|  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Part Number: |  | | | | | | | | | | | | |
| Description: |  | | | | | | | | | | | | |
| Offeror: |  | | | | | | | | | | | | |
| **Lockheed Martin will review the Commercial Product or Service claim to determine the following:**   1. Adequacy of the Commercial Product or Service claim, ensuring that it includes adequate documentation, is clear and concise and meets the definition of FAR 2.101 (<https://www.acquisition.gov/far/part-2>). If the United States Government (USG) or its contractor previously determined the item to be a “commercial product” or “commercial service,” 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 Commerciality Justification Summary and provide the appropriate information to determine commerciality for the claim. Refusal to provide the required information can result in a request for Certified Cost or Pricing Data (CCoPD) and/or a determination that goods and/or services offered do not constitute a “commercial” product or service.  Offeror hereby represents that to the best of its knowledge, information, and belief goods and/or services offered constitute a “commercial product or service” as defined by FAR 2.101 because it constitutes: | | | | | | | | | | | | | |
| **Commerciality Justification Summary (Required for Every Claim)**  *Check boxes as appropriate.* | | | | | | | | | | | | | |
| What is the relevant “type” of product or service? | | | | | | | | |  | | | | |
| What is the type of product or service used by the general public or by non-governmental entities for other than governmental purposes? | | | | | | | | |  | | | | |
| Describe the product or service and the relevant commercial marketplace (such as Competitors, Commercial customers, and Market Size/Share). | | | | | | | | |  | | | | |
| Has the product or service been sold or offered for sale? | | | | | | | | | Sold  Offered | | | | |
| Is the product or service sold (or offered for sale) to the general public? | | | | | | | | | Yes  No | | | | |
| **Please provide data regarding sales, leases, or licenses of this product or service and identification of the non-governmental use entities.** | | | | | | | | | | | | | |
|  | | **Value** | | | | | | **Non-Governmental Use 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 Product (Sections I - VI)**  *Check box (or boxes) as appropriate.* | | | | | | | | | | | | | |
| **I. Unmodified or ‘Of a Type’ Commercial Product** **(Commercial Product, Definition 1)** | | | | | | | | | | | | | |
| *As per the FAR 2.101 definition of “commercial product”, definition 1 –*  A product, 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 –   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 product by providing as an appendix to this form the following:   1. Published and regularly maintained catalogs or price lists for the product 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 product itself, similar products, or products “of a type” for the last three (3) years. The documentation shall include:    1. Customer;    2. Price;    3. Quantities; and    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 of supply (including construction material) that is –   1. A commercial product (as defined in FAR 2.101, paragraph 1 of “commercial product”); 2. Sold in substantial quantities in the commercial marketplace; and 3. 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 4. Does not include bulk cargo, as defined in 46 U.S.C. 40102(4), such as agricultural products and petroleum products.   If the Offeror is able to support the claim of a COTS product, then the above support documentation appendix is not required. | | | | | | | | | | | | | |
| **II. Evolved Commercial Product (Commercial Product, Definition 2)** | | | | | | | | | | | | | |
| *As per the FAR 2.101 definition of “commercial product”, definition 2 –*  A product that evolved from a product described in Section I hereof 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 claiming an Evolved Commercial Product - then the following information (in addition to the Commerciality Justification Summary) must be provided:** | | | | | | | | | | | | | |
| Does the product on which the offered product is based qualify as a commercial product (see Section 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 product and the commercial product on which it is based? | | | | | | | | | |  | | | |
| What is your support for availability of the product in time to meet requirements? Is the claim of availability reasonable? | | | | | | | | | |  | | | |
| **Please provide data regarding:** | | | | | | | | | |  | | | |
| 1. Currently pending offers\*: | | | | Unit Price(s) | | | | $ | | | | | |
|  | | | | Total Units | | | |  | | | | | |
| 1. Planned offers\*: | | | | Unit Price(s) | | | | $ | | | | | |
|  | | | | Total Units | | | |  | | | | | |
| *\*In all instances for (a) and (b), product should be scheduled for delivery no later than the delivery requirements under this solicitation.* | | | | | | | | | | | | | |
| 1. Data (as per Section I) for completed sales of the original unmodified commercial product from which the offered product evolved: | | | |  | | | | | | | | | |
| **The Offeror will support the claim of a product evolved from a commercial product by providing as an 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 product. The documentation shall include:    1. Customer;    2. Price;    3. Quantities; and    4. Terms and Conditions 2. Technical description detailing the changes from the original unmodified product and the evolved product. 3. Plan and timing for the re-introduction of the evolved product 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 Product (Commercial Product, Definition 3)** | | | | | | | | | | | | | |
| *As per the FAR 2.101 definition of “commercial product”, definition 3 –*  Any product that would satisfy a criterion expressed in Section I or II hereof, except for –  (i) Modifications **of a type customarily available** in the commercial marketplace  **If claiming Modified Commercial Product(s) that are of a type customarily available in the commercial marketplace, then the following information (in addition to the Commerciality Justification Summary) must be provided:** | | | | | | | | | | | | | |
| Does the product on which the offered product is based qualify as a commercial product (see Section I)? | | | | | | | | | | Yes  No | | | |
| What are the modifications that would be made to the commercial product? | | | | | | | | | |  | | | |
| 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 non-governmental 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 Product(s) that are not of a type customarily available in the commercial marketplace, then the following information (in addition to the Commerciality Justification Summary) must be provided:** | | | | | | | | | | | | | |
| Are the modifications made to satisfy Federal Government requirements? | | | | | | | | | | Yes  No | | | |
| Do the modifications alter the non-governmental function or essential physical characteristics of the product? | | | | | | | | | | Yes  No | | | |
| If yes, what are the alterations? | | | | | | | | | |  | | | |
| Does the modified product retain a predominance of non-governmental 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 Products Identified  in Section I | | | | | Modified Products Proposed to Lockheed Martin | | | | | | | | Unit Value of Modification |
| Unmodified Product | | Unmodified Price | | | Modified Product | | | | | | Modified Price to Lockheed Martin | |  |
|  | | $ | | |  | | | | | | $ | | $ |
|  | | $ | | |  | | | | | | $ | | $ |
|  | | $ | | |  | | | | | | $ | | $ |
|  | | $ | | |  | | | | | | $ | | $ |
|  | | $ | | |  | | | | | | $ | | $ |
| Total price to Lockheed Martin of all Minor Modifications at quantities proposed in this pricing action. | | | | | | | | | | | $ | | |
| Minor modifications 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 Product, whether “of-a-type” or “minor modification”, by providing as an 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 product for the last three (3) years. The documentation shall include:    1. Customer;    2. Price;    3. Quantities; and    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) $2,000,000 or (b) 5% of the amount of the immediate pricing action, then as required in FAR 15.403-1(c)(3)(iii)(B), Certified Cost or Pricing Data in the form of a cost elemental breakdown for the delta between the modified and unmodified product(s) including labor hours, bill of material, other direct cost, rates, profit and with supporting documentation. | | | | | | | | | | | | | |
| **IV. Combination of Commercial Products** **(Commercial Product, Definition 4)** | | | | | | | | | | | | | |
| *As per the FAR 2.101 definition of “commercial product”, definition 4 –*  Any combination of products meeting the requirements of Sections I, II, or III 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 a Combination of Commercial Product(s), please attach hereto information as requested for Sections I, II, and/or III.** | | | | | | | | | | | | | |
| **V. Transferred Commercial Product (Commercial Product, Definition 5)** | | | | | | | | | | | | | |
| *As per the FAR 2.101 definition of “commercial product”, definition 5 –*  A product, or combination of products, referred to in Sections I through IV hereof, even though the product, or combination of products, is transferred between or among separate divisions, subsidiaries, or affiliates of the Offeror.  **If you have checked the above box and are claiming a Transferred Product(s) (or Combination of Product(s)), then the following information (in addition to the Commerciality Justification Summary) must be provided:** | | | | | | | | | | | | | |
| (a) Transfer price(s) of such goods | | | | | | $ | | | | | | | |
| (b) Total units of such goods | | | | | | $ | | | | | | | |
| **VI. Nondevelopmental Commercial Product (Commercial Product, Definition 6)** | | | | | | | | | | | | | |
| *As per the FAR 2.101 definition of “commercial product”, definition 6 –*  A nondevelopmental item, if the procuring agency determines the product was –   1. developed exclusively at private expense and 2. sold in substantial quantities, and 3. sold on a competitive basis, and 4. sold to multiple State and local governments or to multiple foreign governments.   **If claiming Nondevelopmental Product(s), then the following information (in addition to the Commerciality Justification Summary) must be provided**: | | | | | | | | | | | | | |
| Was the product previously developed? | | | | | | | | | | Yes  No | | | |
| Was the product 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 product is to be modified, do the modifications comply with the Section III guidance on modifications? | | | | | | | | | | Yes  No | | | |
| If the product is not yet in use, does it otherwise qualify as a nondevelopmental product? | | | | | | | | | | Yes  No | | | |
| Was the product developed exclusively at private expense? | | | | | | | | | | Yes  No | | | |
| Is the product 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 nondevelopmental products by providing as an appendix to this form the following:**   1. Evidence or statement that the product 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, or to multiple foreign governments. 3. The contract or sales agreement documentation shall include:    1. Customer;    2. Price;    3. Quantities; and    4. Terms and Conditions | | | | | | | | | | | | | |
| **Type of Commercial Service (Sections VII - IX)**  *Check box (or boxes) as appropriate.* | | | | | | | | | | | | | |
| **VII. Commercial Service for a Commercial Product** **(Commercial Service, Definition 1)** | | | | | | | | | | | | | |
| *As per the FAR 2.101 definition of “commercial service”, definition 1 –*  Installation services, maintenance services, repair services, training services and other services if –   1. Such services are procured for support of a commercial product (referred to in Sections I through VI above), regardless of whether such services are provided by the same source or at the same time as the commercial product; 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 claiming “Commercial Service for a Commercial Product,” then the following information (in addition to the Commerciality Justification Summary) must be provided:** | | | | | | | | | | | | | |
| Are the services procured for the support of a commercial product, which qualifies under a preceding Section (I, II, III, IV, V, or VI)? | | | | | | | | | | Yes  No | | | |
| Describe the nature of the services and how they support the commercial product. | | | | | | | | | |  | | | |
| 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 | | | | |  | | | | | |
| **VIII. Commercial Service Of a Type (Commercial Service, Definition 2)** | | | | | | | | | | | | | |
| *As per the FAR 2.101 definition of “commercial service”, definition 2 –*  Service 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 –   1. *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 2. *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 Commercial Service Of a Type, then the following information (in addition to the Commerciality Justification Summary) 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 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 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 commercial service of a type 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; and    4. Terms and Conditions | | | | | | | | | | | | | |
| **IX. Transferred Commercial Service (Commercial Service, Definition 3)** | | | | | | | | | | | | | |
| *As per the FAR 2.101 definition of “commercial service”, definition 3 –*  A service referred to in Sections VII or VIII above, even though the service is transferred between or among separate divisions, subsidiaries, or affiliates of the Offeror.  **If you have checked the above box and are claiming a Transferred Commercial Service, then the following information (in addition to the Commerciality Justification Summary) must be provided:** | | | | | | | | | | | | | |
| (a) Transfer price(s) of such services | | | | | | $ | | | | | | | |
| (b) Total value of such services | | | | | | $ | | | | | | | |
| **Miscellaneous (Required for Every Claim)**  *Check boxes as appropriate.* | | | | | | | | | | | | | |
| **X. General Inquiries** | | | | | | | | | | | | | |
| Has the product or service previously been determined to be commercial? | | | | | | | | | | Yes  No | | | |
| If so, by whom? | | | | | | | | | |  | | | |
| **XI. Other Information** | | | | | | | | | | | | | |
| **Have you provided all known information that would substantiate whether the product or service is commercial?** | | | | | | | | | | Yes  No | | | |
| **XII. Supplier Representation** | | | | | | | | | | | | | |
| **Offeror represents that the information provided above is accurate and complete and that to the best of its knowledge, information and belief, the goods and/or services offered currently constitute “a commercial product or service” as defined by FAR 2.101.** | | | | | | | | | | | | | |
| Offeror: | | | | | | | | | | | | | |
| By: | | | | | | | | | | | | | |
| Title: | | | | | | | | | | | | | |
| Date: | | | | | | | | | | | | | |