THE UNDER SECRETARY OF DEFENSE
3010 DEFENSE PENTAGON
WASHINGTON, DC 20301-3010

ACQUISITION,
TECHNOLOGY
AND LOGISTICS

JAN 05 2007

The Honorable Robert C. Byrd
Chairman, Committee on Appropriations
United States Senate
Washington, DC 20510-2402

Dear Mr. Chairman:

Section 817 of the Bob Stump National Defense Authorization Act for FY 2003 (Public Law 107-314) requires the enclosed DoD report on Truth in Negotiations Act (TINA) waivers granted for FY 2004 and 2005. The report includes two enclosures: (1) FY 2004 and 2005 commercial item exceptions to TINA requirements; and (2) FY 2004 and 2005 exceptional case waivers to TINA requirements.

There were no Cost Accounting Standards waivers issued during FY 2004 and 2005.

Over the past few months, my office has conducted an assessment of the waivers listed in this report. We have initiated several actions, including (1) increasing scrutiny by our Senior Procurement Executives regarding the granting of TINA waivers, and (2) providing additional guidance to DoD contracting personnel regarding the importance of obtaining information other than cost or pricing data when necessary to determine a fair and reasonable price for a commercial item. Furthermore, we are re-emphasizing the overall contract pricing function within the Department. Actions in this area include the recent re-establishment of the Cost, Pricing and Finance Division within the Office of Director, Defense Procurement and Acquisition Policy, the ongoing assessment of the skills, competencies and resources of our contract cost/price analysts, and the ongoing evaluation of the current organizational structure for providing pricing support to DoD contracting officers.

A similar letter has been sent to the chairmen and ranking members of the other congressional defense communities.

Sincerely,

Kenneth J. Krieg

Enclosures:
As stated

cc:
The Honorable Thad Cochran
Ranking Member

THE UNDER SECRETARY OF DEFENSE
3010 DEFENSE PENTAGON
WASHINGTON, DC 20301-3010

ACQUISITION,
TECHNOLOGY
AND LOGISTICS

JAN 05 2007

The Honorable Daniel K. Inouye
Chairman, Subcommittee on Defense
Committee on Appropriations
United States Senate
Washington, DC 20510-6028

Dear Mr. Chairman:

Section 817 of the Bob Stump National Defense Authorization Act for FY 2003 (Public Law 107-314) requires the enclosed DoD report on Truth in Negotiations Act (TINA) waivers granted for FY 2004 and 2005. The report includes two enclosures: (1) FY 2004 and 2005 commercial item exceptions to TINA requirements; and (2) FY 2004 and 2005 exceptional case waivers to TINA requirements.

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Enclosures:
As stated

cc:
The Honorable Ted Stevens
Ranking Member

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WASHINGTON, DC 20301-3010

ACQUISITION,
TECHNOLOGY
AND LOGISTICS

JAN 05 2007

The Honorable David Obey
Chairman, Committee on Appropriations
U.S. House of Representatives
Washington, DC 20515-6018

Dear Mr. Chairman:

Section 817 of the Bob Stump National Defense Authorization Act for FY 2003 (Public Law 107-314) requires the enclosed DoD report on Truth in Negotiations Act (TINA) waivers granted for FY 2004 and 2005. The report includes two enclosures: (1) FY 2004 and 2005 commercial item exceptions to TINA requirements; and (2) FY 2004 and 2005 exceptional case waivers to TINA requirements.

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Sincerely,

Kenneth J. Krieg

Enclosures:
As stated

cc:
The Honorable Jerry Lewis
Ranking Member

THE UNDER SECRETARY OF DEFENSE
3010 DEFENSE PENTAGON
WASHINGTON, DC 20301-3010

ACQUISITION,
TECHNOLOGY
AND LOGISTICS

JAN 05 2007

The Honorable John P. Murtha
Chairman, Subcommittee on Defense
Committee on Appropriations
U.S. House of Representatives
Washington, DC 20515-6015

Dear Mr. Chairman:

Section 817 of the Bob Stump National Defense Authorization Act for FY 2003 (Public Law 107-314) requires the enclosed DoD report on Truth in Negotiations Act (TINA) waivers granted for FY 2004 and 2005. The report includes two enclosures: (1) FY 2004 and 2005 commercial item exceptions to TINA requirements; and (2) FY 2004 and 2005 exceptional case waivers to TINA requirements.

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Enclosures:
As stated

cc:
The Honorable C. W. "Bill" Young
Ranking Member

THE UNDER SECRETARY OF DEFENSE
3010 DEFENSE PENTAGON
WASHINGTON, DC 20301-3010

ACQUISITION,
TECHNOLOGY
AND LOGISTICS

JAN 05 2007

The Honorable Carl Levin
Chairman, Committee on Armed Services
United States Senate
Washington, DC 20510-6050

Dear Mr. Chairman:

Section 817 of the Bob Stump National Defense Authorization Act for FY 2003 (Public Law 107-314) requires the enclosed DoD report on Truth in Negotiations Act (TINA) waivers granted for FY 2004 and 2005. The report includes two enclosures: (1) FY 2004 and 2005 commercial item exceptions to TINA requirements; and (2) FY 2004 and 2005 exceptional case waivers to TINA requirements.

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Kenneth J. Krieg

Enclosures:
As stated

cc:
The Honorable John McCain
Ranking Member

THE UNDER SECRETARY OF DEFENSE
3010 DEFENSE PENTAGON
WASHINGTON, DC 20301-3010

ACQUISITION,
TECHNOLOGY
AND LOGISTICS

The Honorable Ike Skelton
Chairman, Committee on Armed Services
U.S. House of Representatives
Washington, DC 20515-6035

Dear Mr. Chairman:

Section 817 of the Bob Stump National Defense Authorization Act for FY 2003 (Public Law 107-314) requires the enclosed DoD report on Truth in Negotiations Act (TINA) waivers granted for FY 2004 and 2005. The report includes two enclosures: (1) FY 2004 and 2005 commercial item exceptions to TINA requirements; and (2) FY 2004 and 2005 exceptional case waivers to TINA requirements.

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Sincerely,

Kenneth J. Krieg

Enclosures:
As stated

cc:
The Honorable Duncan Hunter
Ranking Member

REPORT TO CONGRESS ON
TRUTH IN NEGOTIATIONS ACT (TINA) WAIVERS GRANTED
DEPARTMENT OF DEFENSE – FISCAL YEARS 2004 AND 2005
OUSD(AT&L), DECEMBER 2006

SUMMARY OF ENCLOSURES

ENCLOSURE 1 – Commercial Item Exceptions to TINA Over $15M Pursuant to FAR 15.403-1(c)(3)

	NUMBER OF EXCEPTIONS		$ IN MILLIONS	
	2004	2005	2004	2005
ARMY	8	40	$193	$1,999
NAVY	9	4	$317	$92
AIR FORCE	23	21	$1,615	$2,248
DEFENSE INFORMATION SECURITY AGENCY	4	2	$325	$40

ENCLOSURE 2 – Exceptional Case Waivers of TINA Over $15M Granted Pursuant to FAR 15.403-1(c)(4)

ARMY	0	4	$0	$129
NAVY	5	1	$9,687	$20
AIR FORCE	2	2	$78	$78
TRI-CARE	0	2	$0	$3,261

COMMERCIAL ITEM EXCEPTIONS TO TINA $15M GRANTED PURSUANT TO FAR 15.403-1(c)(3))

Army FY 2004

Exception 1

1. Contract Number: DAAD13-03-C-0042, P00003
   Procurement Name: Antiterrorism/Force Protection Tier 3 Upgrades
2. Activity: U.S. Army Research, Development and Engineering Center Acquisition Center, Aberdeen Proving Ground, MD
3. Total Dollar Value of Exception: $22,683,224
4. Brief description of TINA exception rationale: FAR 12.102(f)(1) – acquisition of supplies or services that, as determined by the head of the agency, are to be used to facilitate defense against or recovery from nuclear, biological, chemical, or radiological attack, as an acquisition of commercial items. The item/service purchased is Antiterrorism/Force Protection (AT/FP) Tier 3 Upgrade to USMC Installations in support of Joint Service Installation Pilot Program (JSIPP) Emergency Responder Equipment and Training.
5. Brief description of price reasonableness determination: A cost analysis was performed consisting of a review and evaluation of the offeror's separate cost elements and profit based on information other than cost or pricing data submitted by the offeror. Analysis included assistance of technical and cost/price analysts. Negotiations were conducted to arrive at a fair and reasonable price.
6. Contractor: EAI Corporation

Exception 2

1. Contract Number: DAAD13-03-C-0082
   Procurement Name: Installation Preparedness Support for Assessments, Training, and Provision of 20 Army Bases
2. Activity: U.S. Army Research, Development and Engineering Center Acquisition Center, Aberdeen Proving Ground, MD
3. Total Dollar Value of Exception: $21,784,000
4. Brief description of TINA exception rationale: FAR 12.102(f)(1) – acquisition of supplies or services that, as determined by the head of the agency, are to be used to facilitate defense against or recovery from nuclear, biological, chemical, or radiological attack, as an acquisition of commercial items. The item/service purchased is Antiterrorism/Force Protection (AT/FP) Tier 3 Upgrade to USMC Installations in support of Joint Service Installation Pilot Program (JSIPP) Emergency Responder Equipment and Training.
5. Brief description of price reasonableness determination: A comparison was made by technical and cost/price analysts to similar projects in Fort Leonardwood, MO and equipment costs for the existing Marine Corps program.
6. Contractor: EAI Corporation

Exception 3

1. Contract Number: W9113M-04-D-0002

Procurement Name: Anthrax Vaccine Immunization Program
2. Activity: U.S. Army Space and Missile Defense Command, Fort Detrick, MD
3. Total Dollar Value of Exception: $29,772,976
4. Brief description of TINA exception rationale: This delivery order is part of a firm-fixed-price contract for anthrax vaccine doses. The anthrax vaccine is a non-developmental item that was developed at private expense and is sold in substantial quantities, on a competitive basis, to multiple State and local governments. The original commercial item determination was based on a review of commercial sales data that was presented to the government by Bioport.
5. Brief description of price reasonableness determination: A cost analysis was performed consisting of a review and evaluation of the offeror's separate cost elements and profit based on information other than cost or pricing data submitted by the offeror. Analysis included assistance of technical and cost/price analysts. Negotiations were conducted to arrive at a fair and reasonable price.
6. Contractor: Bioport Corporation

Exception 4

1. Contract Number: W9113M-04-C-0014
   Procurement Name: Star SAFIRE III airborne thermal imaging systems and related items and two FLIR Systems Star SAFIRE II Systems
2. Activity: U.S. Army Space and Missile Defense Command, Huntsville, Ala.
3. Total Dollar Value of Exception: $16,885,286
4. Brief description of TINA exception rationale: FLIR Systems, Inc. has deployed approximately 800 SAFIRE airborne thermal imaging systems on more than 35 different types of rotary- and fixed-wing aircraft. The SAFIRE is used in a number of applications including search and rescue, reconnaissance, boarder and coastal control, and target identification. Customers for the Star SAFIRE III include law enforcement and fire fighting agencies at the state and local level. As a result, the SAFIRE airborne thermal imaging systems are considered a non-developmental item as defined in FAR 2.101. SAFIRE systems are sold in substantial quantities, on a competitive basis, to multiple State and local governments. The infrared sensor, listed on the GSA Schedule, is available to the public within the definition of FAR 2.101 and FAR 15.403-1(c)(3).
5. Brief description of price reasonableness determination: Price reasonableness was determined primarily through price analysis and market research. Negotiated prices were compared to the GSA schedule rates, which were deemed fair and reasonable.
6. Contractor: Flir Systems, Inc

Exception 5

1. Contract Number: W15P7T-04-D-L205, Delivery Order 0001.
   Procurement Name: AN/APX-100 receiver-transmitters
2. Activity: U.S. Army Communications-Electronics Command, Fort Monmouth, N.J.
3. Total Dollar Value of Exception: $15,004,335
4. Brief description of TINA exception rationale: The aircraft transponders procured under this contract fit the commercial item definition at FAR 2.101 because they are the same or similar to transponders available for commercial aircraft as determined through market research.

5. Brief description of price reasonableness determination: Proposed prices were compared to historical prices and catalogue prices for the same/similar equipment and related services. Prices were negotiated.
6. Contractor: Raytheon Company

Exception 6

1. Contract Number: W56HZV-04-C-0439
   Procurement Name: Armor Kits for the High Mobility Multipurpose Wheeled Vehicles
2. Activity: U.S. Army Tank-Automotive and Armaments Command, Warren, Mich.
3. Total Dollar Value of Exception: $25,090,387
4. Brief description of TINA exception rationale: The armor kits are a non-developmental item, which are developed at private expense and sold in substantial quantities, on a competitive basis, to multiple State and local governments and the general public within the definition of FAR 2.101 and FAR 15.403-1(c)(3).
5. Brief description of price reasonableness determination: A cost analysis was performed consisting of a review and evaluation of the offeror's separate cost elements and profit based on information other than cost or pricing data submitted by the offeror. Analysis included assistance of technical and cost/price analysts. Negotiations were conducted to arrive at a fair and reasonable price.
6. Contractor: Armorworks, LLC

Exception 7

1. Contract Number: W58RGZ-04-D-0057
   Procurement Name: T-700 Engine Spare Parts
2. Activity: U.S. Army Aviation and Missile Command, Redstone Arsenal, Ala.
3. Total Dollar Value of Exception: $40,049,716
4. Brief description of TINA exception rationale: General Electric provided documentation which demonstrated that the parts/services contracted for are "of a type" offered and sold competitively in substantial quantities in the commercial marketplace. Spare engine parts for commercially available jet engine.
5. Brief description of price reasonableness determination: This engine has a long history of service in Army aircraft. As a result, historical prices on previous procurements were compared to proposed prices. The negotiator also considered catalog prices for the engine.
6. Contractor: General Electric Company

Exception 8

1. Contract Number: W58RGZ-04-D-0215
   Procurement Name: Maintenance and overhaul of the T55-GA-714A engine and its components for the CH-47D Chinook helicopter
2. Activity: U.S. Army Aviation and Missile Command, Redstone Arsenal, Ala.,
3. Total Dollar Value of Exception: $21,500,000
4. Brief description of TINA exception rationale: Federal Acquisition Regulation Part 12 consideration reflects that the T55-GA-714A engine is "of a type" containing all the following commercial engines listed in Honeywell Document titled: Request for Commercial Item Determination, Repair and Overhaul Services for the T55-GA-714A turbo shaft engine, CH-47 "Chinook", 28 February 2004. The engine family has been sold

commercially and maintained under FAA commercial standards for overhaul. See the discussion under contract W58RGZ-05-C-0020 above.

5. Brief description of price reasonableness determination: In determining price reasonableness for contractor acquired parts, the government used current historical prices and the Army Master Data File (AMDF).
6. Contractor: Honeywell Defense and Space

Army FY 2005

Exceptions 1 - 3

1. Contract Number: DAAH23-00-C-0347, P00024, $162,339,024
   DAAH23-00-C-0347, P00029, $18,727,430
   DAAH23-00-C-0347, P00030, $46,443,655
   Procurement Name: Overhaul and Repair for the T700 Family of Engines
2. Activity: U.S. Army Aviation and Missile Command, Redstone Arsenal, Ala.
3. Brief description of TINA exception rationale: This was a modification to a firm-fixed-price contract for the overhaul and repair for the entire T700 family of engines. The basis for determining that this effort is commercial was GE-provided documentation that the parts and services being procured are "of a type" offered and sold competitively in substantial quantities in the commercial marketplace.
4. Brief description of price reasonableness determination: The following steps were taken to ensure a fair and reasonable price for this effort as described under FAR 13.106-3, Award and Documentation. The Government determined that the proposed price is fair and reasonable based on (1) Comparison of the proposed price with prices found reasonable on previous purchases; (2) Current price lists, catalogs, or advertisements, (3) A comparison with similar items in a related industry (4) Comparison to an independent Government estimate. The Government used price analysis to maximum extent possible. Although, the contractor has a commercial catalog for prices for services/parts, however, the Government received a better price than their commercial customer by utilizing price analysis.
5. Contractor: General Electric Aircraft Engines

Exception 4

1. Contract Number: W58RGZ-05-C-0020
   Procurement Name: Overhaul of the T55-GA-714A Turboshaft Engine on the CH-47 (Chinook) helicopter.
2. Activity: U.S. Army Aviation and Missile Command, Redstone Arsenal, Ala.
3. Total Dollar Value of Exception: $19,358,027
4. Brief description of TINA exception rationale: Contract W58RGZ-05-C-0020 is for engine overhaul of the T55-GA-714A turboshaft engine on the CH-47 (Chinook) helicopter. Although the T55-L-714 and T55-GA-714A engines are only sold to the military, they are part of a commercial engine family. The T55-L-714 engine was designed for commercial support by the TAPO community. Its design is derived from the commercial T55 engine family. There are only fourteen parts that separate a T55-L-714 engine from a T55-GA-714A engine. Of the 118 major components that comprise a T55-GA-714A engine, 84 of them are used in other commercial engines listed in the T55 family. The engine family has been sold commercially and maintained under FAA commercial standards for overhaul.

5. Brief description of price reasonableness determination: The proposed contract price was determined to be fair and reasonable price based on information other than cost or pricing data. An Integrated Product Team that included personnel from the Army Aviation and Missile Command, AMCOM's Integrated Materiel Management Center, and the Defense Contract Audit Agency, reviewed and analyzed the data using One-Pass. DCAA conducted an audit of the proposed prices and cost of the contract. The IPT also used the most current DCMA Forward Pricing Rate Agreement. To evaluate material pricing, the IPT used a sampling method that included the parts that constituted 75% of the proposed dollar value. Of the 57 parts that were included in the sample, 25 had existing unit prices defined on another AMCOM contract. The remaining parts were reviewed using One-Pass pricing. **NOTE:** The One-Pass Contracting Process is a streamlined process to define and scope requirements; prepare contractual documents; generate contractor proposals; and negotiate definitive contract actions for contract changes and new sole source contracts in an IPT environment which includes members from the contractor and government. One-pass pricing allows the contractor and Government personnel to concurrently reach agreement on cost elements in real time and provides a unique opportunity for DoD to directly impact judgmental decisions made when pricing items. It is similar to the Alpha Contracting Process.
6. Contractor: Honeywell International Inc.

Exception 5

1. Contract Number: W58RGZ-04-D-0215, Order 0001, Mod 05
   Procurement Name: Commercial Maintenance and Overhaul of the T55-GA-714A engine and its components for the CH-47D Chinook helicopter
2. Activity: U.S. Army Aviation and Missile Command, Redstone Arsenal, Ala.
3. Total Dollar Value of Exception: $23,500,000
4. Brief description of TINA exception rationale: Federal Acquisition Regulation Part 12 consideration reflects that the T55-GA-714A engine is "of a type" containing all the following commercial engines listed in Honeywell Document titled: Request for Commercial Item Determination, Repair and Overhaul Services for the T55-GA-714A turbo shaft engine, CH-47 "Chinook", 28 February 2004. The engine family has been sold commercially and maintained under FAA commercial standards for overhaul. See the discussion under contract W58RGZ-05-C-0020 above.
5. Brief description of price reasonableness determination: In determining price reasonableness for contractor acquired parts, the government used current historical prices and the Army Master Data File (AMDF).
6. Contractor: Honeywell International Inc.

Exceptions 6 & 7

1. Contract Number: W52H0905D0073, Call 0001, $35,046,199
   W52H0905D0073, Call 0012, $33,098,654
   Procurement Name: M4 and M5 Adapter Rail Systems
2. Activity: U.S. Army Tank-Automotive and Armaments Command, Warren, Mich.
3. Brief description of TINA exception rationale: This delivery order is part of a $6,606,560 firm-fixed-price contract for procurement of M4 and M5 adapter rail systems in support of the M16A4 rifle and M4 carbine. The Commerciality Determination stated that these items

had been sold to over 100 Federal Firearms License holders as well as the general public. The items modify the M16A2 Rifle to the M16A4 Rifle, and add Adapter Rails to the M4/M4A1 Carbines and M16A4 Rifles.

4. Brief description of price reasonableness determination: The Government compared the proposed prices to commercial dealer prices, invoices supplied by the contractor for sales to the public, and previous contract prices.
5. Contractor: Knights Armament Co.

Exceptions 8 - 13

1. Contract Number: DAAE0700-C-S019, Mod P00164, $31,950,565
   DAAE0700-C-S019, Mod P00174, $18,650,400
   DAAE0700-C-S019, Mod P00179, $89,364,875
   DAAE0700-C-S019, Mod P00183, $78,044,484
   DAAE0700-C-S019, Mod P00186, $21,012,600
   DAAE0700-C-S019, Mod P00189, $45,096,935
   Procurement Name: 180 Up-Armored High Mobility Multi-purpose Wheeled Vehicles
2. Activity: U.S. Army Tank-Automotive and Armaments Command, Warren, Mich.
3. Brief description of TINA exception rationale: This is a contract to produce 180 Up-Armored High Mobility Multi-purpose Wheeled Vehicles (HMMWV). In 2004, the contractor, Centigon, supplied armor and protection systems for 1,402 commercial armored vehicles. Some of their armoring projects have included: presidential limousines, vehicles for heads of state, and commercial Hummer2s. Furthermore, the Government has determined the HMMWV to be a commercial vehicle. Since the contractor is in the business of armoring vehicles (both commercial and military) and the application of this armor is for a commercial vehicle, the Procuring Contracting Officer determined that the items under this contract were commercial.
4. Brief description of price reasonableness determination: This sole source contract was negotiated utilizing an Alpha Contracting approach. Alpha contracting relies on a team approach to concurrently develop a scope of work, price that scope, and prepare the contract to execute the scope. Used in sole-source negotiated situations, Alpha contracting has allowed requirements for major systems, subsystems and components to be under contract in a matter of days or weeks rather than months or even years. In this case, information other than cost or pricing data was used to establish price reasonableness. As a result, cost data for labor, overhead, and material was submitted and evaluated, but not certified.
5. Contractor: O'Gara-Hess & Eisenhardt Armoring Co.

Exceptions 14 - 28

1. Contract Number: DAAE0701-C-S001, Mod P00592, $119,618,047
   DAAE0701-C-S001, Mod P00601, $163,370,186
   DAAE0701-C-S001, Mod P00644, $ 44,280,062
   DAAE0701-C-S001, Mod P00651, $ 25,681,503
   DAAE0701-C-S001, Mod P00667, $ 59,963,442
   DAAE0701-C-S001, Mod P00694, $ 24,416,957
   DAAE0701-C-S001, Mod P00744, $120,817,716
   DAAE0701-C-S001, Mod P00668, $ 19,617,848
   DAAE0701-C-S001, Mod P00764, $ 19,011,990

DAAE0701-C-S001, Mod P00747, $ 43,435,297
DAAE0701-C-S001, Mod P00790, $106,558,100
DAAE0701-C-S001, Mod P00793, $161,137,100
DAAE0701-C-S001, Mod P00759, $ 28,816,405
DAAE0701-C-S001, Mod P00808, $ 75,135,060
DAAE0701-C-S001, Mod P00809, $ 35,378,903

Procurement Name: High Mobility Multi-purpose Wheeled Vehicles (HMMWV) Production Contract

2. Activity: U.S. Army Tank-Automotive and Armaments Command, Warren, Mich.
3. Brief description of TINA exception rationale: The commercial model of the HMMWV is the H1 Hummer that has been sold to and used by the general public since 1992. The commercial H1 and the Military HMMWV have been produced at the same facility for several years, share the same basic assembly line, and have many parts in common. The HMMWV falls within the FAR definition of "Commercial Item" and as such Contract DAAE07-01-C-S001 was executed using FAR Part 12, Acquisition of Commercial Items.
4. Brief description of price reasonableness determination: Alpha Contracting was used to negotiate prices for this contract. The contractor provided bill of material, labor hour, tooling, and overhead rate information for the base year, and escalation data for out-years thereby disclosing the key cost elements. The contractor essentially provided much of the same cost and pricing information that it would normally certify in procurements where certified cost or pricing data is required. Negotiations were conducted on a bottom-line price approach. This method of agreement on price was acceptable to both parties as key cost inputs were already disclosed, the HMMWV was an established vehicle, and all major changes to the vehicle had already been negotiated in previous Engineering Changes. A three-part price analysis was also performed using price history from the previous HMMWV Contract DAAE07-96-D-X001, price history with known increases, and the contractor's proposed prices vs. the negotiated prices. Negotiations are documented in the Post Negotiation Memorandum for Contract DAAE07-01-C-S001.
5. Contractor: AM General

Exception 29

1. Contract Number: W56HZV-04-D-0296, Call 0004
   Procurement Name: 5,040 Turbo Engines with Containers for the High Mobility Multipurpose Wheeled Vehicle
2. Activity: U.S. Army Tank-Automotive and Armaments Command, Warren, Mich.
3. Total Dollar Value of Exception: $22,235,111
4. Brief description of TINA exception rationale: This delivery order is part of a $49,263,873 firm-fixed-price contract for 5,040 turbo engines with containers for the High Mobility Multipurpose Wheeled Vehicle. The Commerciality Determination relied on the fact that these items have been procured as a commercial item in previous contracts. These types of engines are used in commercial Hummer H1 vehicles and sold to the general public.
5. Brief description of price reasonableness determination: Price reasonableness was established using information other than cost or pricing data. This information included procurement history (which was based on dealer competition), the contractor's cost breakdown, price/cost analysis (with DCAA input) and negotiations. Cost data submitted during the evaluation and negotiation of this contract were not certified.

6. Contractor: AM General

Exceptions 30 - 32

1. Contract Number: W56HZV-04-D-0321, Call 0001, $37,244,971
   W56HZV-04-D-0321, Call 0003, $28,585,286
   W56HZV-04-D-0321, Call 0005, $40,408,744
   Procurement Name: Detuned 6.5L Engine W/Container
2. Activity: U.S. Army Tank-Automotive and Armaments Command, Warren, Mich.
3 Brief description of TINA exception rationale: This delivery order is part of a $442,215,254 firm-fixed-price contract for 6.5L Detuned Engines with Containers for the High Mobility Multipurpose Wheeled Vehicles. The Commerciality Determination stated that these items had been procured as a commercial item in previous contracts. These types of engines are used in commercial vehicles and sold to the general public.
4. Brief description of price reasonableness determination: Negotiations were conducted using Alpha Contracting methods. DCMA and DCAA members were instrumental in working directly with their AM General counterparts in the formulation of the proposal.
5. Contractor: AM General

Exceptions 33 & 34

1. Contract Number: W56HZV04D0327, Call 0002, $18,445,485
   W56HZV04D0327, Call 0003, $22,705,838
   Procurement Name: Cargo/Material Transport Vehicles
2. Activity: U.S. Army Tank-Automotive and Armaments Command, Warren, Mich.
3. Brief description of TINA exception rationale: The chassis and body of this vehicle is the Ford Ranger 4x4 Single Cabin Pickup Truck, which meets the definition of commercial item in FAR 2.201.
4. Brief description of price reasonableness determination: Price reasonableness was established using information other than cost or pricing data. Based on the government's review of information submitted by the offeror on the Cargo/Material Transport Vehicle, supplemented through market research and input from the technical analyst, TACOM concluded that the price was fair and reasonable.
5. Contractor: Global Fleet Sales, Inc.

Exceptions 35 & 36

1. Contract Number: W56HZV04D0328, Call 0002, $19,984,244
   W56HZV04D0328, Call 0003, $15,868,260
   Procurement Name: Heavy Equipment Transport RESET
2. Activity: U.S. Army Tank-Automotive and Armaments Command, Warren, Mich.
3. Brief description of TINA exception rationale: This delivery order is part of a $190,700,000 firm-fixed-price contract for RESET of the M1000 Heavy Equipment Transporter Trailer. A Market Survey of contractors for the RESET of the M1000 was included in a survey of the Family of Heavy Tactical Vehicles in 2003. The M1000 Heavy Equipment Transporter was determined commercial in April 1998. The RESET was considered commercial since the basic vehicle has been determined to be a commercial vehicle.

4. Brief description of price reasonableness determination: The price was determined fair and reasonable based on cost analysis and negotiations. DCAA and DCMA assistance was received.
5. Contractor: Systems & Electronics Inc.

Exception 37

1. Contract Number: W56HZV-05-D-0011, Call 0002
   Procurement Name: Ballistic Glass for the Up-Armor High Mobility Multipurpose Wheeled Vehicle
2. Total Dollar Value of Exception: $19,218,389
3. Activity: U.S. Army Tank-Automotive and Armaments Command, Warren, Mich.
4. Brief description of TINA exception rationale: This delivery order is part of an $11,019,450 firm fixed price contract for ballistic glass for the Up-Armor High Mobility Multipurpose Wheeled Vehicle. The windows being procured under this solicitation were for the HMMWV, and were determined commercial and procured under FAR Part 12 since the same type of glass is used for commercial vehicles for dignitaries and celebrities. The HMMWV production contract includes the same type ballistic glass bought in this spares procurement.
5. Brief description of price reasonableness determination: Price was considered fair and reasonable based on DCAA audit report 01641-2004R23000012, dated 9 Sep 04. The contractor offered rates consistent with those reviewed by DCAA for the production vehicle contract for the M114, which contains the same type of Ballistic Windows.
6. Contractor: O'Gara-Hess & Eisenhardt

Exception 38

1. Contract Number: W52P1J-05-C-0056
   Procurement Name: AMMUNITION, 75 MM THROUGH 125 MM
3. Total Dollar Value of Exception: $41,881,694
4. Brief description of TINA exception rationale: This contract is for 75 MM through 125MM ammunition. MECAR was specified in a Letter of Offer and Acceptance between the U.S. and Saudi Arabia. It is MECAR's company policy not to reveal corporate pricing records. The Contracting Officer obtained limited pricing data and our Pricing Division provided a price analysis of the data comparing it to 1999 prices and inflation/exchange rates. The Contracting Officer determined there was sufficient information to conduct negotiations to determine price reasonableness.
5. Brief description of price reasonableness determination: The Contracting Officer obtained limited pricing data and our Pricing Division provided a price analysis of the data comparing it to 1999 prices and inflation/exchange rates. This analysis indicated the proposed prices were lower than the price estimates calculated by the Pricing Division. The Contracting Officer determined there was sufficient information to conduct negotiations to determine price reasonableness.
6. Contractor: MECAR SA

Exception 39

1. Contract Number: W9113M-05-D-0002, 0001
   Procurement Name: FLIR Star SAFIRE sensors for the Joint Land Attack Cruise Missile Defense Elevated Netted Sensor System

2. Activity: U.S. Army Space and Missile Defense Command, Huntsville, Ala.
3. Total Dollar Value of Exception: $32,863,710
4. Brief description of TINA exception rationale: FLIR Systems, Inc. has deployed approximately 800 SAFIRE airborne thermal imaging systems on more than 35 different types of rotary- and fixed-wing aircraft. The SAFIRE is used in a number of applications including search and rescue, reconnaissance, boarder and coastal control, and target identification. Customers for the Star SAFIRE III include law enforcement and fire fighting agencies at the state and local level. As a result, the SAFIRE airborne thermal imaging systems are considered a non-developmental item as defined in FAR 2.101. SAFIRE systems are sold in substantial quantities, on a competitive basis, to multiple State and local governments. The infrared sensor, listed on the GSA Schedule, is available to the public within the definition of FAR 2.101 and FAR 15.403-1(c)(3).
5. Brief description of price reasonableness determination: The prices are in accordance with those set forth in the IDIQ contract, which were negotiated quantity prices. Therefore, the prices are less than those under FLIR's GSA Contract No. GS-03F-5051C and those previously paid by the government under contracts W9113M-05-P-0013 and W9113M-05-P-0045. The items are listed under FLIR's contract on the GSA Advantage website. GSA has already determined the prices of items under schedule contracts to be fair and reasonable, IAW FAR 8.404.
6. Contractor: FLIR Systems, Inc.

Exception 40

1. Contract Number: W9113M-04-D-0002, 0002
   Procurement Name: Anthrax Vaccine
2. Activity: U.S. Army Space and Missile Defense Command, Huntsville, Ala.
3. Total Dollar Value of Exception: $29,722,975
4. Brief description of TINA exception rationale: The contract is a commercial contract, as the product is available for commercial purchases and has been sold commercially.
5. Brief description of price reasonableness determination: The price per dose was an extension of the price from the previous contract, a non-commercial product contract (the DoD was the only customer prior to late in 2002). That dose price was based on a DCAA audit. For the follow-on contract (W9113M-04-D-0002), the dose price was inflated by (b)(4) well within the documented inflation factor for Lansing, MI, as identified by the consumer price index.
6. Contractor: BioPort Corp.

Navy FY04

Exception 1

1. Contract number: N00019-04-D-0001 delivery order 0003
Procurement Name: 0049 Spares for KC-130J aircraft
2. Activity: Naval Air Systems Command
3. Total dollar value of exception: $26,821,967
4. Brief description of TINA exception rationale: The USAF is procuring the KC-130J as a commercial item, as such Lockheed Martin (LMA) proposed that all parts procured in support of the aircraft were also commercial. The Government requested LMA to survey their vendors for specific parts and services, primarily spare parts and consumables, being

proposed as commercial items. A majority of the vendors self-certified that their items were commercial products per the FAR 2.101 definition. Based on that certification and recognition that the USAF purchases these goods and services on a commercial basis, the hardware and subcontracted services were determined to be commercial items.

5. Brief description of price reasonableness determination: Once a spares replenishment model was agreed upon between the Government and the contractor, the individual proposed part prices were analyzed to determine price reasonableness. Using a statistical sample, the Contracting Officer isolated and identified 54 parts that contributed to 40% of the proposed CLINs value, either by virtue of their individual price or large quantity thereof. A price analysis compared the proposed prices to: (1) the prices paid by the Air Force under Contract F33657-00-C-0018 for the same parts; and, (2) prices found on a DLA website. Based upon this analysis, individual prices as well as a fixed handling surcharge and profit rate were negotiated and determined to be fair and reasonable.
6. Contractor: Lockheed Martin Aeronautics Company – Marietta

Exception 2

1. Contract number: N00019-01-C-0071 P00021

Procurement Name: CLIN 0301 C-40 Aircraft

2. Activity: Naval Air Systems Command
3. Total dollar value of exception: $62,000,000
4. Brief description of TINA exception rationale: The C-40 aircraft is a commercial Boeing 737-700 series aircraft with some modification, as defined in FAR 2.101
5. Brief description of price reasonableness determination: NAVAIR began its analysis by a comparison of the price offered by The Boeing Company for this aircraft (#8) to the prices of the 7 previous aircraft procured by the Navy. Also considered was the time elapsed between the aircraft purchases, the delivery dates, place in the Boeing production line, escalation, inflation, upgrades, and offered credits. Additionally, the Boeing web page showed listed commercial aircraft prices indicating no significant changes in the airframe prices. Accordingly, the price for this aircraft was considered to be fair and reasonable.
6. Contractor: The Boeing Company

Exception 3

1. Contract number: N00164-04-D-8508

Procurement Name: AN/PVS-15A

2. Activity: Naval Surface Warfare Center, Crane, Indiana 47522
3. Total dollar value of exception: $49,385,352
4. Brief description of TINA exception rationale: This procurement is for a Binocular Night Vision System (BNVS). The contract is exempt from the submission of Cost or pricing data per FAR 15.403-1(b) (3) when a (modified) commercial item is being acquired. Due to tube transfer cost issues, Litton EOS voluntarily offered to certify the data provided. So other than cost and pricing data was Certified by the contractor, although it was not required to be certified.
5. Brief description of price reasonableness determination: A comparison to previous contract prices for the same or similar item IAW FAR 15.404-1 (b) (2) (ii) revealed the prices for the current contract are comparable to those of contract N00164-04-D-8505. Therefore, based on a comparison of prices, the current proposed and post-negotiation pricing is considered fair and reasonable.

6. Contractor: Litton Systems, Inc. Electro-Optical Systems Division

Exception 4

1. Contract number: N65236-04-D-3119
   Procurement name: Various
2. Activity: Space and Naval Warfare Systems Center Charleston
3. Total dollar value of exception: $29,881,690
4. Brief description of TINA exception rationale: This procurement is for a satellite terminal. L3 markets the product as a COTS equipment. The equipment procured under this contract is considered a COTS product because it is an integration of commercial products which are sold commercially.
5. Brief description of price reasonableness determination: The individual line item pricing was determined fair and reasonable based upon the following: 1) Comparison to L3 commercial price list; 2) Comparison to historical prices for same/similar items from prior purchases, where the reasonableness of the price was established; 3) Comparison to prices for similar type equipment available through the stock system (capability variances considered); and 4) Comparison to the Independent Government Estimate. A discount was requested and received as part of the settlement price.
6. Contractor : L3 Communications Corporation, Satellite Networks

Exception 5

1. Contract number: N00383-04-C-008M
   Procurement name: 0001, AE2100D3 ENGINE
2. Activity: Naval Inventory Control Point - Philadelphia
3. Total dollar value of exception: $18, 900,000
4. Brief description of TINA exception rationale: This contract was awarded to acquire spare, complete engines in support of the Navy C-130J aircraft in response to a NAVAIRSYSCOM requirement. The C-130J is an airframe operated by USAF and Navy. The USAF originated the Program and determined the complete aircraft in flyaway configuration to be a commercial product based upon similarity including the Rolls Royce AE2100D3 engines.
5. Brief description of price reasonableness determination: The subject contract was negotiated with Rolls Royce based upon a commercial quote supported by other than cost or pricing data. Significant price history is available for this engine and similar Rolls Royce power plants procured by the US military and other customers since C-130J program inception. Settlement price is supported by cost and price analysis.
6. Contractor : Rolls-Royce Corporation

Exception 6

1. Contract number: N00383-00-D-007J, Delivery Orders 0013 and 0014
   Procurement name: Various
2. Activity: Naval Inventory Control Point - Philadelphia
3. Total dollar value of exception: $31,022,632
4. Brief description of TINA exception rationale: This procurement is for aircraft auxiliary power units, engine fuel controls, engine driven compressors and Performance Based Logistics (PBL) support, which are commercial items or services or modified commercial

items as defined in FAR 2.101. A study by the Navy Price Fighter Department in June 1998 verified the items were commercial or modified commercial items.

5. Brief description of price reasonableness determination: The contracting officer reviewed cost and pricing information, including sales reports of similar or like items, vendor purchase orders/quotes, and historical labor hours to determine the price was fair and reasonable. Logistics and engineering costs related to Performance Based Logistics were also reviewed. The offeror's commercial Maintenance Service Agreements was compared to the proposed price. Finally, an independent government estimate developed in support of a Business Case Analysis while reviewing the possible use of Performance Based Logistics showed the price to be less than the current cost of logistics for the parts.
6. Contractor: Honeywell International Inc., Defense and Space

Exception 7

1. Contract number: N00104-04-D-L004
   Procurement name: 0001- Inflatable Life Raft, NSN 3H 4220-01-459-1333
2. Activity: Naval Inventory Control Point - Mechanicsburg
3. Total dollar value of exception: $34,600,000
4. Brief description of TINA exception rationale: The inflatable life rafts procured are the same Zodiac craft that are used by river rescue units, policemen, and firemen. It was determined to be a commercial item IAW FAR 2.101.
5. Brief description of price reasonableness determination: Price reasonableness was determined through price analysis using historical pricing, GSA catalog prices of the same/similar items, and dealer pricing. We compared information on other commercial and GSA sales. Based upon quantities and our positive working relationship with the contractor, the discount obtained brought the pricing to less than prices available commercially or through GSA for the identical requirement.
6. Contractor: Zodiac of North America Inc.

Exception 8

1. Contract number: N00104-04-D-Q161
   Procurement name: Various
2. Activity: Naval Inventory Control Point - Mechanicsburg
3. Total dollar value of exception: $45,000,000
4. Brief description of TINA exception rationale: This follow-on to the 1991 NAVSEA computer-aided-design contract is an indefinite-delivery/indefinite-quantity (IDIQ) contract for engineering hardware systems, supplies and related support services, software, maintenance, and training in support of various NAVSEA computer-aided-design (CAD) projects. The NAVSEA II contract is set up to support all previous NAVSEA contract users. Commerciality was determined through market research and is a follow-on to a commercial item contract.
5. Brief description of price reasonableness determination: Price reasonableness was determined through price analysis including comparisons to, and evaluation of, market prices for supplies and labor rates, published price lists, comparison to existing GWACs and GSA schedules for the same or similar supplies and labor rates, and historical pricing information. Historical sales from other DOD Contracts, GSA schedules/orders, and commercial sales were reviewed and considered during price negotiations. Based on estimated quantities of this procurement, every contract line item price was discounted from the commercial list prices,

GSA schedules, and/or prime contractor list prices. Computed Price Differentials were established for every contract line item, ensuring these discounts would be maintained or improved if future technology insertion products were incorporated into the contract.

6. Contractor: Intergraph Corp, Intergraph Solutions Group

Exception 9

1. Contract number: N00104-04-F-Q002
   Procurement name: 0001, Non-Personal Services in Support of DON CIO
2. Activity: Naval Inventory Control Point - Mechanicsburg
3. Total dollar value of exception: $19,100,000
4. Brief description of TINA exception rationale: This is an award under a GSA multiple award schedule, and by description in the FAR, is a commercial item [see FAR 8.402(a)]. Competition was solicited; however, only one offer was received.
5. Brief description of price reasonableness determination: Price reasonableness was determined primarily through price analysis. Negotiated hourly rates under the award are lower than the GSA schedule rates, which were deemed fair and reasonable. The quoted labor skill mix was reviewed and approved by the program office and compared favorably with the government's independent estimate.
6. Contractor: Vredenberg

Navy FY 2005

Exception 1

1. Contract number: N00039-02-D-2301, DO 0005, Mod 01
   Procurement name:
2. Activity: Naval Inventory Control Point - Mechanicsburg
3. Total dollar value of exception: $21,307,536
4. Brief description of TINA exception rationale: The INMARSAT-B High Speed Data (HSD) services that are being acquired under this modification are customarily leased by the general public and are therefore considered commercial services in accordance with the FAR definition (FAR 2.101).
5. Brief description of price reasonableness determination: The prices were determined fair and reasonable based on adequate competition at the time of award of the IDIQ contract. No proposal was requested for this modification because the SubCLINs were being taken directly from the contract and added to the delivery order.
6. Contractor: Stratos Mobile Networks, Inc.

Exception 2

1. Contract number: N00104-00-G-A118 #0070
   Procurement name: ETF40B Marine Gas Turbine Engine (Conversion)
2. Activity: Naval Inventory Control Point - Mechanicsburg
3. Total dollar value of exception: $21,220,000
4. Brief description of TINA exception rationale: The TF50 and ETF40B are derivatives of the TF40, which has been available in the commercial market for many years. The differences between the ETF40B and the TF40 are that the TF40 has an analog controller while the ETF40B has a digital controller. The ETF40B has more horsepower, includes compressor

guide veins to prevent stalling, and is more efficient with lower fuel consumption than the TF40. Vericor considers the ETF40B engine to be a commercial item because it is fundamentally the same as the (commercial) TF50. Vericor represents that its TF50 engine is also sold commercially to yacht and fast ferry operators.

5. Brief description of price reasonableness determination: The order was issued as a "ceiling Price" order under Vericor's Basic Ordering Agreement administered by DCMA Atlanta. Conversations were held with DCMA Atlanta prior to the issuance of the order concerning the determination of price reasonableness. Specific steps taken to insure price reasonableness included : a) comparison with prices paid for similar engines under commercial contracts manufactured by Vericor, b) comparison with pricing shown in Vericor's commercial catalog, and c) market research on same or similar engines sold in the commercial market by competitors of Vericor.
6. Contractor: Vericor Power Systems

Exception 3

1. Contract number: N00383-05-D-006M
   Procurement name: various
2. Activity: Naval Inventory Control Point - Mechanicsburg
3. Total dollar value of exception: $33,918,976
4. Brief description of TINA exception rationale: The contract is for 36 line items used on various naval aircraft engines (T58, F404, T64, and T700). All but the T700 items were on a prior commercial contract and commercial determinations were made by W. Metzel, NAVICP 07A.01, and documented in the prior contract file, that the items meet the requirements at FAR 2.101 (a)(1) or FAR 2.101 (c)(2) in accordance with the NAVICP Philadelphia Commercial Item Brochure.
5. Brief description of price reasonableness determination: The contractor General Electric Aircraft Engines, Lynn, MA provided information other than cost or pricing data that amounted to the same cost data that is provided with their military proposals except that a Certificate of Current Cost or Pricing Data was not provided.
6. Contractor: General Electric, Aircraft Engines

Exception 4

1. Contract number: N68836-05-C-0024
   Procurement name: Restoration and upgrade of telecommunications systems
2. Activity: Fleet and Industrial Supply Center, Jacksonville, FL
3. Total dollar value of exception: $16,013,807
4. Brief description of TINA exception rationale: This contract is for restoration and upgrade of telecommunications systems for Naval bases within the Pensacola area as a result of Hurricane Ivan. Market research revealed the supplies and services required as part of the restoration project are offered in the commercial marketplace. Supplies for subject contract primarily consist of inside/outside plant cabling for phone and computer systems, and associated equipment.
5. Brief description of price reasonableness determination: The Fleet and Industrial Supply Center determined the resulting prices to be fair and reasonable based on FAR 15.404-1(b)(2)(v), comparison of proposed prices with Independent Government Cost Estimate (IGE), FAR 15.404-1(b)(2)(ii) comparison of previously proposed prices and previous

Government and commercial contract prices with current proposed prices for the same or similar items and FAR 15.404-1(b)(2)(vi), comparison of proposed prices with prices obtained through market research for the same or similar items. The IGE was derived from a number of resources, which included technical expertise, knowledge of the market and the requirement. The demolition costs were based on past data for similar efforts. In those instances where the IGE did not fully support proposed pricing information, the contract specialist utilized contract N68836-05-C-0020 "the bridge" which provided for the beginning stages of the restoration project. Contract prices for the bridge were determined fair and reasonable based on the IGE and GSA contract prices.

6. Contractor: Wincomp DBA All Native Systems

Air Force FY04

Exceptions 1 and 2

1. Contract Number: F33657-01-C-0022, P00046 and P0037
   Procurement Name: T-6A JPATS A/C Partial Exercise of Option 11
2. Activity: ASC/YTK, Aeronautical Systems Center, Wright Patterson AFB
3. Total dollar amount of exception: $55,972,000 (P00046), $227,968,000 from P00037
4. Brief description of TINA exception rationale: AF Pilot Program for Commercial Contract - The T-6A JPATS/Beech 3000 aircraft is a modified Pilatus PC-9 non-military aircraft that was developed at contractor expense. Major components of the aircraft are commercial off-the-shelf items. The Beech 3000 is an FAA Certified aircraft that is available for sale to the general public, and RAC has begun initial marketing for this purpose. It has been sold commercially to Bombardier, Inc. who intends to lease the aircraft to the Canadian government. Based upon the market research and findings SAF/AQ-directed Joint Estimating Team, the JPATS T-6A aircraft meets the definition of a commercial item pursuant to FAR 2.101 "Commercial Item" (b) and (c)(2).
5. Brief description of price reasonableness determination: A Joint Price Model (JPM) was utilized for this effort that validated a most probable price while identifying and integrating cost reduction initiatives to arrive at the most affordable price. JPM is an estimating tool developed, maintained and used by both the supplier and the customer. Contractor provided full cost information (not required for commercial contracts) that was reviewed using standard cost analysis techniques. DCMA Wichita and DCAA were utilized in the review of indirect and direct rates, verification of decrement factors for materials and suppliers, and forecast of potential commercial business impacts. Labor and overhead rates were in accordance with agreement with DCMA Wichita ((b)(6) (b)(6) rates; DCAA assisted in verification of the rates utilized. Subcontractor costs were determined reasonable based on historical information.
6. Contractor: Raytheon Aircraft Company

Exception 3 and 4

1. Contract Number: F33657-02-D-2011 (two delivery orders)
   Procurement Name: C-37 Aircraft and Support
2. Activity: ASC/GR, Aeronautical Systems Center, Wright Patterson AFB
3. Total dollar amount of exceptions: $17,305,000 and $84,133,000

4. Brief description of TINA exception rationale: Delivery order based on original determination of commerciality for this aircraft and support. The determination validated commercial sales of the Gulfstream V.
5. Brief description of price reasonableness determination: Price analysis based on similar commercial items available in the commercial market.
6. Contractor: Gulfstream Aerospace Corporation

Exception 5

1. Contract Number: F33657-02-C0017- P00014
   Procurement Name: Lease C40B and C40C's
2. Activity: ASC/GR, Aeronautical Systems Center, Wright Patterson AFB
3. Total dollar amount of exception: $18,588,000
4. Brief description of TINA exception rationale: The commerciality determination is based on the Boeing 737-700 commercial aircraft sales. This aircraft is validated as the same for the commercial determination.
5. Brief description of price reasonableness determination: Price analysis based on similar commercial items available in the commercial market.
6. Contractor: The Boeing Company

Exception 6 and 7

1. Contract Number: F33657-00-C-0018 –P00093 & P00097
2. Activity: ASC/GR, Aeronautical Systems Center, Wright Patterson AFB
3. Total dollar amount of exception: $60,154,000
4. Brief description of TINA exception rationale: Commercial aircraft--validated commercial sales. The C-130J aircraft program is an item developed as a commercial aircraft designed as the 382J Aircraft. It evolved from a commercially sold aircraft through advances in technology and performance. Modifications to the 382J Aircraft required to fulfill the Government's needs are minor in nature due to the comparative value and size of such modifications and comparative value and size of the final product.
5. Brief description of price reasonableness determination: Price analysis based on similar commercial items available in the commercial market. A Value Analysis comparison of the C-130E/H versus the C-130 was conducted by pricing officials.
6. Contractor: Lockheed Martin Corporation

Exception 8

1. Contract Number: F33657-00-D0023 (Delivery Order)
   Procurement Name: Next Generation Small Loader (Halvorsen Loaders).
2. Activity: ASC/GR, Aeronautical Systems Center, Wright Patterson AFB
3. Total dollar amount of exception: $24,464,000
4. Brief description of TINA exception rationale: The Halvorsen loader is a commercial item within the definition of FAR 2.101. The determination was based on loaders that are used in the commercial marketplace after conducting a down select between two contractors.
5. Brief description of price reasonableness determination: Price analysis performed based on the down-select during basic effort.
6. Contractor: FMC Technologies Inc.

Exception 9

1. Contract Number: F33657-03-C-2014
   Procurement Name: Purchase C-130J Aircraft
2. Activity: ASC/GR, Aeronautical Systems Center, Wright Patterson AFB
3. Total dollar amount of exception: $409,100,000
4. Brief description of TINA exception rationale: Commercial aircraft--validated commercial sales. The C-130J aircraft program is an item developed as a commercial aircraft designed as the 382J Aircraft. It evolved from a commercially sold aircraft through advances in technology and performance. Modifications to the 382J Aircraft required to fulfill the Government's needs are minor in nature due to the comparative value and size of such modifications and comparative value and size of the final product.
5. Brief description of price reasonableness determination: Price analysis based on similar commercial items available in the commercial market. A Value Analysis comparison of the C-130E/H versus the C-130 was conducted by pricing officials.
6. Contractor: Lockheed Martin Corporation

Exception 10

1. Contract Number: F33657-00-C0038 (P00040)
   Procurement Name: C-37 aircraft lease
2. Activity: ASC/GR, Aeronautical Systems Center, Wright Patterson AFB
3. Total dollar amount of exception: $19,692,000
4. Brief description of TINA exception rationale: Commercial aircraft--validated commercial sales. The C-37A is the military designation of a Gulfstream V (GV) commercial business aircraft
5. Brief description of price reasonableness determination: Price analysis based on similar commercial items (Gulfstream V (GV)) available in the commercial market.
6. Contractor: Gulfstream Aerospace Corporation

Exception 11 and 12

1. Contract Number: F33657-01-D0013
   Procurement Name: CLS Fleet support of C40B/Cs & C32As
2. Activity: ASC/GR, Aeronautical Systems Center, Wright Patterson AFB
3. Total dollar amount of exception: $76,588,000
4. Brief description of TINA exception rationale: A determination was made that these (Boeing 737 and Boeing 757) are commercial aircraft and commercial sales were validated.
5. Brief description of price reasonableness determination: Price analysis based on similar commercial items available in the commercial market.
6. Contractor: The Boeing Company

Exception 13 and 14

1. Contract Number: F33657-00-C-0044 P00020/P00023
   Procurement name: Exercise Option C130J
2. Activity: ASC/YW, Aeronautical Systems Center, Wright Patterson AFB OH
3. Total dollar amount of exception: $42,982,000

4. Brief description of TINA exception rationale: FAR Part 12 contract "Determination of Commercial Designation" was issued 1 Jul 1999 by the PCO. Similar system and services (technical data and trainer support for C-130J aircraft) are bought in the commercial marketplace and utilized by civilian airline industry.
5. Brief description of price reasonableness determination: Option prices were determined during the original negotiations in 2000 based primarily on a comparison to similar efforts including the C-17 trainers.
6. Contractor: Lockheed Martin Corporation

Exception 15

1. Contract Number (modification number): FA8630-04-C-5011
   Procurement name: Used Boeing 737-700 Aircraft
2. Activity: AFSAC/GBSS, Aeronautical Systems Center, Wright Patterson AFB OH
3. Total dollar amount of exception: $29,365,000
4. Brief description of TINA exception rationale: In accordance with 2.101 the item (a used Boeing 737) was determined to be a commercial item.
5. Brief description of price reasonableness determination: Comparison to other used, as well as new, commercial aircraft (similar Boeing 737 aircraft) prices for USG ownership.
6. Contractor: Raytheon Corporation

Exception 16

1. Contract Number: FA869-04-C-2350.
   Procurement name: MC-130H Aerial Refueling System production (Phase III).
2. Activity: ASC/LUM, Aeronautical Systems Center, Wright Patterson AFB OH
3. Total dollar amount of exception: $54,280,000
4. Brief description of TINA exception rationale: The contracting officer issued A "Determination of Commerciality" after assessment of sales to European Union commercial customers.
5. Brief description of price reasonableness determination: Option exercise was issued under P00002, the option prices were determined fair and reasonable during negotiations on the basic contract, price reasonableness was based on similar commercial type Pods available in the commercial market.
6. Contractor: Flight Refueling, Ltd.

Exception 17 and 18

1. Contract Number: F33657-02-C-0006 P00001/P00002
   Procurement name: F117-PW-100 FY04 Install Engines (P00001) and FY04 Spare Engines (P00002) for C-17
2. Activity: ASC/LPKB, Aeronautical Systems Center, Wright Patterson AFB OH
3. Total dollar amount of exception: $335,374,970 total for P00001 and P00002
4. Brief description of TINA exception rationale: A commercial item determination was made by the PCO based upon the commonality of the F117-PW-100 engine with the PW2000 commercial family of engines that power the Boeing 757. PW2000 engines have been sold and leased to commercial carriers around the world and operated by 16 airlines.

5. Brief description of price reasonableness determination: A price analysis was performed using the previous procurements of the engines. Reviewed contractor's commercial sales data to ensure government received most favored customer prices.
6. Contractor: United Technologies Corporation

Exception 19

1. Contract Number (modification number): F33657-00-D-2118
   Procurement name: *T-38 Propulsion Modernization Program (PMP) Ejector kits (Kit 7) and Combined Engine Kits (Kit 9).*
2. Activity: ASC/LPKB Aeronautical Systems Center, Wright Patterson AFB OH
3. Total dollar amount of exception: $42,400,000
4. Brief description of TINA exception rationale: A commercial item determination was made by the PCO based upon the definition of a commercial item set forth in FAR 2.101. The contracting officer and technical team conducted market research to review commercial versions of the J85 engine, which were sold to the general public and used for non-Governmental purposes. General Electric sells spare parts and services to international operators of the J85. The ejector on the T-38 and F-5A/B has been sold to the general public. The engine modification kit and ejector nozzle kit were being placed in General Electric's catalog and offered for sale to commercial customers in time to meet the government's delivery schedule.
5. Brief description of price reasonableness determination: The market research sales data was reviewed along with parametric pricing and cost and pricing information to determine a fair and reasonable price.
6. Contractor: General Electric Company

Exception 20

1. Contract Number: F34601-03-C-0018, PZ0001
   Procurement name: Italian Contractor Logistics Support (CLS) for 38 Ea F100/PW220E Engines for the Italian Fleet Mgmt Program (FMP)
2. Activity: OC/LPKB Oklahoma City Air Logistics Center, Tinker AFB OK
3. Total dollar amount of exception: $22,924,000
4. Brief description of TINA exception rationale: The PCO determined this effort, Contractor Logistics Support (CLS) for F100/PW220E Engines, is similar in scope and modeling to Contractors (OEMs) Fleet Management and contractor field teams which are commercial.
5. Brief description of price reasonableness determination: The price was determined fair and reasonable based upon a Navy commercial contract for the same engine and a very similar scope. The Navy price determination was based upon: 1) A price comparison study, broken down by engine module, between the Air Force and the contractor, and 2) A comparison of pricing for commercial contractor of similar scope and duration with adjustments for cycles flown.
6. Contractor: Pratt and Whitney, East Hartford

Exception 21

1. Contract Number (modification number): F34601-99-D-2000-526
   Procurement name: F110 Family GE Corporate Contract for F16s
2. Activity: OC/LPKB Oklahoma City Air Logistics Center, Tinker AFB OK

3. Total dollar amount of exception: $18,375,000
4. Brief description of TINA exception rationale: This modification to the F110 engine for the F16 is of a type customarily available in the market place.
5. Brief description of price reasonableness determination: The price was determined fair and reasonable based upon negotiations based on information other than cost and pricing data.
6. Contractor: General Electric Company

Exception 22

1. Contract Number (modification number): FA8100-04-C-0002
   Procurement name: KC-135/E Engine Strut Remanufacturing Prototype Effort
2. Activity: OC/LPKB Oklahoma City Air Logistics Center, Tinker AFB OK
3. Total dollar amount of exception: $21,250,000
4. Brief description of TINA exception rationale: The engine Strut being manufactured is a Boeing 707 engine strut, the Boeing 707 is a commercial aircraft.
5. Brief description of price reasonableness determination: The price was determined fair and reasonable based upon negotiations based on information other than cost and pricing data.
6. Contractor: The Boeing Company

Exception 23

1. Contract Number: FA7012-04-C-0006
   Procurement Name: Military Family Housing Maintenance
2. Activity: 11th Contracting Squadron, Bolling AFB
3. Total dollar amount waived: $54,145,254 (Value of 10-year contract)
4. Brief description of TINA exception rationale: Scope of work is clearly a commercial service qualifying it under the commercial exception to the TINA requirement. Housing, upkeep, maintenance and repair is clearly a commercially-performed service commonly performed outside the AF, DoD and government.
5. Brief description of price reasonableness determination: This was a Small Business Set-Aside for Alaska Native Corporations. The price was determined fair and reasonable based on IPT/negotiated rates, technical reviews, historical usage data, price analysis and the government's expectation of the stated level of effort, which is considerably greater than that required on other AF installations. During price analysis, the team compared prices at other installations and included appropriate multiplication factors related to level of effort, transition costs, complexity, number of units, local labor pool, labor rates, and local material costs.
6. Contractor: Chuhach Eareckson Support Services

Air Force FY05

Exception 1

1. Contract Number: F34601-00-D-0334, 0093
   Procurement Name: TF-33 Requirements Contract
2. Activity: Oklahoma Air Logistics Center, Tinker Air Force Base
3. Total Dollar Value of Exception: $31,246,266.17
4. Brief description of TINA exception rationale: Commerciality determination based on a technical review and analysis of the commonality of the commercial JT3D engine with its military derivative, the TF-33.

5. Brief description of price reasonableness determination: Review of established labor hours, review of FPRA, comparison to previous year pricing, and review of vendor quotes.
6. Contractor: Boeing Aircraft Company

Exception 2

1. Contract Number: FA8105-05-C-0012, PZ0001
   Procurement Name: TF-33 Engine Strut Remanufacturing Program, Lot 1, Definitization of letter contract
2. Activity: Oklahoma Air Logistics Center, Tinker Air Force Base
3. Total Dollar Value of Exception: $20,770,216
4. Brief description of TINA exception rationale: The TF-33 engine strut is a Boeing 707 commercial engine strut. All source-controlled drawings are proprietary to the Boeing Aircraft Company (Commercial Aircraft Division).
5. Brief description of price reasonableness determination: Extensive "information other than cost or pricing data" was obtained. A complete audit and analysis by DCAA and DCMA was performed. The DCAA and DCMA data/recommendations provided were utilized in developing the Air Force Objective amount and considered negotiated amount.
6. Contractor: Boeing Aircraft Company

Exception 3

1. Contract Number: F34601-94-C-0950, P00343
   Procurement Name: C-21 Contractor Logistics Support (CLS) Contract Extension
2. Activity: Oklahoma Air Logistics Center, Tinker Air Force Base
3. Total Dollar Value of Exception: $18,473,060
4. Brief description of TINA exception rationale: The C-21 is a derivative of the Lear 35 commercial aircraft.
5. Brief description of price reasonableness determination: Other than cost or pricing data was obtained and utilized in the development of the Air Force Objective and considered negotiated amount.
6. Contractor: L3 Communications Vertex Aerospace LLC

Exception 4

1. Contract Number: FA7012-05-C-0020
   Procurement Name: Bilingual Bicultural Advisor (BBA) Program - Subject Matter Experts
2. Activity: Air Force District of Washington, Bolling Air Force Base
3. Total Dollar Value of Exception: $35,500,000
4. Brief description of TINA exception rationale: FAR 15.403-1(c)(iii) "Price analysis clearly demonstrates that the proposed price is reasonable in comparison with current or recent prices for the same or similar items, adjusted to reflect changes in market conditions, economic conditions, quantities, or terms and conditions under contracts that resulted from adequate price competition." In accordance with FAR 15.403-1(c)(iii)(3) this purchase meets the commercial item description set forth in FAR 2.101.
5. Brief description of price reasonableness determination: The fair and reasonable determination was based upon comparison to commercial prices paid on existing contracts and through other commercial channels for similar services provided in Iraq, in other words, previous sales. The estimated cost of Defense Base Act (DBA) insurance was based upon

the going rate as verified with independent source providers with DBA insurance. Bilingual Bicultural Advisor (BBA) Subject Matter Expert (SME) rates were based upon the going market rate as compared to several rates for the same or similar services as found on Monster.com, GovExec, Bizjournals. The BBA-SME rates were also compared to General Schedule and Senior Executive Service pay rates.

6. Contractor: REEP, Inc.

Exception 5

1. Contract Number: FA8504-05-C-0005
   Procurement Name: Three (3) each C-130H Aircraft in a non-USAF C-130H configuration; five (5) engines; four (4) propellers; and one (1) lot of avionics spares for the Egyptian Air Force
2. Activity: Warner Robins Air Logistics Center, Robins Air Force Base
3. Total Dollar Value of Exception: $30,690,000
4. Brief description of TINA exception rationale: History has proven that the purchase of a C-130 aircraft would not normally entail using FAR 12 procedures. However, C-130 aircraft of various models have been and will almost certainly continue to be offered for sale in the commercial market place. The C-130J model aircraft is prompting many countries to trade in older model C-130 aircraft for this upgraded version. In addition, we are seeing evidence of other practical uses of the C-130 aircraft in non-governmental roles, predominantly as cargo carriers. The recent procurements of C-130E aircraft via commercial practices (for Colombia, Romania and Pakistan) is a significant justification to once again acquire the C-130H models in like fashion. LM Aero has displayed public advertisements to sell and/or sold C-130 aircraft and associated parts to private companies using commercial sales contracts. Furthermore, older C-130 aircraft are now being used for private commercial purposes. Currently, commercial uses of C-130 aircraft include airborne fire fighting, cargo-carrying services, and as a skydiving platform. There are various websites which list a C-130 aircraft and T-56 engine (the engines typically used on C-130 aircraft) for sale to the general public. Based upon the information set forth herein, it is the determination of the PCO that the C-130H and its associated spares are items of a type, technically, that have been sold to the general public and/or offered for sale to the general public.
5. Brief description of price reasonableness determination: Price analysis was performed for this effort based on historical data and other methods utilized in our analysis. A thorough analysis of the sales information was performed by DCAA, including comparison to prior sales, similar sales, and evaluation of customarily offered discounts, delivery terms, financing arrangements, and warranties, etc. DCAA provided data from a commercial aircraft study that analyzed the "residual value" of old/used aircraft, an independent technique that further supported the price analysis. Technical support provided by WR-ALC engineers, including Haystack and other procurement data, was utilized in evaluation prices for the associated spares.
6. Contractor: Lockheed Martin Corporation

Exception 6

1. Contract Number: F41636-02-D-0002
   Procurement Name: Full Food Service
2. Activity: Air Education and Training Command, Lackland Air Force Base

3. Total Dollar Value of Exception: $16,531,779
4. Brief description of TINA exception rationale: This is a commercial food service effort. Like services are commonly available in the marketplace. This full food service effort is comparable to services provided at large restaurants, i.e. Lubys, Piccadilly, or similar cafeteria services i.e., the University Hospital of San Antonio.
5. Brief description of price reasonableness determination: A price reasonableness determination was made based on a price analysis utilizing a comparison to historical prices at this location and other Air Force bases as well as an analysis of other than cost or pricing data received from the contractor. Previous Sales.
6. Contractor: Department of Assistive and Rehabilitative Services, Texas Commission of the Blind

Exception 7

1. Contract Number: F33657-00-C-0044, P00034
   Procurement Name: KC-130J (USMC) Weapon System Trainer
2. Activity: Aeronautical Systems Center, Wright-Patterson Air Force Base
3. Total Dollar Value of Exception: $24,550,000
4. Brief description of TINA exception rationale: Commercial item determination based on similar items previously purchased commercially.
5. Brief description of price reasonableness determination: Price analysis based on comparisons to the Air Force C-130J training devices commercial acquisition.
6. Contractor: Lockheed Martin Corporation

Exceptions 8 and 9

1. Contract Number: F33657-01-C-0022, P00073 and P00081
   Procurement Name: Joint Primary Aircraft Training System (JPATS) (T-6) Aircraft Production Lot 12 Option CLINs
2. Activity: Aeronautical Systems Center, Wright-Patterson Air Force Base
3. Total Dollar Value of Exception: $299,538,891
   P00073: $240,535,650
   P00081: $59,003,241
4. Brief description of TINA exception rationale: Commerciality of the JPATS aircraft was determined in F33657-00-C-2192 based on the following rationale: "The T-6A JPATS/Beech 3000 aircraft is a modified PC-9 non-military aircraft..., [and] the Beech 3000 is an FAA certified aircraft that is available for sale to the general public." This rationale was also used in the subject follow-on contract (F33657-01-C-0022).
5. Brief description of price reasonableness determination: The price for this option was originally determined to be fair and reasonable through price analysis as part of the total value of the basic contract. Additionally, in accordance with FAR 17.207(d)(2), an analysis of prices indicated that the option price was the best price available at the time of exercise.
6. Contractor: Raytheon Aircraft Company

Exception 10

1. Contract Number: F33657-00-D-2118, 0013
   Procurement Name: J-85 Engine, Engine Modification Kit and Ejector Nozzle Kit
2. Activity: Aeronautical Systems Center, Wright-Patterson Air Force Base

3. Total Dollar Value of Exception: $69,740,513
4. Brief description of TINA exception rationale: Through market research with GE, it has been discovered that there are several commercial versions of the J85 engine -- the CJ610 and the CF700 -- all of which are sold to the general public and used for non-Governmental purposes. The Engine Modification Kit, is a modification of the existing J85-5 engine which has been sold commercially either as a commercial equivalent (CJ610 or CF700) or on commercial T-38 and F-5A/B aircraft. While the Engine Modification Kit is not currently available in the commercial marketplace, it will be placed in GE's commercial catalog and offered for sale to commercial customers in time to meet the government's delivery schedule. The Ejector Nozzle Kit, is a modification of the current ejector nozzle and will increase performance through increases in thrust and fuel efficiency. The ejector nozzle is currently being used on T-38 and F-5A/B aircraft that have been sold commercially. While the Ejector Nozzle Kit is not currently available to commercial marketplace, it will be placed in GE's commercial catalog and offered for sale to commercial customers in time to meet the government's delivery schedule.
5. Brief description of price reasonableness determination: The Air Force Negotiating Team reviewed proprietary documents provided by the contractor regarding commercial aspects of the items in determining a fair and reasonable price.
6. Contractor: General Electric Company

Exception 11

1. Contract Number: F33657-02-C-0006, P00009
   Procurement Name: F117-PW-100 Engines, Option Exercise for FY05 Spare Engines
2. Activity: Aeronautical Systems Center, Wright-Patterson Air Force Base
3. Total Dollar Value of Exception: $94,575,810
4. Brief description of TINA exception rationale: The Pratt & Whitney F117-PW-100 engine complies with the FAR definition of a commercial item because it is 91% common by part number and has 100% common rotating machinery with the PW2000 commercial family of engines that power the Boeing 757's PW2000 engines and have been sold and leased to commercial carriers around the world. At the time of contract negotiation there were 904 PW2000 commercial engines being operated by 16 airlines. The largest users of the PW2000 engine are Delta Airlines (264 engines) and United Airlines (204 engines).
5. Brief description of price reasonableness determination: The Air Force Negotiating Team reviewed proprietary documents provided by the contractor regarding commercial aspects of the items and conducted a price analysis of previous procurements of the commercial engines.
6. Contractor: United Technologies Corporation

Exception 12 and 13

1. Contract Number: F33657-03-C-2014, P00021 and P00021
   Procurement Name: C-130J Multiyear Contract
2. Activity: Aeronautical Systems Center, Wright-Patterson Air Force Base
3. Total Dollar Value of Exception: $1,029,316,666.
   P00020: $17,800,000
   P00021: 1,011,516,666

4. Brief description of TINA exception rationale: P00020: C-130J 5.4 Block Upgrade Phase III option exercise. P00021: Commercial buy of FY05 USAF CC-130J Aircraft, FY05 KC-130J Aircraft, Advanced Procurement and Economic Order Quantity. The C-130J is a commercial aircraft program.
5. Brief description of price reasonableness determination: Commercial Firm-Fixed-Price proposals were received for these efforts. The program office performed market research, technical evaluations, and requested additional cost information from the contractor. Government personnel were given access to the contractor's internal pricing information and management presentations.
6. Contractor: Lockheed Martin Corporation

Exception 14

1. Contract Number: F33657-00-C-0018, P00133
   Procurement Name: C-130J Five-Year Option Contract
2. Activity: Aeronautical Systems Center, Wright-Patterson Air Force Base
3. Total Dollar Value of Exception: $94,595,328.00
4. Brief description of TINA exception rationale: P00020: C-130 J FY05 Logistics Option Exercise. The C-130J is a commercial aircraft program.
5. Brief description of price reasonableness determination: Commercial Firm-Fixed-Price proposals were received for these efforts. The program office performed market research, technical evaluations, and requested additional cost information from the contractor. Government personnel were given access to the contractor's internal pricing information and management presentations.
6. Contractor: Lockheed Martin Corporation

Exception 15, 16, and 17

1. Contract Number: F33657-01-D-0013, 0088, 0092, and 0098
   Procurement Name: C40B/C Aircraft and Support
2. Activity: Aeronautical Systems Center, Wright-Patterson Air Force Base
3. Total Dollar Value of Exception: $307,147,348.00
   Order 0088: $66,042,348.00
   Order 0092: $216,000,000.00
   Order 0098: $25,105,000.00
4. Brief description of TINA exception rationale: A determination was made that these are commercial aircraft and commercial sales were validated based on Boeing 737-700 commercial aircraft sales. Order 0088 is for the annual Contractor Logistics Support. Order 0092 is for the purchase of three AFRC C-40C aircraft. Order 0098 is for the annual communications subscription.
5. Brief description of price reasonableness determination: Price analysis based on similar commercial items available in the commercial marketplace; previous sales.
6. Contractor: The Boeing Company

Exception 18

1. Contract Number: F33657-02-C-0017, P00025
   Procurement Name: C40B/C Aircraft and Support
2. Activity: Aeronautical Systems Center, Wright-Patterson Air Force Base

3. Total Dollar Value of Exception: $41,346,347
4. Brief description of TINA exception rationale: A determination was made that these are commercial aircraft and commercial sales were validated based on Boeing 737-700 commercial aircraft sales. This modification provides for the annual Boeing leases and insurance.
5. Brief description of price reasonableness determination: Price analysis based on similar commercial items available in the commercial marketplace; previous sales.
6. Contractor: The Boeing Company

Exception 19 and 20

1. Contract Number: F33657-02-D-2011, 0048 and 0050
   Procurement Name: C-37 Aircraft and Support
2. Activity: Aeronautical Systems Center, Wright-Patterson Air Force Base
3. Total Dollar Value of Exception: $101,295,451
   Order 0048: $18,447,084
   Order 0050: $82,848,367
4. Brief description of TINA exception rationale: Based on the original determination of commerciality for the C-37 aircraft and support. The C-37A is the military designation of a Gulfstream V commercial business aircraft. The determination validated commercial sales of the Gulfstream V. Order 0048 provides for the annual Gulfstream Contractor Logistics Support. Order 0050 provides for the acquisition of two C-37 aircraft.
5. Brief description of price reasonableness determination: Price analysis based on similar commercial items available in the commercial marketplace; previous sales.
6. Contractor: Gulfstream Aerospace Corporation

Exception 21

1. Contract Number: F33657-00-C-0038, P00057
   Procurement Name: C-37 Aircraft Lease
2. Activity: Aeronautical Systems Center, Wright-Patterson Air Force Base
3. Total Dollar Value of Exception: $32,820,000
4. Brief description of TINA exception rationale: Based on the original determination of commerciality for the C-37 aircraft and support. The C-37A is the military designation of a Gulfstream V commercial business aircraft. The determination validated commercial sales of the Gulfstream V. This modification provides for annual C-37 leases and insurance.
5. Brief description of price reasonableness determination: Price analysis based on similar commercial items available in the commercial marketplace; previous sales.
6. Contractor: Gulfstream Aerospace Corporation

Defense Information Security Agency FY 04

Exception 1

1. Contract Number: HC1013-04-D-5000
   Procurement Name: Consolidated Enterprise Software Maintenance
2. Activity: DITCO-Scott/PL8231
3. Total Dollar Value of Exception: $15,004,000.00

4. Brief description of TINA exception rationale: Software maintenance meets definition of commercial item.
5. Brief description of price reasonableness determination: Comparison to GSA schedule. Negotiated prices either at or less than GSA rates.
6. Contractor: SAS Institute Inc.

Exception 2

1. Contract Number: HC1013-04-C-5007
   Procurement Name: Enterprise Software Maintenance
2. Activity: DITCO-Scott/PL8231
3. Total Dollar Value of Exception: $101,544,693.19
4. Brief description of TINA exception rationale: Software maintenance meets definition of commercial item.
5. Brief description of price reasonableness determination: Comparison to GSA schedule. Negotiated prices either at or less than GSA rates.
6. Contractor: Computer Associates Intl Inc.

Exception 3

1. Contract Number: HC1013-05-D-2001
   Procurement Name: Unisys 2200 Operating System (OS) Environment
2. Activity: DITCO-Scott/PL8231
3. Total Dollar Value of Exception: $189,259,535.00
4. Brief description of TINA exception rationale: Software and hardware acquired to run the environment meets definition of commercial item.
5. Brief description of price reasonableness determination: Comparison to GSA schedule and commercial price lists. Negotiated prices either at or less than GSA/commercial rates.
6. Contractor: Unisys Corp.

Exception 4

1. Contract Number: HC1013-04-C-5003
   Procurement Name: Government Emergency Telecommunications Services (GETS) InterExchange Carrier (IXC) Services
2. Activity: DITCO-Scott/PL8222
3. Total Dollar Value of Exception: $19,620,775.68
4. Brief description of TINA exception rationale: Services meet the definition of commercial item/service.
5. Brief description of price reasonableness determination: Comparison of the Sprint proposal to their then current, existing contract, other IXC proposals (MCI and AT&T) for the same or similar service, and the IGCE constituted enough information to determine that that the price was fair and reasonable. The negotiated price represented a significant reduction (over 35%) from Sprint's initial proposal.
6. Contractor: Sprint

Defense Information Security Agency FY 05

Exception 1

1. Contract Number: HC1013-05-D-2000
   Procurement Name: Coast Guard Data Network Plus
2. Activity: DITCO-Scott/PL8223
3. Total Dollar Value of Exception: $22,000,000.00
4. Brief description of TINA exception rationale: The services and products requested are not unique or provided only to the government, but are essentially the same services provided in the commercial marketplace. The contractor is using the same facilities, cabling infrastructures, personnel and equipment to provide the requested service as they use to provide services to commercial customers. The market prices for these types of services and products are current prices established in the course of ordinary trade between buyers and sellers free to bargain and that can be substantiated from independent sources.
5. Brief description of price reasonableness determination: DCAA rate verifications of labor and overhead rates and negotiation of profit.
6. Contractor: CACI Inc Federal

Exception 2

1. Contract Number: HC1013-05-C-2020
   Procurement Name: Fort Detrick – National Gateway Center
2. Activity: DITCO-Scott/PL8222
3. Total Dollar Value of Exception: $17,615,092.60
4. Brief description of TINA exception rationale: The hardware is message switching equipment, patch and test equipment, and other equipment (except cryptographic equipment) necessary to provide a complete message-switching center. The services and products identified are not unique or provided only to the government, but are essentially the same services provided in the commercial marketplace, with slight modifications/enhancements. The associated services are system-engineering services to support both ongoing operations and system evolution.
5. Brief description of price reasonableness determination: Based on DCAA audit report and negotiation of profit.
6. Contractor: Computer Sciences Corporation

EXCEPTIONAL CASE WAIVERS OF TINA OVER $15M GRANTED PURSUANT TO FAR 15.403-1(c)(4)

Army FY 2005

Waivers 1 - 4

1. Contract Number: W56HZV04-D-0322, Call 0003, $39,635,497
   W56HZV04-D-0322, Call 0004, $51,868,571
   W56HZV04-D-0322, Call 0006, $19,590,948
   W56HZV04-D-0322, Call 0008, $17,792,537
   Procurement Name: Overhaul of Heavy Tactical Vehicles
2. Activity: U.S. Army Tank-Automotive and Armaments Command, Warren, Mich.
3 Brief description of TINA exception rationale: This delivery order amount is part of a $51,868,571 firm-fixed-price contract for rebuilding 237 Family of Heavy Tactical Vehicles. The requirement for submission of cost or pricing data was waived under the exception at 15.403-1(b)(4) after the contracting officer determined that sufficient information was available to determine price reasonableness. The waiver was needed in order to negotiate the contract prices in time to meet urgent requirements.
4. Brief description of price reasonableness determination: The buying group had obtained sufficient information to make a determination of fair and reasonable pricing without obtaining additional, certified data. The information includes a complete, costed Bill of Materials and summary of assembly and teardown hours for each item and all of the applicable overhead rates (FPRA). Since this is a follow-on/continuation of a previously awarded RESET contract for the HTV, price reasonableness was determined by comparison with similar prices in the FHTV contract, past overhaul contracts and the current RESET contract.
5. Contractor: Oshkosh Truck Corp.

Navy FY 2004

Waiver 1

1. Contract Number: M67854-04-D-5016
   Procurement Name: MTVR vehicles
2. Activity: MARCORSYSCOM
3. Total dollar amount waived: $46,372,857
4. Brief discussion of rationale supporting decision to waive TINA requirements: This contract award is a follow-on contract to the multi-year production contract for the Medium Tactical Vehicle Replacement (MTVR) Program. The determination to waive certified cost and pricing data was granted for the immediate contract award only. The determination is based upon the abundance of other readily available pricing information related to the MTVR Program. The most significant other information is the pricing from the multi-year production contract (contract DAAE07-99-C-M007) for the MTVR Family of Vehicles. Additionally, the pricing information related to the HIMARS contract with OTC for development of MTVR re-supply vehicles; and, sales of MTVR chassis vehicles to local fire departments provides further information upon which to the Government could conduct a price reasonableness determination.

Enclosure 2

5. Brief description of price reasonableness determination: The prices in contract M67854-04-D-5016 were negotiated between the Contracting Officer and Oshkosh Truck Corporation (OTC). The final prices were determined fair and reasonable based on: 1) negotiated Forward Pricing Rate Agreements between the Government and OTC; 2) historical invoice data of materials; 3) historical manufacturing and engineering hours for development and production of the vehicles; and 4) DCAA audit that included a Field Pricing Report for materials and labor hours.
6. Contractor: Oshkosh Truck Corporation

Waiver 2

1. Contract Number: N00019-04-C-0028
   Procurement Name: MH-60S and MH-60R Common Cockpit
2. Activity: Naval Air Systems Command
3. Total dollar amount waived: $445,846,767 (Inclusive of Options)
4. Brief discussion of rationale supporting decision to waive TINA requirements: Raytheon, a major subcontractor to Lockheed Martin Systems Integration on the MH-60S and MH-60R Common Cockpit, submitted an offer without cost or pricing data for their portion of the procurement. This procurement is a follow on to the MH-60S Common Cockpit production kits that have been procured in the previous six lots and the LRIP contract for MH-60R Common Cockpits from Lockheed Martin Systems Integration. The contracting officer compared the cost and pricing data from previous production buys of the MH-60S Common Cockpit and the LRIP contract for MH-60R Common Cockpits and actual updated information to determined that the data was sufficient to determine the price was fair and reasonable.
5. Brief description of price reasonableness determination: Utilizing a price based acquisition strategy, NAVAIR compared the multi-year pricing to historical pricing and to the NAVAIR 4.2 Cost Analysis Team should cost analysis which was developed utilizing the compilation and analysis of previously negotiated production contracts and actuals from Lots 3 thru 6 of the MH-60S Common Cockpit procurements. The NAVAIR 4.2 assumptions used in its development of the should-cost analysis were also reviewed by DCAA.
6. Contractor: Lockheed Martin Systems Integration – Owego

Waiver 3

1. Contract Number: N00019-04-C-0013, P0001, P0002
   Procurement Name: PMA 273 T-45TS
2. Activity: NAVAIR Contracts
3. Total dollar amount waived: $470,149,672 (Inclusive of Options)
4. Brief discussion of rationale supporting decision to waive TINA requirements: The early acquisition planning process for this acquisition of the T-45 aircraft called for a PBA strategy for the FY 2004/05 contract. A proposal of this magnitude would take The Boeing Company six months to prepare. In addition, audits by DCMA/Defense Contract Audit Agency (DCAA)/United Kingdom's Ministry of Defense and prime contractor price analysis report of subcontractors generally take over three months for completion. Negotiations typically take an additional three months inclusive for various clearance approvals, sweep data, foreign exchange rate and Forward Pricing Rate Agreement adjustments. This would have brought the award timeframe to late FY 2004 or early FY 2005. Such a timeframe was determined to be unacceptable, as portions of the effort (e.g. Integrated Logistics Support) were required to commence in January 2004 to support FY 2004 production deliveries.

5. Brief description of price reasonableness determination: The contracting officer reviewed prices and actual cost data available from the FY 1997-2003 contracts and conducted a price analysis comparing the prices proposed for this procurement to the selected previous years of actual data. This baseline was adjusted for lot size, escalation, exchange rate, and profit to establish fair and reasonable prices.
6. Contractor: The Boeing Company

Waiver 4

1. Contract Number: N00019-04-C-0014
   Procurement Name: F/A-18E/F and EA-18G Airframes, Multi-year Procurement II
2. Activity: NAVAIR
3. Total dollar amount waived: $8,662,099,934
4. Brief discussion of rationale supporting decision to waive TINA requirements: The acquisition of F/A-18E/F and EA-18G airframes full rate production (FRP) Lots 29-33 (hereafter Multi-year Procurement (MYP) II) was a follow on to MYP I and the LRIP development for the EA-18G. The Navy had the actual cost data from the first multi-year full rate production contract for the F-18E/F and the LRIP development contract for the EA-18G. This cost data in conjunction with the cost analysis provided by AIR-4.2, provided the information needed to negotiate the second multi-year contract without cost or pricing data.
5. Brief description of price reasonableness determination: The F/A-18E/F airframe has been in production since 1997 with 116 airframes being delivered as of December 2002. Recent prices, as well as extensive actual cost data, are available to validate the proposed prices. Actual cost data is available for 62 aircraft under low rate initial production (LRIP) (FY 1997-1999) and 54 aircraft under Full Rate Production. Extensive data is available from AIR-4.2 cost models which are continually updated to reflect actual costs, Boeing EVM data on the LRIP and MYP I contracts, and Boeing and AIR-4.2 learning curve analysis. DCMA and DCAA supported the decision and determination of a fair and reasonable price without the submission of certified cost or pricing data.
6. Contractor: McDonnell Douglas Corporation, A Wholly Owned Subsidiary of The Boeing Company

Waiver 5

1. Contract Number: N00024-04-C-6207, Modification No. P00010
   Procurement Name: Transmit Groups Systems (shipsets 7 through 10)
2. Activity: Naval Sea Systems Command
3. Total dollar amount waived: $62,000,000
4. Brief discussion of rationale supporting decision to waive TINA requirements: A Navy team comprised of NAVSEA contracting and technical personnel reviewed cost and price type data submitted by Raytheon and believed that this pricing data supplemented by actual cost data from previously completed Transmit Groups (TGs) would be adequate to assess the cost for the TGs being procured from Raytheon and would allow the Contracting Officer to determine a fair and reasonable value for the proposed subcontract.
5. Brief description of price reasonableness determination: Actual costs for producing two previous shipsets (3 and 4) were used to determine to negotiate a fair and reasonable price for shipsets 7 through 10. Shipsets 3 and 4 reflected a stabilized design and a maximized efficiency -- those shipsets were under a competitive, FFP award. As such, it can be concluded that the actuals for these systems reflect a high degree of efficiency and therefore,

when used as a basis for pricing shipsets 7-10, result in a realistic and reasonable prices for the systems.

6. Contractor: Prime Contractor: Lockheed Martin Maritime Systems and Sensors
   Subcontractor: Raytheon Company, Integrated Defense Systems

Navy FY 2005

1. Contract Number: M67854-05-C-2082
   Procurement Name: Intelligence Surveillance and Reconnaissance (ISR), Unmanned Aerial Vehicle in support of OIF-II
2. Activity: Marine Corps Systems Command
3. Total dollar amount waived: $19,500,000
4. Brief discussion of rationale supporting decision to waive TINA requirements: In light of the proposed contract type of Time and Materials, Labor Hour, the existence of an Forward Priced Rate Agreement (FPRA) between DCAA and the proposed contractor, the utilization of established catalog labor rates for the proposed subcontractor, and the utilization of the weighted guidelines method to develop a profit objective, the Contracting Officer has made a determination that sufficient data exists to determine a fair and reasonable price for the required ISR UAV services without the submission of cost or pricing data.
5. Brief description of price reasonableness determination: The Contracting Officer utilized agreed upon FPRA rates in addition to catalogue pricing and rates for the major subcontractor. Alpha contracting was conducted and discussions included hours and labor categories that were agreed upon by both parties based upon the scope and effort of work to be accomplished. The estimated cost of material refurbishing and replacement was based on historical cost derived from a previous effort. Wear and tear of equipment deployed to OIF was additional added factor that was measured. The combination of these factors resulted in a determination that the prices obtained were fair and reasonable.
6. Contractor: McDonnell Douglas Corporation (The Boeing Company)

Air Force FY04

Waivers 1 and 2

1. Contract Number: F98635-03-C-0031, P00016 and P00018
   Procurement Name: AMRAAM
2. Activity: AAC/YAK
3. Total dollar amount waived: $52,657,000 and $25,425,000
4. Brief discussion of rationale supporting decision to waive TINA requirements: A TINA waiver was determined appropriate because the property could not be obtained without one. The TINA waiver was approved based on negotiated Long Term Pricing Agreement (LTPA) for production Lots 16-21. The LTPA Pricing Model is based on a standard learning curve theory using the "Crawford" or unit form of the curve. Based on quantities selected, the model will run each curve separately and create an average unit price for hardware. The model has boundaries of minimum and maximum missiles ordered for each production lot option exercised.
5. The negotiated effort determined fair and reasonable prices and established prices in the LTPA model to be used for quantities ordered.
6. Contractor: Raytheon Company

Air Force FY05

Waivers 1 and 2

1. Contract Number: F04701-96-C-0030, P00130 and P00155
   Procurement Name: DSP Spacecraft Post Production Support Contract Extension, Satellite Launch
2. Activity: Space and Missile Systems Center, Los Angeles Air Force Base
3. Total Dollar Amount Waived: $78,439,596
   P00130: $41,771,167
   P00155: $36,668,429
4. Brief description of TINA exception rationale: The rationale is supported by the fact that a Price Analysis Methodology was developed to determine price reasonableness based on actual prices paid for in the preceding years, and this methodology has been a proven and consistently reliable tool since contract award in 1996. In 1996, the contractor submitted certified cost and pricing data at a cost of $935K. In FY00, at the time of negotiation of two additional priced options (FY02 and 03), the Government saved $1M by obtaining a TINA waiver to the DSP PPS contract. In FY02, an additional $960K was saved upon obtaining a TINA waiver incident to a modification for additional work. The subject of this Waiver was a modification requirement to extend the Post Production Support effort for an additional one year (FY06), and the estimated cost of obtaining certified data was $1.8M. The approval of the subject waiver was expected to result in a 61% savings to the Government ($1.1M) for FY06 extension proposal preparation costs. In addition, the resources saved by the program office for proposal evaluation was expected to cut the acquisition lead-time dramatically.
5. Brief description of price reasonableness determination: A Price Analysis Methodology has been used by the contracting officers based upon a comparison of prior proposed prices and negotiated contract prices, with current proposed prices for the same or similar services. The contracting officers responsible for this effort consider differences in specifications, quantities ordered, time for delivery, government-furnished materials, and experienced-based trends to improve efficiency. In this case, the requirements for FY06 were identical to the requirements currently on the existing contract. The pricing methodologies proposed by the contractor were considered sufficient to ensure the prices are fair and reasonable. Since 1995, the contracting officer has considered cost data as a stable basis for pricing all modifications. The contractor has a currently approved FPRA, and no recent history of any defective pricing issues.
6. Contractor: Northrop Grumman Space and Mission Systems Corp

TRICARE FY 05

Waiver 1

1. Contract Number: MDA906-03-C0009/Modification P00076
   Procurement Name: Target Health Care Costs
2. Activity: Option Period 2 Target Health Care Costs
3. Total Dollar Amount Waived: $1,700,988,720
4. Brief description of TINA exception rationale: A waiver for the requirement to obtain a certificate of current cost or pricing data was obtained from the Head of Contracting Activity based on the fact that all the data used in negotiations for underwritten target healthcare costs was provided by the Government. The historical cost data is accumulated and maintained by the Government. This contract was awarded to TriWest Healthcare Alliance, an incumbent

contractor prior to 12 regions being consolidated into 3 regions. TriWest was not awarded a contract for the regions it previously managed and did not have historical cost data of its own. The Government historical cost data is the best baseline for projecting future costs and was used to establish baselines for the negotiation of Option Period target healthcare costs. Application of the data, assumptions and the methodology for application of the data is a result of discussions and agreements between the Government and the prime contractor during integrated product team (IPT) negotiations. Had the contractor accumulated the healthcare data, a certificate of current cost and pricing data would have been obtained upon conclusion of the negotiations.

5. Brief description of price reasonableness determination: The price was determined to be fair and reasonable based on conducting trend analysis of historical, actual Government healthcare data. A price analysis was conducted by comparing the negotiated target healthcare cost with independent Government cost estimates, trend analysis of actual Option Period 1 costs, and comparison of cost-per-eligible to other Regional target healthcare negotiations.
6. TriWest Healthcare Alliance

Waiver 2

1. Contract Number: MDA906-03-C0011/Modification P00081
   Procurement Name: Target Health Care Costs
2. Activity: Option Period 2 Target Health Care Costs
3. Total Dollar Amount Waived: $1,560,000,000
4. Brief description of TINA exception rationale: A waiver for the requirement to obtain a certificate of current cost or pricing data was obtained from the Head of Contracting Activity based on the fact that all the data used in negotiations for underwritten target healthcare costs was provided by the Government. The historical cost data is accumulated and maintained by the Government. This contract was awarded to Health Net Federal Systems, an incumbent contractor prior to 12 regions being consolidated into 3 regions. Health Net Federal Systems was not awarded a contract for the regions it previously managed and did not have historical cost data of its own. The Government historical cost data is the best baseline for projecting future costs and was used to establish baselines for the negotiation of Option Period target healthcare costs. Application of the data, assumptions and the methodology for application of the data is a result of discussions and agreements between the Government and the prime contractor during integrated product team (IPT) negotiations. Had the contractor accumulated the healthcare data, a certificate of current cost and pricing data would have been obtained upon conclusion of the negotiations.
5. Brief description of price reasonableness determination: The price was determined to be fair and reasonable based on conducting trend analysis of historical, actual Government healthcare data. A price analysis was conducted by comparing the negotiated target healthcare cost with independent Government cost estimates, trend analysis of actual Option Period 1 costs, and comparison of cost-per-eligible to other Regional target healthcare negotiations.
6. Health Net Federal Systems