made to meet Federal Government requirements. Minor modifications means modifications that do not significantly alter the nongovernmental function or essential physical characteristics of an item or component, or change the purpose of a process. Factors to be considered in determining whether a modification is minor include the value and size of the modification and the comparative value and size of the final product. Dollar values and percentages may be used as guideposts, but are not conclusive evidence that a modification is minor;

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| Does the proposed item meet definition (1) except for modification(s)?  Are the modifications **minor** modification(s) of a type not customarily available in the commercial marketplace made to meet Federal Government requirements? | 1. Substantiate per definition (1) or (2) for the item that is being modified 2. Substantiate each modification and describe the purpose of the modification 3. Substantiate why the modification(s) is/are minor (i.e. the modifications haven’t significantly altered the item’s non-governmental function or essential physical characteristics) 4. Add FAR 15.403-1(c)(3)(iii)(C) requirement for certified cost or pricing data |

DEFINITION 4: Any combination of items meeting the requirements of paragraphs (1), (2), (3), or (5) of this definition that are of a type customarily combined and sold in combination to the general public;

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| Does the proposed item meet the definition of a combination of paragraphs (1), (2), (3), or (5) that are of a type customarily combined and sold in combination to the general public? | List all of the applicable annotations for the definitions of the combination of items (1), (2), (3), or (5). |

DEFINITION 5: Installation services, maintenance services, repair services, training services, and other services if--

(i) Such services are procured for support of an item referred to in paragraph (1), (2), (3), or (4) of this definition, regardless of whether such services are provided by the same source or at the same time as the item; and

(ii) The source of such services provides similar services contemporaneously to the general public under terms and conditions similar to those offered to the Federal Government;

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| Are the services procured for support of an item that meets the definition in paragraphs (1), (2), (3), or (4) regardless of whether such services are provided by the same source or at the same time as the item?  Does the source of such services provide similar services **contemporaneously** to the general public under terms and conditions similar to those offered to the Federal Government? | 1. Substantiate description of service(s) 2. Substantiate the item for which such services are procured 3. Substantiate that the item being supported is commercial or has been determined commercial (services do not have to be provided by the same source or at the same time as the item) 4. Substantiate where the source of such services provides similar services contemporaneously to the general public 5. Substantiate where these similar services are provided under terms and conditions similar to those offered to the Federal Government; |

DEFINITION 6: Services of a type offered and sold competitively in substantial quantities in the commercial marketplace based on established catalog or market prices for specific tasks performed or specific outcomes to be achieved and under standard commercial terms and conditions. For purposes of these services—

(i) “Catalog price” means a price included in a catalog, price list, schedule, or other form that is regularly maintained by the manufacturer or vendor, is either published or otherwise available for inspection by customers, and states prices at which sales are currently, or were last, made to a significant number of buyers constituting the general public; and

(ii) “Market prices” means current prices that are established in the course of ordinary trade between buyers and sellers free to bargain and that can be substantiated through competition or from sources independent of the offerors.

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| Is the service of a type:  Offered and sold **competitively** in the commercial marketplace?  Sold in **substantial** quantities in the commercial marketplace based upon established catalog or market prices for specific tasks performed or specific outcomes to be achieved?  Are the services proposed using standard commercial terms and conditions? | (1) Substantiate of a type services that are offered and sold in the commercial marketplace  (2) Substantiate where these of a type services are sold competitively in the commercial marketplace  (3) Substantiate where these of a type services are sold in substantial quantities in the commercial marketplace based on established catalog or market prices for specific tasks performed or specific outcomes to be achieved  (4) Substantiate that the proposed services are proposed using standard commercial terms and conditions. |

\*\*FAR 15.403-1(c)(3)(ii)(A) requires that when services are “of a type”, they may be considered commercial items “only if the contracting officer determines in writing that the offeror has submitted sufficient information to evaluate, through price analysis, the reasonableness of the price of such services.”

DEFINTION 7: Any item, combination of items, or service referred to in paragraphs (1) through (6) of this definition, notwithstanding the fact that the item, combination of items, or service is transferred between or among separate divisions, subsidiaries, or affiliates of a contractor.

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| Does the item, combination of items, or service meet the definition in paragraphs (1) through (6)?  Is this item, combination of items, or service transferred between or among separate divisions, subsidiaries, or affiliates of a contractor? | (1) Substantiate which of the above definitions are included  (2) Substantiate evidence for the definition above that applies (1-6)  (3) Substantiate whether the items or services are interdivisional, subsidiaries or affiliates of the contractor. |

DEFINITION 8: A nondevelopmental item, if the procuring agency determines the item was developed exclusively at private expense and sold in substantial quantities, on a competitive basis, to multiple State and local governments.

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| Is the item a nondevelopmental item?  Was the item developed exclusively at private expense?  Has the item been sold in substantial quantities, on a competitive basis, to multiple State and local governments? | Substantiate evidence that the items were  (1) developed exclusively at private expense  (2) sold in substantial quantities  (3) on a competitive basis  (4) to multiple state and local Governments: |

Incorporate executive summary from the technical report or excerpts to support determination as well as any market research.

**DETERMINATION**

Based upon the findings above, I determine <list part number(s) or service(s)> meets the commerciality definition in FAR 2.101<subparagraph(s)> and therefore, determine this item/service to be commercial.

<For Commercial Item Determinations on services, include one of the following paragraphs as applicable:>

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Name of Contracting Officer DATE

Commercial Item Determination Contracting Officer

Name of Reviewer DATE

Title of Reviewer (e.g., one level above Contracting Officer)

**Attachment:** DCMA CIG Engineering Report (FOUO\_DCMA\_CIG\_CTAR\_FYXX\_XXX)

*Note that if the determination relies on subsections (1)(ii), (3), (4), or (6) of the “commercial item” definition at FAR 2.101, the determination must be approved at one level above the contracting officer in accordance with DFARS 212.102(a)(i)(C).*