

Commercial Item Identification Brochure

COMMERCIAL ITEM IDENTIFICATION AND SUBMISSION OF MARKET RESEARCH DATA

1. The Federal Acquisition Streamlining Act , P.L.103-355, and the Federal Acquisition Regulation (FAR) support preference for the acquisition of commercial items. Identification of commercial items which meet the government's requirements can provide benefits to the government as well as contractors. This brochure is used in conjunction with the Commerce Business Daily (CBD) as well as other long term forecast listings as a tool for use in conducting Market Research.
2. The information in this Brochure identifies information which contractors need to provide to the NAVICP in order to assist in the evaluation of commercial items. The information identified in this brochure will be used in making commerciality determination(s) as well as in the determination of Market Acceptance as defined in FAR paragraph 11.103. The information provided applies to the acquisition of both repair services for NAVICP managed items and the acquisition of replenishment spare parts and components.
3. **Definitions:**
 - a. **Commercial Item:**
 - i. Any item, other than real property, that is of a type customarily used for non-governmental purposes, and that:
 1. has been sold, leased or licensed to the general public; or
 2. has been offered for sale, lease or license to the general public
 - ii. Any item that evolved from an item described above 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.
 - iii. Any item that would satisfy the above but for:
 1. modifications of a type customarily available in the commercial marketplace: or
 2. minor modifications made to meet Federal Government requirements. Minor modifications mean modifications that do not significantly alter the non-government function or physical characteristics of an item or component, or change the purpose of the process.
 - iv. Repair services if such services are procured for support of an item referred to above, and if the source of such services:
 1. Offers such services to the general public and the Federal Government contemporaneously and under similar terms and conditions: and
 2. Offers to use the same work force for providing the Federal Government with such services as the source uses for providing the services to the general public:
 - v. 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 under standard commercial terms and conditions. This does not include services that are based on hourly rates without an established catalog or market price for a specific service performed.

- b. **Critical Application Item:** An item which is essential to weapons performance, operation, the preservation of life, or safety of operating personnel, as determined by the military services.
 - c. **Critical Safety Item:** A part, assembly, installation or production system with one or more critical characteristics that, if not conforming to the design data or quality requirements, would result in an unsafe condition.
- 4. **General:** The items NAVICP typically acquires in support of Naval Aviation are replenishment spare parts and components required for support of systems currently in use in the fleet. Generally these items must be acquired in accordance with detailed design data packages. These detailed design data packages define the specific item which was qualified for the specific application. The Navy requires that any new source of supply for a critical safety or critical application item obtain Navy engineering source approval. Acceptance of commercial items will normally require a determination of market acceptance as defined in FAR 11.103, since most of the items NAVICP acquires in support of Naval Aviation are critical safety items or critical application items. The information requested by this brochure is designed to assist the Navy in determining if the commercial item being offered satisfies or, through a customary or minor modification to an existing item, could be made to satisfy the government's requirements. This applies to requirements for new spare and replacement parts, as well as to repair/overhaul requirements.
- 5. **DATA REQUIREMENTS:** When offering a commercial item in response to a solicitation, the contractor shall include in his offer the data identified in this brochure. Please note in cases where an evaluation cannot be completed, that award of a contract for the current solicitation may be made based on fleet logistics support needs. The following paragraphs advise of the data that contractors must submit for government review and determination of commerciality and market acceptance. Failure to submit all the required data may result in delays in the completion of required evaluations. Although the requirements listed are intended to address most circumstances, additional data may be required to allow for further evaluation of your specific request.
- 6. **Categories of Submissions:**
 - a. **Same Item:** The identical item has been sold to the general public or offered for sale to the general public in the identical configuration and is manufactured, tested and inspected to the identical requirements as the item being offered to the government. In addition, the item being offered as a commercial item is identical in configuration and is manufactured, tested and inspected to the same requirements as the item being acquired by the government. The offeror shall include:
 - i. Documentation demonstrating that the item or repair etc. complies with the definition of commercial item contained in FAR Sec. 2.101; that is, that the item or repair etc. " is of a type customarily used for nongovernmental purposes."
 - ii. Copy of catalog, advertisement etc., or identification of web page address where available, demonstrating the identical item or repair service has been offered for sale to the general public.
 - iii. Data documenting that the item or repair service offered commercially has been sold to the general public. This documentation should include, but not be limited to, most recent sale, dates of sales, quantities and customers.
 - iv. Evidence of Product Conformance. For commercial items or repairs that are claimed to be identical to the item or repair being solicited by the government,
 - 1. the commercial item offered in response to a particular NAVICP solicitation shall be identical in configuration and shall be manufactured, tested, and

inspected to, and shall comply with, all requirements of the approved item being solicited by the government.

2. the commercial repair offered in response to a particular NAVICP solicitation shall meet all requirements of the solicitation, to include compliance with all specified configuration, test, inspection, and repair criteria specified in the solicitation.

The offeror shall provide proof of such conformance upon request.

- v. Identification of terms and conditions contained in the solicitation which are not acceptable and requested substitution.
 1. Critical Safety and Critical Application Items will require Government Source Inspection (GSI). It will be necessary that the commercial item offered provide for GSI or that your submission provide data which clearly demonstrates why GSI will not be required, provide a clear description and identify those orders included in data identified in paragraph (b) above which have employed the recommended substitute system.
 2. Commercial warranties frequently include a limitation of liability statement that limits the contractor's liability. Contractors are hereby advised that the government cannot agree to the limitation of liability against all parties (including third parties), but can only agree to limitation of liability from government claims. Therefore, limitation of liability clauses should be essentially the same as FAR clauses 52.246-23 or 52-246.24.
 3. When contractor's offer includes commercial packaging in lieu of the requirements specified in the solicitation, the contractor shall provide details of the commercial packaging and how these differ from those specified in the solicitation.
 4. Where any of the changes requested have been also requested or approved via Single Process Initiatives (SPI)/Block change, the contractor is requested to advise of the submission status, and date of status.

- b. **Modified Item:** The item being offered is modified from an item currently sold to or offered for sale to the general public. The modified item will be identical in configuration and will be manufactured, tested and inspected to, and comply with the same requirements as the item being acquired by the government. The required modifications are minor and/or are modifications which are customary for this product line.

The offeror shall include:

- i. Documentation demonstrating that the item or repair etc. complies with the definition of commercial item contained in FAR Sec. 2.101; that is, that the item or repair etc. " is of a type customarily used for nongovernmental purposes."
- ii. Copy of catalog, advertisement, etc., or identification of web page address if applicable, demonstrating the similar item or repair service which will be modified has been offered for sale to the general public.
- iii. Data documenting that the similar item or repair service which will be modified has been sold to the general public. This documentation should include but not be limited to most recent sales, dates of sale, quantities and customers.
- iv. Detailed data sheets or repair instructions (in the case of repair) and qualification test reports for the similar commercial item planned to be modified, demonstrating the performance requirements which are currently achieved by the similar commercial item

planned for modification and those performance requirements which will be achieved after modification.

- v. Detailed information clearly specifying the modification(s) which will be made to a similar commercial item necessary to achieve the requirements of the item being acquired, and information which demonstrates that the modification proposed is "minor" and/or customary for the product in question. Use of examples of past contract performance is recommended together with detailed documentation depicting the proposed modification.
- vi. Identification of terms and conditions contained in the solicitation which are not acceptable and the substitution being requested.
 - 1. Critical Safety and Critical Application Items will require Government Source Inspection (GSI). It will be necessary that the commercial item offer provide for GSI or that your submission provide data which clearly demonstrates why GSI will not be required. Provide a clear description and identify those orders included in data from paragraph (b) above which have employed the recommended substitute system.
 - 2. Commercial warranties frequently include a limitation of liability statement that limits the contractor's liability. Contractors are hereby advised that the government can not agree to the limitation of liability against all parties (including third parties), but can only agree to limitation of liability from government claims. Therefore, limitation of liability clauses should be essentially the same as FAR clauses 52.246-23 or 52-246.24.
 - 3. When contractor's offer includes commercial packaging in lieu of the requirements specified in the solicitation, the contractor shall provide details of the commercial packaging and how these differ from those specified in the solicitation.
 - 4. Where any of the changes requested have been also requested or approved via Single Process Initiatives (SPI)/Block change, the contractor is requested to advise of the submission status, and date of status.
- c. **New Item:** This category is to be used in those cases where the NAVICP's requirement is covered by a performance specification. This category also applies in a case where an item is in development and planned for sale to the general public where the contractor can demonstrate that the item will meet the requirements advertised for the specific item being acquired and in time to meet solicitation requirements.

NOTE: This category is to be used in those cases where categories 1 and 2 above do not apply or in a case where an item is in development for sale to the general public and where it can be demonstrated that the item will meet the NAVICP requirements in time to satisfy the fleet needs.

The offeror shall include:

- i. Documentation demonstrating that the item or repair etc. complies with the definition of commercial item contained in FAR Sec. 2.101; that is, that the item or repair etc. "is of a type customarily used for nongovernmental purposes."
- ii. Copy of catalog, advertisement, etc., or identification of web page address if available, demonstrating the item under development will be offered for sale to the general public and a copy of the performance specification or requirements to which the item is being designed and associated program milestones. Examples of associated program milestones would include Preliminary Design completion, Detailed Design completion, prototype/test sample availability, laboratory testing completion, Reliability test completion, qualification test completion, production unit delivery.
- iii. Details of planned testing which will demonstrate conformance to the specification and associated development program milestones.
- iv. Identification of any modifications which would be required for the item under development to meet the current Navy requirement.

- v. Details of options for logistics support packages including preliminary recommendations for technical publications, support equipment and provisioning of spare and repair parts.
- vi. Identification of terms and conditions contained in the solicitation which are not acceptable and requested substitution.
 1. Critical Safety and Critical Application Items will require Government Source Inspection (GSI). It will be necessary that the commercial item offer provide for GSI or that your submission provide data which clearly demonstrates why GSI will not be required. Provide a clear description and identify orders included in data from paragraph (b) above which have employed the recommended substitute system.
 2. Commercial warranties frequently include a limitation of liability statement that limits the contractor's liability. Contractors are hereby advised that the government can not agree to the limitation of liability against all parties (including third parties), but can only agree to limitation of liability from government claims. Therefore, limitation of liability clauses should be essentially the same as FAR clauses 52.246-23 or 52-246.24.
 3. When contractor's offer includes commercial packaging in lieu of the requirements specified in the solicitation, the contractor shall provide details of the commercial packaging and how these differ from those specified in the solicitation.
 4. Where any of the changes requested have been also requested or approved via Single Process Initiative (SPI)/Block change, the contractor is requested to advise of the submission status, and date of status.
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