OFFICE OF THE UNDER SECRETARY OF DEFENSE

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ACQUISITION,
TECHNOLOGY
AND LOGISTICS

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MEMORANDUM FOR DIRECTORS OF DEFENSE AGENCIES
ASSISTANT SECRETARY OF THE ARMY
(ACQUISITION, LOGISTICS AND TECHNOLOGY)
ASSISTANT SECRETARY OF THE NAVY
(RESEARCH, DEVELOPMENT AND ACQUISITION)
ASSISTANT SECRETARY OF THE AIR FORCE
(ACQUISITION)

SUBJECT: Commercial Item Determinations

Included in the DoD Inspector General Report, Project D-2006-115 "Commercial Contracting for the Acquisition of Defense Systems", was a recommendation that when commercial item determinations are made, these determinations should be in writing and included in the contracting file. This office concurred with that recommendation. Effective immediately, Contracting Officers shall document in writing their determinations that the commercial item definition has been met for all acquisitions using FAR Part 12 that exceeds $1 million.

Contracting Officers must ensure that contract files fully and adequately document the market research and rationale supporting a conclusion that the commercial item definition of FAR 2.101 has been satisfied. Particular care must be taken to document determinations involving modifications of a type customarily available in the commercial marketplace, and items only offered for sale, lease, or license to the general public, but not yet actually sold, leased or licensed. In these situations, the documentation must clearly detail the particulars of the modifications and sales offers. When such items lack sufficient market pricing histories, additional diligence must be given to determinations that prices are fair and reasonable as required by FAR Subpart 15.4.

If you have any questions regarding commercial item determinations, please contact Mr. Andrew Obermeyer, at (703) 697-6710 or andrew.obermeyer@osd.mil.

for Richard Ginman

Shay D. Assad
Director, Defense Procurement
and Acquisition Policy