



COMMERCIAL ITEM DETERMINATION

Form # ADSCM-008

Please complete sections 1 and 2

Use this form as required by [PRO-10.3010](#) "Acquisition of Commercial Items" to document the determination that an item or service qualifies as a commercial item as defined in FAR Part 2.101. This form is optional for procurement values less than or equal to the micropurchase threshold, \$3,000. (\$3,500 after October 1, 2015)

SECTION 1: Read the Qualifying Statements and check "Yes" or "No" for each box. If commercial check the one qualifying statement that best describes the product or service.

YES	NO	Commercial Item Qualifying Statements (from FAR Part 2.101)	
		(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: a. Has been sold , leased, or licensed to the general public; or, b. Has been offered for sale, lease, or license to the general public.
		(2)	Any item that evolved from an item described in statement (1) 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.
		(3)	Any item that would satisfy a criterion expressed in statements (1) or (2) above, but for modifications of a type customarily available in the commercial marketplace.
		(4)	Any item that would satisfy a criterion expressed in statements (1) or (2) above, but for minor modifications of a type not customarily available in the commercial marketplace made to meet Federal Government requirements.
		(5)	Installation services, maintenance services, repair services, training services, and other services if: a. Such services are procured for support of an item referred to in statements (1), (2), (3), or (4) above regardless of whether such services are provided by the same source or at the same time as the item; and, b. 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.
		(6)	Any combination of items meeting the requirements of statements (1) through (5) above that are of a type customarily combined and sold in combination to the general public;
		(7)	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.
		(8)	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.
		(9)	A non-developmental 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.

COMMERCIAL ITEM DETERMINATION

SECTION 2: Commercial Item Determination

Instructions: Use the following information as a suggested approach to the Determination. Please replace the prompts with information specific to the current procurement. Provide supporting evidence as required.

- 1) Describe the item or service being procured.
- 2) Qualifying Statement: Briefly restate from Section 1.
- 3) Rationale: Explain why the procurement item/service qualifies as commercial. (see attached market research guidelines for guidance and documentation requirements)
 - a) Describe the market research conducted
 - b) Describe how the market research data was evaluated.
 - c) Include technical evaluations if required to describe similar items or mods.
 - d) Refer to supporting evidence, documents or sources.
- 4) Evidence: Attach copies of evidence and references cited in the Rationale narrative.
 Caution: Most reference information changes over time. When referring to website, make and attach static copies of the applicable pages so the reader can see the specific supporting information intended.
- 5) Conclusion: Summarize the results of the commercial item determination (CID).
- 6) Approval: As a minimum, for CIDs performed by SM the responsible PA should approve the CID. Management review and approval of the CID is encouraged for procurement values that exceed the PA's authority. For CIDs performed by Contracts, Pricing, Estimating & Procurement Financial Analysis (CPE&P), management review and approval of the CID is required.

TITLE	NAME	APPROVAL	DATE

(Appendix 1)

Market Research Guidelines

The following information is provided to guide the market research effort associated with finding commercial items and documenting the commercial item determination (CID) for procurements under U.S. Government contracts.

1. Market Research Methods

Conduct market research to find commercial or non-developmental items to support the design effort. If the design is already established, conduct market research to find information about the procurement item to determine if it qualifies as commercial. The methods of conducting market research can vary for each commodity and market type. Some examples include:

- a. Review existing market research documentation from the design effort or from previous procurements of the same or similar item.
- b. Obtain pricing and technical information about the item or commodity type from external sources before release of the solicitation. Industry catalogs or trade publications and product literature can help.
 - i. Search the internet or libraries.
 - ii. Visit contractors and attend trade shows.
 - iii. Conduct technical interchange meetings or pre-solicitation conferences with suppliers.
- c. Request information from internal sources such as engineers and other procurement organizations. Drawings, performance specs, and technical evaluations may be useful to the determination.
- d. Obtain the supplier's "Offeror Assertion of Commerciality" and supporting information with its proposal.

2. Focus the Search

The market research effort should focus on obtaining information that demonstrates how the procurement item qualifies as commercial per the definition in FAR 2.101. There are several basic focus areas:

- a. Evidence that the procurement item itself is **sold** and used in the commercial marketplace. Copies from trade publications or websites can be used to describe the marketplace and show how the item is traded in that marketplace. **Sales data** in detail or summary form should be used (if available and required) to demonstrate **actual sales to commercial users**.
- b. Evidence that the procurement item is similar in comparison to another item that is traded commercially. This requires finding a similar item and establishing that the similar item qualifies as commercial (see 2.a above). A technical evaluation is required to establish similarity to the procurement item. Pictures, performance characteristics and input from engineering can enhance the evaluation.
- c. The market research for a service will be similar to 2.a and b above. However, care should be taken to ensure that the contract type fits the service being evaluated. For example, if the proposed contract type is time and material (T&M), then the market data should show that T&M contracts are used in the commercial sales of such services.

Market Research Guidelines (Continued)

3. Evaluate the Data

Organize the data to support a logical evaluation of it relative to the FAR definition of commercial item.

- a. Consider the use of a market research report for high value or complex procurements.
- b. Address each distinct procurement item or group of items by aligning them with the appropriate category on the “Commercial Item Determination” (CID) form. Different hardware items/groups may align with different categories. For example, some might be off-the shelf while others are not, but are similar to an off-the-shelf item. Services typically require a different explanation even if combined with a hardware item.
- c. Explain why each distinct procurement item/group qualifies as commercial under the selected commercial item category.

4. Include Documentation to Support the CID

- a. Appropriate qualified personnel shall document answers to relevant commercial item questions of vendors which may include:
 - i. What is it? What is its function or purpose?
 - ii. Is the item sold to commercial customers (i.e., non-governmental end-users)? If so, what are some examples? Is it offered for sale generally? Would it be offered for sale in response to a request for quote?
 - iii. Do other companies provide a similar item or service to commercial customers? Who are they? How are the items or services similar to what is being offered to the Government? In what ways are they different? Are the differences significant? If not, why not?
 - iv. If the item is “of a type,” why is it modified? What is the purpose of the modification? Does the modification significantly alter the item’s functional or physical characteristics? Why not? Does the modification change the item’s purpose? Is the form, fit and function essentially the same? Do the vendor (or others in the commercial marketplace) routinely offer or make modifications to the item for other commercial customers? Would the vendor if asked? What examples can the vendor provide? What is the scope of the modification relative to the item’s overall size, dollar value, level of effort?
- b. Prepare a detailed narrative, with specific examples, to explain to the customer (government or prime contractor) how the item satisfies the FAR 2.101 definition. If the item has been modified, focus on explaining, again with specific examples, of why the modifications are either “of a type” that are performed in the commercial marketplace, or do not change the item’s primary function or purpose. Tell the story. The narrative should be easy for a non-technical lay person to read and understand.
- c. Develop Supporting Documentation to Show That the Offered Price is Fair and Reasonable. As you develop and assemble the data and documentation needed to show that the item is “commercial,” assemble the support also needed to show that the price is fair and reasonable. This could include:
 - i. Copies of catalog or published prices, yours and others’ (assuming, of course, the others’ data are public).
 - ii. Copies of purchase orders (or other sales data) showing the prices paid by commercial (nongovernment customers) for the same or similar items (i.e., the items that you used to support your “of a type” analysis); legal should be consulted before any release to ensure that any release of the data is consistent with any confidentiality or contractual restrictions that may be in place.
 - iii. If the offered price is different from those offered to commercial customers for the same or similar items, or from prices previously paid by the government, explain why. Is it because of different contract terms and conditions, material, quantities, or other economic factors? If so, explain why and show how the prices compare if these differences are appropriately accounted for. If you can’t get there, the CO (or prime contractor) will likely not be able to either and could trigger a request for uncertified cost data.

5. Make the Commercial Item Determination

- a. Use the "Commercial Item Determination" form to guide and document the CID. The form reflects the nine categories of the commercial item definition from FAR.
- b. If there is strong evidence that the procurement item qualifies as commercial, summarize the rationale in a clearly stated conclusion on the form. If not, explain why not.
- c. Do not determine the entire procurement is commercial if any significant portion of the effort/cost does not qualify. Make separate conclusions for commercial and non-commercial items.
- d. Document the CID. Get a second opinion if unsure. For CIDs performed by Supply Chain Management, management review of the CID is recommended at standard approval gates when the potential procurement value exceeds the Buyer's approval authority. For CIDs performed by Contracts, Estimating, or equivalent departments, management approval of the CID is also required.

Note: The CID documentation should reflect the value and complexity of the procurement. Since the CID forms the basis for exemption from requiring Certified Cost or Pricing Data, the procurement agent should plan to provide a greater level of detail, and quality of evaluation and supporting evidence, if the procurement value is expected to exceed the Cost or Pricing Data threshold.

(Appendix 2)

Sample Market Research Report

This sample report format is provided for optional use as a cover sheet to the data gathered during market research that is conducted to find commercial items and/or confirm they qualify as commercial items for procurements under U.S. Government contracts.

- 1) **Procurement Item or Service:** _____
- 2) **Program:** _____
- 3) **Customer Agency or Name:** _____
- 4) **Customer Contract or Solicitation No.:** _____
- 5) **Estimated Contract Value (including options):** _____
- 6) **Market research has been conducted for the procurement item or service.** The following techniques were used (check all that apply and attach evidence gathered or a narrative explanation for each technique checked):

- _____ Historical acquisition information (market research for same or similar item)
- _____ Personal knowledge in procuring supplies/services of this type
- _____ Contacted requester and/or other knowledgeable people in the industry regarding the commercial nature of this requirement and standard industry for this commodity
- _____ Reviewed appropriate technical journals and trade publications
- _____ Reviewed Government and/or commercial databases for relevant information
- _____ Used source lists obtained from Government, professional, and/or industry sources
- _____ Reviewed catalogs and product literature (online and/or in hard copy)
- _____ Interchange meetings or pre-solicitation conferences with potential offerors
- _____ Post-solicitation information obtained with the supplier's proposal
- _____ Other: _____

- 7) **Data obtained through market research has been evaluated** and used to determine that the procurement item or service qualifies / does not qualify as commercial, as defined in FAR:
 - _____ **Procurement item is itself traded commercially:** attach evidence that shows the item actually offered/sold/used commercially (such as commercial sales data)
 - _____ **Procurement item is like a known, commercially-traded item:** attach evidence (such as commercial sales data) showing the known, commercially-traded item being offered/sold/used commercially, and attach a technical evaluation/explanation showing similarity to the procurement item. Explain the connection to the appropriate commercial item definition.
 - _____ Other qualification from the commercial item definition: explain and attach evidence (such as commercial sales data)