# Commercial Item Determination

# Section I. Assertion of Commerciality

# (To be completed by the Supplier)

# It is the Supplier’s responsibility to provide objective evidence with any assertion that an item is a Commercial Item in accordance with the FAR 2.101 definition.

# General Information

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| --- | --- | --- | --- | --- |
| SUPPLIER NAME   |  | | --- | |  | | SUPPLIER DUNS   |  | | --- | |  | | DATE  Click here to enter a date. |

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| **Provide the following data (use additional pages as necessary)** | | |
| **MANUFACTURER P/N** | **DESCRIPTION** | **COMMERCIAL TYPE** |
| |  | | --- | |  | | |  | | --- | |  | | Choose an item. |
| |  | | --- | |  | | |  | | --- | |  | | Choose an item. |
| |  | | --- | |  | | |  | | --- | |  | | Choose an item. |
| |  | | --- | |  | | |  | | --- | |  | | Choose an item. |
| |  | | --- | |  | | |  | | --- | |  | | Choose an item. |
| |  | | --- | |  | | |  | | --- | |  | | Choose an item. |
| |  | | --- | |  | | |  | | --- | |  | | Choose an item. |

1. Assertion

Annotate evidence of commerciality in the text boxes. All assertions must have supporting documentation (Source control drawing, wed page screen shots, web search results, etc…) attached to establish grounds for a commercial item determination. If more than one item meets the same commercial type definition, identify and provide evidence for each item. An item/service shall be defined as commercial if it meets one or more of the following (reference FAR 2.101):

|  |  |  |  |
| --- | --- | --- | --- |
| Commercial Product  A. Unmodified Product. Any product, 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, Has been sold, leased, or licensed to the public; or 2. Has been OFFERED for sale, lease, or license to the general public. | | | |
| **If Yes to either 1 or 2 above,** designate the item as commercial and provide evidence of one or more sales, lease, or license to the general public (or offer for the same), as appropriate. If the item being sold is unmodified from what is sold to the general commercial marketplace see section A1 for COTS assertion:   |  | | --- | |  | | | | |
| If No, proceed to paragraph (B). | | | |
| A1. Commercially Available Off The Shelf (COTS) Item. Any item of supply (including construction material) that is meets the definition found in section A and:   1. Sold in substantial quantities in the commercial marketplace; and 2. Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and 3. Does not include bulk cargo, as defined in 46 U.S.C. 40102(4), such as agricultural products and petroleum products. (Please list attached documents providing evidence of 1 & 2 below)  |  | | --- | |  | | | | |
| B. Product Evolved from Commercial Products. The item(s) has EVOLVED from an item described in paragraph (A) 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. | | | |
| If Yes, designate the product as commercial and 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.   |  | | --- | |  | | | | |
| **If No**, proceed to paragraph (C). | | | |
| C. Modified Commercial Product. The item (s) would satisfy a criterion expressed in paragraph (A) or (B) hereof, but for: Modifications *of a type* customarily available in the commercial marketplace; orMINOR MODIFICATIONS *of a type* not customarily available in the commercial marketplace made to meet Federal Government requirements that do not significantly alter the nongovernmental function or essential physical characteristics of an product, or change the purpose of a process. | | | |
| If Yes to either 1 or 2 above, designate the product as commercial and (1) describe the commercial product and (2) the type of modification, and (3) give examples of how it is available in the commercial marketplace. If it is a minor modification, 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) product.  |  | | --- | |  | | | | |
| If No, proceed to paragraph (D). | | | |
| D. Combination of Product Modified/Unmodified/Evolved from Commercial product. Any combination of products meeting the requirements of paragraphs (A), (B), (C) and/or (E) that are of a type customarily combined and sold in combination to the general public. | | | |
| If Yes, designate the combination as commercial and describe similar commercial instances of the customary combination being sold to the general public   |  | | --- | |  | | | | |
| If No, proceed to paragraph (E). | | | |
| E. A product, or combination of products , referred to in paragraphs (A) through (D) of this definition, even though the product, or combination of products , is transferred between or among separate divisions, subsidiaries, or affiliates of a contractor.    If Yes, designate the combination as commercial and describe similar commercial instances of the customary combination being sold to the general public as well as the source of each of the products   |  | | --- | |  |   **If No,** proceed to paragraph (F). | | | |
| F. 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 Yes, designate the non-developmental item as commercial and annotate evidence that it was (1) developed exclusively at private expense, and (2) sold competitively in substantial quantities to multiple state and local governments.   |  | | --- | |  |   If No, Not a commercial Product. | | | |
| Commercial Services  G. Services in Support of a Commercial Item, Installation services, maintenance services, repair services, training services and other services if:   1. Such services are procured for support of an item that meet the requirements in paragraphs (A)–(D), regardless of whether such services are provided by the same source or at the same time as the item and   2. 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 Yes to 1 and 2 above, designate the item as commercial and (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.   |  | | --- | |  | | | | |
| If No, proceed to paragraph (H). | | | |
| H. Standalone Commercial Services. Services *of a type* offered and sold competitively in substantial quantities in the commercial marketplace.  **If Yes,** designate the service as commercial and describe the specific tasks/outcomes to be achieved, describe and provide evidence of how the service is sold and priced based on the (catalog or market price) definitions provided below: | | | |
| “Catalog price,” 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 “Market prices,” 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.   |  | | --- | |  |   If No, proceed to paragraph (G). | | | |
| **I. Combination of Items/Services Modified/Unmodified/Evolved from Commercial Items/Services transferred from a contractor’s divisions, affiliates, or subsidiaries.** Any combination of items or services meeting the requirements in paragraph’s (A)–(F) notwithstanding the fact that the item, combination of items, or service is transferred between or among separate divisions, subsidiaries, or affiliates of a contractor. | | | |
| If Yes, designate the item as commercial and annotate how the item would meet the requirements of applicable paragraphs   |  | | --- | |  |   If No, does not meet the definition of commercial item or service. | | | |
| Supplier’s Comments:   |  | | --- | |  | | | | |
| NAME OF ASSERTER *(Type or print)*   |  | | --- | |  | | TITLE   |  | | --- | |  | | | SIGNATURE |
| DATE  Click here to enter a date. | | EMAIL   |  | | --- | |  | | |

*After completing the above please save as a .pdf and digitally sign this document and return it to the buyer along with all reference documents.*

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| --- | --- | --- | --- | --- |
| Buyer Comments: (Include reference to any additional objective evidence obtained that was not provided by the supplier)  The undersigned Buyer determines that:   |  | | --- | |  | | | | |
| BUYER NAME *(Type or print)*   |  | | --- | |  | | TITLE   |  | | --- | |  | | | SIGNATURE |
| DATE  Click here to enter a date. | | EMAIL   |  | | --- | |  | | |

Section II. Commercial Item Determination

(To be completed by Buyer)

The Buyer is responsible for determining Commerciality. The buyer has reviewed the suppliers assertion and validated it with objective evidence and determined that they meet the definition of “Commercial Item” or “Commercially available off-the-shelf (COTS) item” as defined in FAR 2.101