



DEPARTMENT OF THE AIR FORCE
WASHINGTON DC

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OFFICE OF THE ASSISTANT SECRETARY

MEMORANDUM FOR ALMAJCOM-FOA-DRU (CONTRACTING)

FROM: SAF/AQC
1060 Air Force Pentagon
Washington, DC 20330-1060

SUBJECT: Rights in Technical Data for Commercial and Commercial Derivative
Aircraft

Procuring technical data rights for commercial items is a challenging issue for the government and industry. This is particularly true when the Air Force purchases or leases commercial and commercial derivative aircraft, and anticipates using third-party contractor logistics support. Securing the appropriate amount and detail of technical data is critical to overall program success, and successful life-cycle support.

The first step in acquiring the appropriate level and amount of technical data is to thoroughly research and understand what comes, "in the box,"—the standard commercial technical data and data rights provided to commercial customers with the purchase or lease of the airframe. Step two: match those commercial data rights routinely provided against the data rights our users have determined are necessary for life-cycle support. When the government's needs exceed what's "in the box," then we need to secure additional technical data rights with the initial procurement, as foreseen in DFARS 227.7102-1.

Getting the right data is particularly important when the government contemplates using a third-party contractor to maintain the commercial airframe. If we don't get the rights to provide the data to a third-party contractor up front, we may end up delaying and complicating our contract logistics support. We may even find ourselves "backed into" a non-competitive situation if we aren't able to get adequate rights after the lease/purchase and, therefore, must rely solely on the manufacturer.

If your folks are involved in leasing/purchasing a commercial or commercial derivative systems, or commercial third-party logistics support, you need to help them and our customers work data rights issues up front. Here are some sources to assist you: "Intellectual Property: Navigating Commercial Waters" located at <http://www.acq.osd.mil/ar/resources.htm>; "Commercial Item Acquisition: Considerations and Lessons Learned" at <http://www.acq.osd.mil/ar/doc/cotsreport.PDF>;

2002-8

the attached SAF/AQC memo and, as always, my SAF/AQC staff is available to assist. Our POC for this issue is Maj Scott Calisti, SAF/AQCP at DSN: 425-7072 or contact via email at: scott.calisti@pentagon.af.mil.



DARRYL A. SCOTT, Brig Gen, USAF
Deputy Assistant Secretary (Contracting)
Assistant Secretary (Acquisition)

Attachment:
SAF/AQC Memo, 27 Mar 01

cc:
AFPEO/AT
AFPEO/C2 & CS
AFPEO/FB
SAF/AQU/AQL/AQP/AQQ/AQR/AQS/AQX/AQCK



DEPARTMENT OF THE AIR FORCE
WASHINGTON DC

Office Of The Assistant Secretary

27 MAR 2008

MEMORANDUM FOR ALMAJCOM-FOA-DRU (CONTRACTING)
AF PROGRAM EXECUTIVE OFFICERS
AF MISSION AREA DIRECTORS

FROM: SAF/AQC
1060 Air Force Pentagon
Washington DC 20330-1060

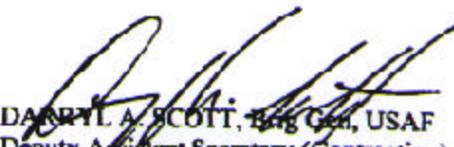
SUBJECT: Acquisition of Technical Data for Commercial Items

According to a recent Air Force "Eagle Look" report on Contract Data Requirements, there is a widely held—but mistaken--belief that the Federal Acquisition Regulation (FAR) prohibits the purchase of technical data for commercial items. This memorandum addresses this mistaken belief and clarifies regulatory guidance.

The FAR reflects the statutory preference to limit commercial data to that customarily offered to the general public. Unfortunately, this minimal data is often insufficient for complete technical evaluation of an item and, more importantly, eventual long-term field operation and maintenance. Recognizing this potential for additional data requirements, the Department of Defense FAR Supplement (DFARS 227.7102-1) broadens our commercial technical data options. Exceptions to the statutory preference allow us to buy additional technical data for form, fit and function; for repair and maintenance; and to support commercial item or process modifications made at government expense. We, however, must recognize that additional data requirements usually result in higher prices.

When developing acquisition strategies, we must work with requiring activities to (1) identify when circumstances for exception exist, (2) evaluate appropriate price/benefit tradeoffs, and (3) develop and negotiate cost-effective contract terms. One source of good ideas for building effective commercial item acquisition strategies is *Commercial Item Acquisition: Considerations and Lessons Learned*, available at <http://www.acq.osd.mil/af/doc/cotsreport.PDF>. Your local Acquisition Support Team is another source of best practices and lessons learned.

SAF/AQCP points of contact are Lt Col Shelly Kalkowski, DSN 425-7072, michelle.kalkowski@pentagon.af.mil, and Ms. Madhu LeFevre, DSN 425-7071, madhu.lefevre@pentagon.af.mil.


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