



Offeror's Certification of Commercial Item Exemption for Certified Cost or Pricing Data

Part No: _____

Description: _____

Offeror: _____

Proposal Reference/Date _____ / _____

If claiming an exemption to submittal of certified cost and pricing data, offeror must provide the appropriate information to determine commerciality. Refusal to provide the required information can result in a determination that goods and/or services offered do not constitute a "commercial item."

Check the Applicable Boxes I, II, III, IV, or V, and complete the information for that section.

Offeror hereby represents that to the best of its knowledge, information, and belief goods and/or services offered constitute a "commercial item" as defined by FAR 2.101 because it constitutes:

I. Unmodified Commercial Items or Components

Any item, other than real property, that is of a type customarily used by the general public or by nongovernmental 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.

If claiming the Unmodified Commercial Items or Components exemption then the following information must be provided

Key Inquiries and Summary of your Supporting Information:

What is the relevant "type" of item? _____

What are the types of item's uses by the general public or by non-governmental entities for other than governmental purposes? _____

What indicates that the type of item's use described above is customary? _____

Has the offered item itself (as opposed to the type of item) been sold or offered for sale?
 Yes No

Are the offered item's sales (or offers to sale) to the general public?
 Yes No

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Continued**

(1) Please provide data regarding:

- (a) Sales: \$ _____
- (b) Leases: \$ _____
- (c) Licenses: \$ _____
- (d) Offers to Sell¹: \$ _____
- (e) Offers to Lease²: \$ _____
- (f) Offers to License³: \$ _____

to the general public in the time-frame beginning _____, and ending _____
(date) (date)

II. Item Evolved from Commercial Items or Components

Any item that evolved from an item described in Part I (which is required if claiming this exemption) 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 United States Government solicitation.

If claiming the Item Evolved from Commercial Items or Components exemption then the following information must be provided

Key Inquiries and Summary of Your Supporting Information:

Does the item on which the offered item is based qualify as a commercial item (use Part I)?

Yes No

If yes, describe the relationship of the modifications to the Federal Government requirement.

What are the advances in technology or performance between the offered item and the commercial item on which it is based? _____

What is your support for such advances? _____

What is your support for availability of the item in time to meet requirements? Is the claim of availability reasonable? _____

Please provide data regarding:

(a) Currently pending offers, including:

(i) Unit Price(s): \$ _____

(ii) Total Units: \$ _____

¹ that have not materialized into sales

² that have not materialized into leases

³ that have not materialized into licenses

(b) Planned Offers Including:

- (i) Unit Price(s): \$ _____
- (ii) Total Units: \$ _____

In all instances scheduled for delivery no later than the delivery requirements under the solicitation; and

(c) Data in the format of Part I for completed sales of the item from which the "commercial item" evolved. _____

III. Modified Commercial Items or Components

Any item that would satisfy a criterion expressed in Part I or II hereof, but for --

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

If claiming the Modified Commercial Items or Components exemption then the following information must be provided

Key Inquiries and Summary of Your Supporting Information:

Does the item on which the offered item is based qualify as a commercial item (use part I or parts I and II)?

Yes No

What are the modifications that would be made to the commercial item? _____

Are the modifications of a type customarily available in the commercial marketplace?

Yes No

Summarize your support for customary availability of the modification in the commercial marketplace. _____

If the modifications are not of a type customarily available in the commercial marketplace:

Are the modifications made to satisfy Federal Government requirements?

Yes No

Do the modifications alter the nongovernmental function or essential physical characteristics of the item?

Yes No

If yes, what are the alterations? _____

Does the modified item retain a predominance of nongovernmental functions or physical characteristics? Yes No

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Continued**

Summarize your support, describing the value of the modifications in comparison to the value of the final product. _____

Summarize your support for the magnitude or size of the modifications in relation to the magnitude or size of the final product. _____

Are there any other factors, which would allow you to conclude that the modifications are minor?

Yes No

If yes, what are they? _____

Based on the above, does the modification qualify as a minor modification?

Yes No

Please provide data regarding:

- (a) Size and value of _____
- (b) Size and value of the modified _____
- (c) Price to Areté of all Minor Modifications included in this pricing _____
- (d) Data in the format of Part I for completed sales of the unmodified item. _____

IV. Commercial Items Support Services

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 Parts I, II, III or IV hereof, 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.

If claiming Commercial Items Support Services exemption then the following information must be provided

Key Inquiries and Summary of Your Supporting Information:

Are the services procured for the support of a commercial item, which qualifies under a preceding Part?

Yes No

Describe the nature of the services and how they support the commercial item.

Are the services provided at the same time to the general public and the Federal Government?

Yes No

Are the terms and conditions for the services similar to those offered to the general public?

Yes No (Describe differences) _____

Please provide data regarding:

(a) Open and completed contracts, including:

(i) Prices: \$ _____

(ii) Total Units: _____

(b) Pending offers, including:

(i) Prices: \$ _____

(ii) Total Units: _____
for such services

V. Any Combination of Items meeting the requirements of Parts I, II, III, or IV hereof that are of a type customarily combined and sold in combination to the general public.

If you have checked the above box and are claiming the Any Combination of Items exemption, please attach hereto information as requested for Parts I, II, III, and IV.

VI. Other Commercial Services

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.

If claiming the Other Commercial Services exemption then the following information must be provided

Key Inquiries and Summary of Your Supporting Information:

Are the services sold competitively in substantial quantities in the commercial marketplace?

Yes No

If no, are the services of a type sold in substantial quantities in the commercial marketplace?

Yes No

Summarize your support for same _____

If yes, what is the "type" of service? _____

Summarize your support for same. _____

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Continued**

Are the prices quoted for specific tasks performed or specific outcomes to be achieved?
 Yes No

Are the services offered consistent with your standard terms and conditions?
 Yes No

Are the services of a type sold at catalog or market prices?
 Yes No

If sold at catalog price, is the price included in a catalog, price list, schedule, or other form that is regularly maintained by the manufacturer or vendor?
 Yes No

If sold at catalog price, is the catalog or its equivalent either published or otherwise available for inspection by customers?
 Yes No

Summarize your support for same. _____ (include a copy of the catalog or provide location)

If sold at catalog price, are the listed prices those at which sales are currently, or were last, made to a significant number of buyers in the general public?
 Yes No

Summarize your support for same. _____

If sold at a market price, are the prices established in the course of ordinary trade between buyers and sellers free to bargain?
 Yes No

Summarize your support for same. _____

If sold at a market price, can the price be substantiated through competition or from sources independent of the offeror?
 Yes No

Summarize your support for same. _____

Please provide data regarding:

(a) Open and completed contracts, including:

(i) Prices: \$ _____

(ii) Total Units: _____

(b) Pending offers, including:

(i) Prices: \$ _____

(ii) Total Units: _____

for such services.

- VII. Any item, combination or items, or service** referred to in Parts I through VI hereof, notwithstanding the fact that the item, combination of items, or service is transferred between or among separate divisions, subsidiaries, or affiliates of the Offeror.

If you have checked the above box and are claiming the "Any item, combination of items, or service..." exemption, please provide data regarding:

- (a) Transfer price(s) of such goods \$ _____
- (b) Total units of such goods and /or _____

VIII. Nondevelopmental Items

A nondevelopmental item, as defined in FAR 2.101, which has been developed exclusively at private expense and sold in substantial quantities on a competitive basis, to multiple State and local governments.

If claiming the Nondevelopmental Items exemption then the following information must be provided

Key Inquiries and Summary of Supplier's Supporting Information:

Was the item previously developed?

- Yes No

Was the item used exclusively for governmental purposes by a Federal agency, a State or local government, or a foreign government with which the United States has a mutual defense cooperation agreement?

- Yes No

If the item is to be modified, do the modifications comply with the Part III guidance on modifications?

- Yes No

If the item is not yet in use, does it otherwise qualify as a non-developmental item?

- Yes No

Was the item developed exclusively at private expense?

- Yes No

Is the item sold in substantial quantities, on a competitive basis, to multiple State and local governments?

- Yes No

Please provide data regarding:

(i) Prices: \$ _____

(ii) Total Units: _____

(iii) Total number of customers: _____

involved in such sales.

IX. General Inquiries

Does the item qualify as a combination of items under Parts I, II, III, and IV, above?

Yes No

Has the item or service previously been determined to be commercial? If so, by whom?

Yes No

X. Other Information

Is there other information of which you are aware that would supplement the information provided and would help substantiate whether the item or service is commercial?

Yes No

Have you provided such information?

Yes N/A

List such information. _____

XI. Supplier Determination

Offeror hereby represents that the foregoing information is accurate and complete and that to the best of its knowledge, information, and belief goods and or services offered currently constitute "a commercial item" as defined by FAR 2.101.

Offeror: _____

By: _____

Title: _____

For Areté Internal Use Only:

XI. Buyer's Determination

Supplier has claimed that the item, component, or service identified above is a commercial item under the definition at FAR 2.101. I have reviewed and summarized the supplier's support for that claim in the appropriate sections above. Based on such review of such support information and any other information identified elsewhere herein, I conclude that the supplier HAS HAS NOT supported its claim of commercial item status under the definition at FAR 2.101.

If the supplier HAS NOT supported its claim, list reasons:

Describe action plan to resolve:

Comments:

Buyer (Type or Print Name)

Date