|  |  |
| --- | --- |
| Part No: |       |
| Description: |       |
| Offeror: |       |
|  |  |
| **Lockheed Martin will review the Commercial Item claim to determine the following:**1. **Adequacy of the Commercial Item claim, ensuring that it includes adequate documentation, is clear and concise and meets the definition of FAR 2.101 (http://farsite.hill.af.mil/vffara.htm). If the United States government or its contractor previously determined the item to be a “commercial item,” provide evidence of such determination.**
2. **Price Reasonableness must be established. Provide current, accurate and relevant data as justification for the selected assertion(s), include documentation substantiating the information (e.g., catalogs, purchase orders of prior USG & commercial sales, etc.).**

Use the [F 335 Guide](https://eo-sharepoint-restricted.external.lmco.com/sites/CorpPolicy/lmaps/f335_guide.docx) to facilitate completion of this form.**If claiming commerciality, offeror must complete the Commercial Item Justification Summary and provide the appropriate information to determine commerciality for the claim. Refusal to provide the required information can result in an assist audit being requested from the Defense Contract Audit Agency or other cognizant Government Audit Agencies and/or a determination that goods and/or services offered do not constitute a “commercial item.”** 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: |
| **Commercial Item Justification Summary (required for any claim):** |
| *Check box(s) as appropriate* |
| What is the relevant “type” of item? |       |
| What are the types of item’s uses by the general public or bynon-governmental entities for other than governmental purposes? |       |
| **Describe the item and the relevant commercial market place such as Competitors, Commercial customers, and Market Size / Share.** |       |
| Has the item been sold or offered for sale?  | [ ]  **Sold** [ ]  Offered |
| Are the item’s sales (or offers to sale) to the general public? | [ ]  Yes [ ]  No |
| **Please provide data regarding sales, leases, or licenses of this item and identification of the non-government use entities.** |
|  | **Value** | **Non-Government Use of Entities** |
| 1. Sales:
 | $      |       |
| 1. Leases:
 | $      |       |
| 1. Licenses:
 | $      |       |
| 1. Offers to Sell that have not materialized into sales:
 | $      |       |
| 1. Offers to Lease that have not materialized into Lease:
 | $      |       |
| 1. Offers to License that have not materialized into License:
 | $      |       |
| To general public in the time-frame beginning: | (Date) | And ending: | (Date) |
|  |
| **Type of Commercial item or Component** |
| *Check box(s) as appropriate* |
| [ ]  **I. Unmodified Commercial Items**  |
| [ ]  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 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.

**The Offeror will support the claim of an unmodified commercial item by providing as appendix to this form the following:**1. **Published and regularly maintained catalogs or price lists for the item itself (if available), and all policies on discounts.**
2. **Contracts, sales agreements or invoices for sales to a commercial entity for non-governmental use in quantities representative of the subject procurement for the item itself (as opposed to similar items or items of a type) for the last three (3) years. The documentation shall include:**
	1. **Customer**
	2. **Price**
	3. **Quantities**
	4. **Terms and Conditions**
3. **If sales data is not sufficient for determining price reasonableness, (quantities are not representative or sales data is not current), a cost element breakdown shall be provided including labor hours, bill of material, other direct cost, rates, profit and supporting documentations.**

[ ]  **Commercially available off-the-shelf (COTS) – Any item, that meets the above, without modification, and sold in substantial quantities in the commercial marketplace.****If the Offeror is able to support the claim of COTS, then the above support documentation appendix is not required.** |
| [ ]  **II. Item Evolved from Commercial Items**  |
| Any item that evolved from an item described in **the Commercial Item Justification Summary** 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 - then the following information (in addition to the Commercial Item Justification Summary) must be provided:** |
| 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 availability of the item in time to meet requirements? Is the claim of availability reasonable? |       |
| Please provide data regarding: |  |
| 1. Currently pending offers, including
 | Unit Price(s) | $      |
|  | Total Units |       |
| (b)Planned Offers Including: | Unit Price(s) | $      |
|  | 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 |
|      **The Offeror will support the claim of an item evolved from a commercial item by providing as appendix to this form the following:**1. **Contracts, sales agreements or invoices for sales to a commercial entity for non-governmental use in quantities representative of the subject procurement for the un-evolved item. The documentation shall include:**
	1. **Customer**
	2. **Price**
	3. **Quantities**
	4. **Terms and Conditions**
2. **Technical description detailing the changes from the un-evolved item the evolved item.**
3. **Plan and timing for the re-introduction of the evolved item back into the commercial marketplace.**
4. **If sales data is not sufficient for determining price reasonableness, (quantities are not representative or sales data is not current), a cost element breakdown shall be provided including labor hours, bill of material, other direct cost, rates, profit and supporting documentations.**
 |
| [ ]  **III. Modified Commercial Items**  |
| 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**If claiming Modified Commercial Items that are of a type customarily available in the commercial marketplace then the following information (in addition to the Commercial Item Justification Summary) must be provided:** |
| Does the item on which the offered item is based qualify as a commercial item (use Part I)? | [ ]  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. |       |
| [ ]  **(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 Modified Commercial Items that are not of a type customarily available in the commercial marketplace then the following information (in addition to the Commercial Item Justification Summary) must be provided:** |
| 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 |
| 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 the minor modification and the total price to Lockheed Martin of Minor Modifications** |
| Unmodified Items Identified in Part 1 | Modified Items Proposed to LM | Unit Value of Modification |
| Unmodified Item | Unmodified Price | Modified Item | Modified Price to LM |  |
|       | $      |       | $      | $      |
|       | $      |       | $      | $      |
|       | $      |       | $      | $      |
|       | $      |       | $      | $      |
|       | $      |       | $      | $      |
| Price to Lockheed Martin of all Minor Modifications at quantities proposed in this pricing action. | $      |
| Minor modification that exceed the thresholds in FAR 15.403-1(c)(3)(iii)(B) are subject to the Certified Cost or Pricing Data requirements and must be proposed as described by FAR 15.408, Table 15-2.**The Offeror will support the claim of a modified commercial item, whether of-a-type or minor modification, by providing as appendix to this form the following:**1. **Contracts, sales agreements or invoices for sales to a commercial entity for non-governmental use in quantities representative of the subject procurement for the unmodified item for the last three (3) years. The documentation shall include:**
	1. **Customer**
	2. **Price**
	3. **Quantities**
	4. **Terms and Conditions**
2. **If sales data is not sufficient for determining price reasonableness, (quantities are not representative or sales data is not current), a cost element breakdown shall be provided including labor hours, bill of material, other direct cost, rates, profit and supporting documentations.**
3. **For the modification provide:**
	1. **A technical description of the modification and whether the modification is – (1) of a type customarily available in the commercial marketplace, or (2) a minor modification of a type not customarily available in the commercial marketplace made to meet federal requirements.**
	2. **If the modification is a minor modification of a type not customarily available in the commercial marketplace as defined in FAR 2.101 and the cost for the quantity or expected quantity (including option quantities, if any), exceeds the greater of (a) $750,000 or (b) 5% of the amount of the immediate pricing action, then as required in FAR 15.403-1(c)(3)(ii)(b), certified cost or pricing data in the form of a cost elemental breakdown for the delta between the modified and unmodified item(s) including labor hours, bill of material, other direct cost, rates, profit and with supporting documentation.**
 |
| [ ]  **IV. Services for Commercial Items** |
| 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 then the following information (in addition to the Commercial Item Justification Summary) must be provided:** |
| 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:** |
| 1. Open and completed contracts, including:
 | Unit Price(s) | $      |
|  | Total Units |       |
| 1. Pending Offers Including:
 | Unit Price(s) | $      |
|  | Total for such services |       |
| [ ]  **V**. **Any Combination of Items** |
| Meet 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 “Any Combination of Items,” 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 Other Commercial Services then the following information must be provided:** |
| 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  |       |
| Are the prices quoted for specific tasks performed or specific outcomes to be achieved? | [ ]  Yes [ ]  No |
| Are the services offered consistent with yourstandard 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 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:**  |
| 1. Open and completed contracts, including:
 | Unit Price(s) | $      |
|  | Total Units |       |
| 1. Pending Offers Including:
 | Unit Price(s) | $      |
|  | Total for such services |       |
| **The Offeror will support the claim for other commercial services by providing as appendix to this form the following:**1. **Published and regularly maintained catalogs or price lists, and all policies on discounts.**
2. **Contracts, sales agreements or invoices for the last three (3) years showing:**
	1. **Multiple sales in substantial quantities,**
	2. **Sales to commercial entities for non-governmental use,**
	3. **Awarded under competition,**
	4. **Specific tasks performed or specific outcomes achieved, and**
	5. **Using standard commercial terms and conditions.**
3. **The contract or sales agreement documentation shall include:**
	1. **Customer**
	2. **Price**
	3. **Quantities**
	4. **Terms and Conditions**

 |
| [ ]  **VII.** **Any transferred item, combination of 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 “Any item, combination of items, or****Service,”**  |
| **Please provide data regarding:** |
| (a) Transfer price(s) of such goods | $      |
| (b) Total units of such goods and /or Services | $      |
| [ ]  **VIII. Non-developmental Items** |
| A non-developmental 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 Non-developmental Items then the following information must be provided:** |
| 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. |       |
| **The Offeror will support the claim for non-development items by providing as appendix to this form the following:**1. **Evidence or statement that the item was developed exclusively at private expense.**
2. **Contracts or sales agreements for sales in substantial quantities to multiple state or local governments of the United States for the last three (3) years. Sales to foreign governments do not constitute sales to state or local governments.**
3. **The contract or sales agreement documentation shall include:**
	1. **Customer**
	2. **Price**
	3. **Quantities**
	4. **Terms and Conditions**
 |
| **IX. General Inquiries**  |
| Has the item or service previously been determined to be commercial?  | [ ]  Yes [ ]  No |
| If so, by whom?  |       |
| **X. Other Information** |
| Have you provided **all known information that would substantiate whether the item or service is commercial?**  | [ ]  Yes [ ]  No |
| **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: |
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|       |
| By: |
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| Title: |
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|       |  |
| Date: |