

COMMERCIAL ITEM DETERMINATION - SUPPLIER ASSERTION

Offeror: If Offeror believes that the items or services proposed qualify as "Commercial Items" under Federal Acquisition Regulation (FAR) Subpart 2.1, the Offer is required to complete and return this form with all required information to support their claim. The Offeror's failure to provide the requested information will preclude the Buyer from accepting Offeror's assertion of commerciality, thereby requiring the Buyer to treat the items or services as non-commercial or otherwise find the proposal unresponsive and exclude the proposal from consideration.

SECTION 1 OFFEROR INFORMATION

OFFEROR NAME

OFFEROR PHONE NUMBER

CHECK ONE:

- ☐ SUPPLIER ASSERTION OF COMMERCIALITY APPLIES TO PARTS LISTED BELOW, or
☐ ALL ITEMS PRODUCED BY THIS SUPPLIER AT THIS TIME

SECTION 2 LIST OF PROPOSED COMMERCIAL PARTS

(Use blank space on Page 4 to list additional items)

ITEM #	ITEM / SERVICE DESCRIPTION
1	
2	
3	
4	

SECTION 3 OFFEROR ASSERTION OF COMMERCIALITY

AN ITEM/SERVICE SHALL BE DEFINED AS COMMERCIAL IF IT MEETS ONE OR MORE OF THE FOLLOWING CRITERIA (REFERENCE FAR 2.101)

1. Unmodified Commercial Items or Components
2. Items That Will Be Available in the Commercial Marketplace in Time to Satisfy the Delivery Requirements
3. Items with Commercial or Minor Modifications
4. Any Combination Of (1), (2), (3), or (5) Sold In Combination to the General Public
5. Services in Support of a Commercial Item
6. Standalone Commercial Services
7. Combination of Items/Services Transferred from a Contractor's Divisions, Affiliates, or Subsidiaries
8. A non-developmental item which has been developed exclusively at private expense and sold in substantial quantities

SEE BELOW FOR FULL DEFINITIONS AND INSTRUCTIONS

EVIDENCE REQUIRED IN SUPPORT OF COMMERCIALITY

1. Invoices of Commercial Sale
2. Proposal of Items Offered for Commercial Sale
3. Quotes of Items Offered for Commercial Sale
4. Evidence of Public Pricing Availability
5. Published Price List / Web Pricing
6. Evidence to Suggest Items Were Developed at Private Expense

FAR 2.101 Commercial Item Definition paragraph	ASSERTION	COMMERCIAL ITEM TYPE	ITEM #
1		Unmodified Commercial Items or Components Any item, other than real property, that is of a type customarily used by the general public or by non-governmental entities for other than governmental purposes, AND	
1(i)		Item has been SOLD, leased or licensed to the general public OR	
1(ii)		Item(s) have been OFFERED for sale, lease or license to general public.	

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If either #1(i) or 1(ii) above are marked "Yes," please attach the supporting evidence (as defined above) and proceed to Section 4 of this form. Documented evidence **MUST** be attached for commercial item approval.

Supporting documentation includes, but is not limited to; proof of sale(s), invoices, lease(s), license(s), proposals, or catalogs. The goal is to show relevant sales with the general public for comparable quantities for each item JHU/APL and the Government should not be included as part of the sales data. Documentation should be dated within the past year.

If both #1(i) or 1(ii) above are marked "No," then proceed to #2 below.

2		Any items that (a) evolved from commercial items or components through advances in technology/performance, and (b) 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 this solicitation.	
If #2 above is marked "Yes," please attach the supporting evidence (as defined above) and proceed to Section 4 of this form. Documented evidence <u>MUST</u> be attached for commercial item approval. <i>Supporting documentation includes, but is not limited to; proof of sale(s), invoices, lease(s), license(s), proposals, or catalogs. The goal is to</i> <i>Use the blank space on Page 4 to describe (1) the original item (2) how it has evolved (e.g., product updates/improvements, model changes), and (3) when it is anticipated to be available in the commercial marketplace.</i> If #2 above is marked "No," then proceed to #3 below.			
3		Any item that would satisfy a criterion expressed in paragraphs (1) or (2) of the definition above, but for:	
3(i)	Modifications of a type customarily available in the commercial marketplace; OR		
3(ii)	Minor modifications of a type not customarily available in the commercial marketplace made to meet Federal Government requirements. <i>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.</i>		
If either #3(i) or 3(ii) above are marked "Yes," please attach the supporting evidence (as defined above) and proceed to Section 4 of this form. Documented evidence <u>MUST</u> be attached for commercial item approval. - <i>Supporting documentation includes, but is not limited to; proof of sale(s), invoices, lease(s), license(s), proposals, or catalogs. The goal is to If asserting commercial per 3(i) use the blank space on Page 4 to describe (1) the commercial item, (2) the type of modification, and (3) give examples of how it is available in the commercial marketplace.</i> - <i>If asserting commercial per 3(ii) use the blank space on Page 4 to describe the modification and how it complies with the above criteria including the value/size of the modification in comparison to the value/size of the original (commercial) item. If the variance is greater than 5%, please provide a full technical analysis.</i> If both #3(i) or 3(ii) above are marked "No," then proceed to #4 below.			
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	
If #4 above is marked "Yes," please attach the supporting evidence (as defined above) and proceed to Section 4 of this form. Documented evidence <u>MUST</u> be attached for commercial item approval. <i>Supporting documentation includes, but is not limited to; proof of sale(s), invoices, lease(s), license(s), proposals, or catalogs. The goal is to</i> <i>Describe similar commercial instances and provide supporting documentation for sales data (e.g. sale(s), invoices, lease(s) or license(s)) with the general public for comparable quantities.</i> If #4 above is marked "No," then proceed to #5 below.			
5		Services in Support of a Commercial Item: For installation, maintenance, repair, training or other services, in which:	

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5(i)	Such services are procured for support of an item that meet the requirements in paragraphs (1) through (4), regardless of whether such services are provided by the same source or at the same time as the item AND	
5(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.	
If #5(i) and 5(ii) above are marked "Yes," please attach the supporting evidence (as defined above) and proceed to Section 4 of this form. Documented evidence <u>MUST</u> be attached for commercial item approval. <i>Supporting documentation includes, but is not limited to; proof of sale(s), invoices, lease(s), license(s), proposals, or catalogs. The goal is to</i> <i>(1) Document how the supported items were determined commercial, (2) describe the services being offered in comparison to what is provided to the general public and (3) identify commercial customers for whom the same or similar services have been provided. Provide supporting documentation for sales data with the general public for comparable quantities or give examples or describe how such services are provided contemporaneously to the general public under terms and conditions similar to those offered under this solicitation.</i> If either #5(i) or 5(ii) above are marked "No," then proceed to #6 below.		

6	Standalone Commercial Services Services are 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, under standard commercial terms and conditions	
6(i)	Item(s) based on Catalog Price(s) <i>"Catalog price" means a price included in a catalog, price list, schedule, or other form that is:</i> - regularly maintained by the manufacturer or vendor; - 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	
6(ii)	Items based on Market price(s) <i>"Market price" 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</i>	

If either #6(i) or 6(ii) above are marked "Yes," please attach the supporting evidence (as defined above) and proceed to Section 4 of this form. Documented evidence **MUST** be attached for commercial item approval.

Supporting documentation includes, but is not limited to; proof of sale(s), invoices, lease(s), license(s), proposals, or catalogs. The goal is to

- *If asserting commercial per 6(i), then:*
 - o *Attach a copy, or otherwise identify, the catalog, its date and/or the appropriate pages for the offered service tasks/outcomes*
 - o *Use the blank space on Page 4 to describe the catalog itself (published/unpublished, available to customers, confirmation of current pricing, etc.)*
 - o *Use the remaining blank space on Page 4 to explain the basis for each commercial service item price and its relationship to the established catalog price (including how the commercial price relates to the price of recent sales in quantities similar to the proposed quantities)*
- *If asserting commercial per 6(ii), use the blank space on Page 4 to describe the source and date (or period) of the commercial market price, the base amount and applicable discounts that may be expected, and describe the nature of the market.*

If both #6(i) or 6(ii) above are marked "No," then proceed to #7 below.

7	Combination of Items/Services Modified/Unmodified/Evolved from Commercial Items/Services transferred from a contractor's divisions, affiliates, or subsidiaries <i>Any item, combination of items, or service referred to in (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</i>	
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If #7 above is marked "Yes," please attach the supporting evidence (as defined above) and proceed to Section 4 of this form. Documented evidence **MUST** be attached for commercial item approval.

Supporting documentation includes, but is not limited to; proof of sale(s), invoices, lease(s), license(s), proposals, or catalogs. The goal is to

Use the blank space on Page 4 to describe your item or service meets this definition then describe in detail the circumstances that support this assertion.

If #7 above is marked "No," then proceed to #8 below.

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8	A non-developmental item which has been developed exclusively at private expense and sold in substantial quantities, on a competitive basis, to multiple State and local governments	
If #8 above is marked "Yes," please attach the supporting evidence (as defined above) and proceed to Section 4 of this form. Documented evidence <u>MUST</u> be attached for commercial item approval. <i>Supporting documentation includes, but is not limited to; proof of sale(s), invoices, lease(s), license(s), proposals, or catalogs. The goal is to</i> <i>Use the blank space on Page 4 to provide evidence of the exclusive development at private expense and provide supporting documentation for sales data to state and local government (e.g. sale(s), invoice(s), lease(s) or license(s)). Sales Data submitted should be within one year.</i>		

SECTION 4 OFFEROR'S CERTIFICATION

OFFEROR'S ASSERTION OF COMMERCIALITY CERTIFICATION			
<i>By signing below, the Offeror certifies that they have made this Commerciality Assertion of their own accord and has provided adequate justification consistent with Federal Acquisition Regulation (FAR) to support their claim. The Offeror, furthermore, acknowledges they have provided data consistent with commercial pricing (published catalog pricing, market pricing, evidence of recent prices paid by commercial customers for the same or similar items at similar quantities) to determine price fair and reasonableness.</i>			
Name (Type or Print)		Title	
Signature			
Date	Phone	Email	

SECTION 5 SPACE FOR ADDITIONAL INFORMATION FOR OFFEROR

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SECTION 6 APL INTERNAL USE ONLY

APL PROCUREMENT REPRESENTATIVE COMMERCIAL ITEM DETERMINATION

☐

Item is Commercial

☐

Item is not Commercial

APL Procurement Representative Name (*Type or Print*)

Signature

Date

AWARDS EXCEEDING \$350K

APL TECH REP NAME (*Type or Print*)

Signature

Date

SECTION 7 APL INTERNAL USE ONLY - SPACE FOR ADDITIONAL INFORMATION

Example Section 7 Responses; keep one and elaborate below (APL Only):

This item is a commercial purchase based on the attached quotes to non-Government customers.