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

ACQUISITION,
TECHNOLOGY
AND LOGISTICS

JUL 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 Secretary of Defense to transmit annually to the congressional defense committees a report on commercial item exceptions and exceptional case exceptions to the Truth in Negotiations Act (TINA), 10 U.S.C. 2306a, and waivers of the Cost Accounting Standards (CAS) pursuant to section 26 (f)(5)(b) of the Office of Federal Procurement Policy Act (41 U.S.C. 422(f)(5)(b)) that were granted for actions over $15,000,000 during the preceding fiscal year.

Enclosed is the Department of Defense (DoD) Report to Congress on TINA waivers granted for FY 2006, which includes the summary report and three enclosures:

(1) FY 2006 commercial item exceptions to TINA requirements.
(2) FY 2006 exceptional case waivers to TINA requirements.
(3) FY 2006 exceptional case waivers to CAS requirements.

Over the past few months, my office has conducted an assessment of the waivers listed in this and past reports. As a result of that assessment, we initiated several actions, including: (1) increasing scrutiny by our Senior Procurement Executives regarding the granting of TINA waivers; (2) issuing a policy memorandum emphasizing the limited criteria for using exceptional circumstance waivers; and (3) 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 DoD. Actions in this area include the 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 provided to the other congressional defense committees.

Sincerely,

for Kenneth J. Krieg

Enclosure:
As stated

cc:
The Honorable Ted Stevens
Ranking Member

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

ACQUISITION,
TECHNOLOGY
AND LOGISTICS

JUL 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 Secretary of Defense to transmit annually to the congressional defense committees a report on commercial item exceptions and exceptional case exceptions to the Truth in Negotiations Act (TINA), 10 U.S.C. 2306a, and waivers of the Cost Accounting Standards (CAS) pursuant to section 26 (f)(5)(b) of the Office of Federal Procurement Policy Act (41 U.S.C. 422(f)(5)(b)) that were granted for actions over $15,000,000 during the preceding fiscal year.

Enclosed is the Department of Defense (DoD) Report to Congress on TINA waivers granted for FY 2006, which includes the summary report and three enclosures:

(1) FY 2006 commercial item exceptions to TINA requirements.
(2) FY 2006 exceptional case waivers to TINA requirements.
(3) FY 2006 exceptional case waivers to CAS requirements.

Over the past few months, my office has conducted an assessment of the waivers listed in this and past reports. As a result of that assessment, we initiated several actions, including: (1) increasing scrutiny by our Senior Procurement Executives regarding the granting of TINA waivers; (2) issuing a policy memorandum emphasizing the limited criteria for using exceptional circumstance waivers; and (3) 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 DoD. Actions in this area include the 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 provided to the other congressional defense committees.

Sincerely,

for Kenneth J. Krieg

Enclosure:
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

JUL 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 Secretary of Defense to transmit annually to the congressional defense committees a report on commercial item exceptions and exceptional case exceptions to the Truth in Negotiations Act (TINA), 10 U.S.C. 2306a, and waivers of the Cost Accounting Standards (CAS) pursuant to section 26 (f)(5)(b) of the Office of Federal Procurement Policy Act (41 U.S.C. 422(f)(5)(b)) that were granted for actions over $15,000,000 during the preceding fiscal year.

Enclosed is the Department of Defense (DoD) Report to Congress on TINA waivers granted for FY 2006, which includes the summary report and three enclosures:

(1) FY 2006 commercial item exceptions to TINA requirements.
(2) FY 2006 exceptional case waivers to TINA requirements.
(3) FY 2006 exceptional case waivers to CAS requirements.

Over the past few months, my office has conducted an assessment of the waivers listed in this and past reports. As a result of that assessment, we initiated several actions, including: (1) increasing scrutiny by our Senior Procurement Executives regarding the granting of TINA waivers; (2) issuing a policy memorandum emphasizing the limited criteria for using exceptional circumstance waivers; and (3) 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 DoD. Actions in this area include the 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 provided to the other congressional defense committees.

Sincerely,

for Kenneth J. Krieg

Enclosure:
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

JUL 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 Secretary of Defense to transmit annually to the congressional defense committees a report on commercial item exceptions and exceptional case exceptions to the Truth in Negotiations Act (TINA), 10 U.S.C. 2306a, and waivers of the Cost Accounting Standards (CAS) pursuant to section 26 (f)(5)(b) of the Office of Federal Procurement Policy Act (41 U.S.C. 422(f)(5)(b)) that were granted for actions over $15,000,000 during the preceding fiscal year.

Enclosed is the Department of Defense (DoD) Report to Congress on TINA waivers granted for FY 2006, which includes the summary report and three enclosures:

(1) FY 2006 commercial item exceptions to TINA requirements.
(2) FY 2006 exceptional case waivers to TINA requirements.
(3) FY 2006 exceptional case waivers to CAS requirements.

Over the past few months, my office has conducted an assessment of the waivers listed in this and past reports. As a result of that assessment, we initiated several actions, including: (1) increasing scrutiny by our Senior Procurement Executives regarding the granting of TINA waivers; (2) issuing a policy memorandum emphasizing the limited criteria for using exceptional circumstance waivers; and (3) 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 DoD. Actions in this area include the 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 provided to the other congressional defense committees.

Sincerely,

for Kenneth J. Krieg

Enclosure:
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

JUL 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 Secretary of Defense to transmit annually to the congressional defense committees a report on commercial item exceptions and exceptional case exceptions to the Truth in Negotiations Act (TINA), 10 U.S.C. 2306a, and waivers of the Cost Accounting Standards (CAS) pursuant to section 26 (f)(5)(b) of the Office of Federal Procurement Policy Act (41 U.S.C. 422(f)(5)(b)) that were granted for actions over $15,000,000 during the preceding fiscal year.

Enclosed is the Department of Defense (DoD) Report to Congress on TINA waivers granted for FY 2006, which includes the summary report and three enclosures:

(1) FY 2006 commercial item exceptions to TINA requirements.
(2) FY 2006 exceptional case waivers to TINA requirements.
(3) FY 2006 exceptional case waivers to CAS requirements.

Over the past few months, my office has conducted an assessment of the waivers listed in this and past reports. As a result of that assessment, we initiated several actions, including: (1) increasing scrutiny by our Senior Procurement Executives regarding the granting of TINA waivers; (2) issuing a policy memorandum emphasizing the limited criteria for using exceptional circumstance waivers; and (3) 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 DoD. Actions in this area include the 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 provided to the other congressional defense committees.

Sincerely,

for Kenneth J. Krieg

Enclosure:
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

JUL 05 2007

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 Secretary of Defense to transmit annually to the congressional defense committees a report on commercial item exceptions and exceptional case exceptions to the Truth in Negotiations Act (TINA), 10 U.S.C. 2306a, and waivers of the Cost Accounting Standards (CAS) pursuant to section 26 (f)(5)(b) of the Office of Federal Procurement Policy Act (41 U.S.C. 422(f)(5)(b)) that were granted for actions over $15,000,000 during the preceding fiscal year.

Enclosed is the Department of Defense (DoD) Report to Congress on TINA waivers granted for FY 2006, which includes the summary report and three enclosures:

(1) FY 2006 commercial item exceptions to TINA requirements.
(2) FY 2006 exceptional case waivers to TINA requirements.
(3) FY 2006 exceptional case waivers to CAS requirements.

Over the past few months, my office has conducted an assessment of the waivers listed in this and past reports. As a result of that assessment, we initiated several actions, including: (1) increasing scrutiny by our Senior Procurement Executives regarding the granting of TINA waivers; (2) issuing a policy memorandum emphasizing the limited criteria for using exceptional circumstance waivers; and (3) 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 DoD. Actions in this area include the 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 provided to the other congressional defense committees.

Sincerely,

for Kenneth J. Krieg

Enclosure:
As stated

cc:
The Honorable Duncan Hunter
Ranking Member

REPORT TO CONGRESS ON
COMMERCIAL ITEM EXCEPTIONS AND TRUTH IN NEGOTIATIONS ACT (TINA) AND COST ACCOUNTING STANDARDS WAIVERS GRANTED
DEPARTMENT OF DEFENSE – FISCAL YEAR 2006
OUSD(AT&L)
March 2007

SUMMARY OF ENCLOSURES

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

ORGANIZATION	NUMBER OF EXCEPTIONS	$ IN MILLIONS
Army	46	$2,598
Air Force	22	$1,486
Navy	11	$ 263
DLA	2	$1,371

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

Army	9	$ 486
Air Force	2	$ 117
Navy	0	0
Tri-Care	1	$2,062
Defense Information Systems Agency	1	$ 95

ENCLOSURE 3 – Exceptional Case Waiver of Cost Accounting Standards (FAR 30.201-5)

United States Transportation Command	1	Pre-award waiver, $ TBD

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

Army FY 2006

Exception 1

1. **Contract Number:** W15P7T-06-C-K211
   Procurement Name: AN/PSC-5D - Multi-band/Multi-mission Communication Terminal
2. **Contractor Name:** Raytheon
3. **Activity:** Communications-Electronics Lifecycle Management Command - Project Manager Tactical Radio Communications Systems
4. **Total Dollar Value of Exception:** $36.1M
5. **Briefly explain the basis for determining the item(s) is commercial:** Commerciality was determined by taking into consideration that the radios are built on parallel production lines as commercial items, they are designed by the same teams as commercial items, they are fabricated by the same personnel, and overseen by same quality assurance (QA) program as commercial items. The Government is currently procuring the same item under a Federal Acquisition Regulation (FAR) Part 12 with other branches of the service. The radio is of a type customarily used for non-governmental purposes and available in the commercial market. The requiring activity stated that the requirement can be met by commercial items with customary or minor modifications, or Non-developmental Items (NDI). Identical items are available on General Services Administration (GSA), Schedule No. GS-35F-4097G.
6. **Briefly describe the specific steps taken to ensure price reasonableness:** Price reasonableness was determined by comparing previous competitive government contracts with comparable quantities, comparing the price from the GSA schedule considering discounts offered, using the Joint Travel Regulation (JTR) for travel costs and assistance from Defense Contract Audit Agency (DCAA) concerning the contractor's Forward Pricing Rate Agreement (FPRA).

Exception 2

1. **Contract Number:** W58RGZ-05-C-0020, P00005
   Procurement Name: Engine overhaul of the T55-GA-714A turboshaft engine on the CH-47 (Chinook) helicopter
2. **Contractor Name:** Honeywell International
3. **Activity:** US Army Aviation and Missile Command (AMCOM)
4. **Total Dollar Value of Exception:** $43.3M
5. **Briefly explain the basis for determining the item(s) is commercial:** 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 Technology Applications Program Office (TAPO) community. Its design is derived from the commercial T55 engine family. (b)(6) (b)(6) 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 Federal Aviation Administration (FAA) commercial standards for overhaul.

6. **Briefly describe the specific steps taken to ensure price reasonableness:** To assure a fair and reasonable price, supporting data was obtained from the contractor. An Integrated Product Team (IPT) team with AMCOM, Integrated Materiel Management Center (IMMC) and DCAA reviewed and analyzed the data using the One-Pass Contracting Process. The Defense Contract Audit Agency (DCAA) also conducted an Audit of the proposed prices and cost of the contract. We also used the most current Defense Contract Management Agency (DCMA) Forward Pricing Rate Agreement (FPRA).

   To analyze material, the IPT used a sampling method consisting of parts that constituted 75% of the proposed dollar value. The sample size was 57 parts. Twenty-five of the 57 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.

Exception 3

1. **Contract Number:** W58RGZ-04-D-0215, Order 0004
   Procurement Name: Repair and Overhaul Services for the T55-GA-714A turbo shaft engine, CH-47 "Chinook"
2. **Contractor Name:** Honeywell International
3. **Activity:** US Army Aviation and Missile Command (AMCOM)
4. **Total Dollar Value of Exception:** $75.0M
5. **Briefly explain the basis for determining the item(s) is commercial:** 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 Federal Aviation Administration (FAA) commercial standards for overhaul. (See Exception 2)
6. **Briefly describe the specific steps taken to ensure price reasonableness:** To determine price reasonableness, the government conducted a price analysis using current historical prices and the Army Master Data File (AMDF).

Exception 4

1. **Contract Number:** W58RGZ-04-D-0057, Orders 0026, 0033
   Procurement Name: T-700 spares
2. **Contractor Name:** General Electric (GE) Company
3. **Activity:** US Army Aviation and Missile Command (AMCOM)
4. **Total Dollar Value of Exception:** $32.6M

5. **Briefly explain the basis for determining the item(s) is commercial:** AMCOM relied on a technical and commerciality review of T-700 spares that was conducted on 19 May 2003. The Contracting Officer and the Competition Advocate determined that the list of items being procured meets the criteria of Federal Acquisition Regulation (FAR) Subpart 2.1 for commercial items. The T700/CT7 engine family powers 21 types of rotary and fixed-wing aircraft for close to 130 customers in 55 countries.
6. **Briefly describe the specific steps taken to ensure price reasonableness:** The Government relied on prices established under a partnership between GE and the Corpus Christi Army Depot (CCAD) for some items. All prices in this partnership were fully analyzed by the Massachusetts office of the Defense Contract Management Agency (DCMA) using historical prices and/or cost information under GE's cost estimating system. Prices for items not covered by the GE/CCAD partnership were compared to the latest procurement history and historical prices listed in the Army Master Data File (AMDF). The negotiated prices are discounted 20%-60% from commercial catalog prices.

Exception 5

1. **Contract Number:** W58RGZ-06-D-0063, Order 0001
   Procurement Name: T-700 Series of engines
2. **Contractor Name:** General Electric (GE) Engine Services, Inc.
3. **Activity:** US Army Aviation and Missile Command (AMCOM)
4. **Total Dollar Value of Exception:** $ 32.8M
5. **Briefly explain the basis for determining the item(s) is commercial:** A model of the T-700 Series of engines is sold commercially as the CT7 engine. The T700/CT7 engine family powers 21 types of rotary and fixed-wing aircraft for close to 130 customers in 55 countries. Based on the extensive commercial market for this engine, all T-700 series engine and component contracts with GE are awarded under Federal Acquisition Regulation (FAR) Part 12, Commercial Item.
6. **Briefly describe the specific steps taken to ensure price reasonableness:** The terms and prices in this contract were compared to prices that were incorporated into a contract that was negotiated and awarded while waiting for this package to be finalized and approved. The Defense Contract Audit Agency (DCAA) Auditor verified the escalation factors and additional GE clauses had been approved by the Defense Contract Management (DCMA) and AMCOM previously.

Exception 6

1. **Contract Number:** W58RGZ-06-C-0038 and Mod P00003
   Procurement Name: Technical, Logistical and Material Support for Utility Helicopter
2. **Contractor Name:** General Electric (GE) Company
3. **Activity:** US Army Aviation and Missile Command (AMCOM)
4. **Total Dollar Value of Exception:** $ 223.3M
5. **Briefly explain the basis for determining the item(s) is commercial:** GE provided documentation that was used as the basis for determining that this effort is commercial. The GE documentation demonstrated that the parts/services being procured are of the same type offered and sold competitively in substantial quantities in the commercial marketplace.
6. **Briefly describe the specific steps taken to ensure price reasonableness:** The following steps were taken to ensure a fair and reasonable price for this effort as described under

Federal Acquisition Regulation (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 the maximum extent possible. The Government utilized price analysis to negotiate pricing that is lower than the commercial catalog prices paid by GE's commercial customers.

Exceptions 7-17

1. **Contract Number:**
   DAAE0700-C-S019, Mod P00205, $50.1M
   DAAE0700-C-S019, Mod P00206, $34.4M
   DAAE0700-C-S019, Mod P00213, $17.2M
   DAAE0700-C-S019, Mod P00218, $66.0M
   DAAE0700-C-S019, Mod P00230, $31.5M
   DAAE0700-C-S019, Mod P00232, $40.3M
   DAAE0700-C-S019, Mod P00239, $21.3M
   DAAE0700-C-S019, Mod P00245, $36.8M
   DAAE0700-C-S019, Mod P00246, $18.4M
   DAAE0700-C-S019, Mod P00248, $20.0M
   DAAE0700-C-S019, Mod P00251, $137.4M
   Procurement Name: Up-Armor the High Mobility Multi-purpose Wheeled Vehicles (HMMWV)
2. **Contractor Name:** O'Gara-Hess Eisenhardt Armoring Co.
3. **Activity:** US Army Tank and Automotive Command (TACOM)
4. **Total Dollar Value of Exception:** $473.4M
5. **Briefly explain the basis for determining the item(s) is commercial:** The contractor (O'Gara-Hess Eisenhardt) is in the business of armoring wheeled vehicles. Some of their armoring solutions include armoring the following vehicles: 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 (PCO) determined that the items under this contract were commercial. In addition, the PCO determined that the contract meets the Federal Acquisition Regulation (FAR) definition of a commercial item found at FAR 2.101.
6. **Briefly describe the specific steps taken to ensure price reasonableness:** This 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.

Exceptions 18-35

1. **Contract Number:**
   DAAE07-01-C-S001, Mod P00676, $56.0M
   DAAE07-01-C-S001, Mod P00821, $18.4M
   DAAE07-01-C-S001, Mod P00836, $61.3M
   DAAE07-01-C-S001, Mod P00845, $46.3M
   DAAE07-01-C-S001, Mod P00874, $42.9M
   DAAE07-01-C-S001, Mod P00878, $43.6M
   DAAE07-01-C-S001, Mod P00879, $75.7M
   DAAE07-01-C-S001, Mod P00883, $107.1M
   DAAE07-01-C-S001, Mod P00898, $56.2M
   DAAE07-01-C-S001, Mod P00933, $20.7M
   DAAE07-01-C-S001, Mod P00940, $16.1M
   DAAE07-01-C-S001, Mod P00955, $42.4M
   DAAE07-01-C-S001, Mod P01023, $595.8M
   DAAE07-01-C-S001, Mod P01028, $37.1M
   DAAE07-01-C-S001, Mod P01040, $88.6M
   DAAE07-01-C-S001, Mod P01045, $41.7M
   DAAE07-01-C-S001, Mod P01091, $32.7M
   DAAE07-01-C-S001, Mod PZ0915, $58.6M
   Procurement Name: High Mobility Multi-purpose Wheeled Vehicles (HMMWV) Production Contract
2. **Contractor Name:** AM General Corp.
3. **Activity:** US Army Tank and Automotive Command (TACOM)
4. **Total Dollar Value of Exception:** $1,441.1M
5. **Briefly explain the basis for determining the item(s) is commercial:** 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 Federal Acquisition Regulation (FAR) 2.101 definition of "Commercial Item" and as such Contract DAAE07-01-C-S001 was executed using FAR Part 12 Acquisition of Commercial Items.
6. **Briefly describe the specific steps taken to ensure price reasonableness:** Alpha Contracting was used to the fullest extent possible in the negotiation of prices under 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.

Exceptions 36-37

1. **Contract Number:**
   W56HZV-04-D-0321, Call 0006, $22.0M
   W56HZV-04-D-0321, Call 0007, $25.1M
   Procurement Name: Detuned 6.5L Engine W/Container
2. **Contractor Name:** AM General Corp.
3. **Activity:** US Army Tank and Automotive Command (TACOM)
4. **Total Dollar Value of Exception:** $47.1M
5. **Briefly explain the basis for determining the item(s) is commercial:** The contracting officer relied on commercial item determinations that were made on previous contracts. The 6.5 liter engines being procured are used in commercial vehicles and sold to the general public.
6. **Briefly describe the specific steps taken to ensure price reasonableness:** Negotiations were conducted using Alpha Contracting methods. 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. Team members from the Defense Contract Management Agency (DCMA) and Defense Contract Audit Agency (DCAA) were instrumental in working directly with their AM General counterparts in the formulation of the proposal.

Exception 38

1. **Contract Number:** W56HZV-04-D-0328, Call 0007
   Procurement Name: Heavy Equipment Transport (M1000) RESET
2. **Contractor Name:** Systems & Electronics Inc.
3. **Activity:** US Army Tank and Automotive Command (TACOM)
4. **Total Dollar Value of Exception:** $18.5M
5. **Briefly explain the basis for determining the item(s) is commercial:** In 2003, a market survey of contractors for the RESET of the M1000 was included in a survey of the Family of Heavy Tactical Vehicles. The M1000 Heavy Equipment Transporter was determined commercial in April 1998. The RESET is considered commercial since the basic vehicle has been determined to be a commercial vehicle.
6. **Briefly describe the specific steps taken to ensure price reasonableness:** The Government determined the price fair and reasonable based on cost analysis and negotiations. The contracting officer obtained Defense Contract Audit Agency (DCAA) and Defense Contract Management Agency (DCMA) assistance during this process.

Exception 39

1. **Contract Number:** W52H09-05-D-0073, Call 0014
   Procurement Name: Adapter Rail System
2. **Contractor Name:** Knights Armament
3. **Activity:** US Army Tank and Automotive Command (TACOM)
4. **Total Dollar Value of Exception:** $30.9M

5. **Briefly explain the basis for determining the item(s) is commercial:** These items are sold to over 100 Federal Firearms License holders as well as the general public. M4 and M5 adapter rail systems modify the M16A2 Rifle to the M16A4 Rifle, and add Adapter Rails to the M4/M4A1 Carbines and M16A4 Rifles.
6. **Briefly describe the specific steps taken to ensure price reasonableness:** The Government compared the proposed prices to commercial sales data for identical items, and previous Government purchases of these items.

Exception 40

1. **Contract Number:** W56HZV-05-D-0233, Call 0006
   Procurement Name: M915 Glider Kits
2. **Contractor Name:** Freightliner L.L.C.
3. **Activity:** US Army Tank and Automotive Command (TACOM)
4. **Total Dollar Value of Exception:** $16.7M
5. **Briefly explain the basis for determining the item(s) is commercial:** The two previous procurements for Glider Kits were determined to be commercial. The M915 Glider Kit is a military kit made up of commercial components. (b)(6) (b)(6) (b)(6) The M915 Glider Kit falls within the Federal Acquisition Regulation (FAR) 2.101 definition of "Commercial Item".
6. **Briefly describe the specific steps taken to ensure price reasonableness:** Freightliner provided us with cost estimate details on the material, rates and labor hours. We determined that the proposed prices were fair and reasonable based on a review of cost elements and a price comparison to the most recently competitively-awarded price for Glider Kits. Freightliner provided bill of material, labor hours, and overhead rate information for the base year and an escalation rate of (b)(6) (b)(6) A price analysis was done using the most recently awarded M915 Glider Kit in Mar 2002. The awarded unit price compared favorably with this previous competitive unit price. The currently negotiated price includes all of the improvements made to the Glider Kit since 2002. We are getting more value in the 2005 Glider Kit for a slight increase in unit price.

Exception 41

1. **Contract Number:** W56HZV-06-C-0306, P00002
   Procurement Name: Interim Vehicle Mounted Mine Detection (IVMMD) systems
2. **Contractor Name:** Critical Solutions International, Inc. (CSI)
3. **Activity:** US Army Tank and Automotive Command (TACOM)
4. **Total Dollar Value of Exception:** $25.9M
5. **Briefly explain the basis for determining the item(s) is commercial:** This modification exercised an option for 28 Interim Vehicle Mounted Mine Detection (IVMMD) systems, field service representatives, new equipment and IKP training, and IVMMD trailers. The IVMMD system is a non-developmental item (NDI) encompassing commercially proven technologies and hardware with no significant modifications required to meet military requirements. The IVMMD system was developed exclusively at private expense and has been competitively procured. As such, it falls with in definition of a commercial item and was procured using Federal Acquisition (FAR) Part 12 procedures.

6. **Briefly describe the specific steps taken to ensure price reasonableness:** This effort was awarded as a letter contract and is being definitized. For the IVMMD systems and trailers, TACOM is employing price analysis techniques using a 2005 procurement of IVMMD systems as the baseline. The Defense Contract Audit Agency (DCAA) will review costs proposed by CSI for Field Service Representatives (FSRs) and trainers. The DCAA report will form the basis for negotiating a fair and reasonable price.

Exception 42

1. **Contract Number:** W56HZV-06-C-0554
   Procurement Name: Cargo Trucks
2. **Contractor Name:** International Military and Government L.L.C
3. **Activity:** US Army Tank and Automotive Command (TACOM)
4. **Total Dollar Value of Exception:** $15.5M
5. **Briefly explain the basis for determining the item(s) is commercial:** International's 7000 series trucks have been sold to and used by the general public since 2001. The chassis bought on this contract is the same chassis that is sold to commercial customers. The cargo body was selected via competitive bids and is a standard cargo body that is sold in the commercial marketplace. Once the vehicles arrive in Israel the local International Truck dealer will do Local Homologation which is the application of various modifications required by Israeli law before the vehicles can be used. This is done under a separate contract between the International dealer in Israel and the Israel Ministry of Defense (MOD) and has nothing to do with Contract W56HZV-06-C-0554. The 7400-series 6x4 and 4x2 trucks fall within the Federal Acquisition Regulation (FAR) 2.101 definition of "Commercial Item".
6. **Briefly describe the specific steps taken to ensure price reasonableness:** The contractor provided a cost sheet (b)(6) (b)(6) (b)(6) The cost for the extended warranty is the same as the cost offered to any commercial customer and is also a standard charge that is included in the vehicle price. The cargo body supplier was selected via competitive bids. The Israel MOD and the Israeli Defense Forces (IDF) (end user) were part of the selection and evaluation process. In addition to reviewing the cost sheet, we did a comparison with a similar truck that was bought competitively for Afghanistan. The trucks on Contract W56HZV-06-C-0554 are in International's 7400 series while the comparison truck was is in their 7600 series. The main differences between the series are that the axles in the 7600 are slightly higher-rated in terms of capacity and the engine is larger (400 HP vs. 320 HP). Based on comparison with a competitive quote for a similar item, as well as the analysis of International's cost sheet, the prices quoted were determined fair and reasonable for this contract.

Exception 43

1. **Contract Number:** W56HZV-06-C-0650
   Procurement Name: High Mobility Multi-purpose Wheeled Vehicle (HMMWV) Tires
2. **Contractor Name:** Goodyear Tire & Rubber Co.
3. **Activity:** US Army Tank and Automotive Command (TACOM)
4. **Total Dollar Value of Exception:** $17.7M
5. **Briefly explain the basis for determining the item(s) is commercial:** The Commerciality Determination was based on the fact that these items had been procured as a commercial item in previous contracts, and the contracting officer's knowledge of the item based on procurement history.
6. **Briefly describe the specific steps taken to ensure price reasonableness:** The contracting officer compared the proposed price of the military HMMWV tire to the prices of several similar commercial models that are produced and sold by Goodyear and a competitor for use on the civilian version of the HMMWV. The proposed price increase was evaluated by analyzing cost trends for the raw materials that are used to manufacture the tire and assessing the impact on total price.

Exception 44

1. **Contract Number:** W58RGZ-06-D-0267
   Procurement Name: IDIQ contract for up to 12,204 Rod End Bearing, National Stock Number 3120-01-417-0135, Part Number SB7111-101 for the UH-60 Black Hawk.
2. **Contractor Name:** Lord Corporation
3. **Activity:** US Army Aviation and Missile Command (AMCOM)
4. **Total Dollar Value of Exception:** $21.2M
5. **Briefly explain the basis for determining the item(s) is commercial:** The contractor, Lord Corp., provided technical and commercial pricing information showing this part to be of a type item, offered for sale and sold by Lord to a non-governmental entity for purposes other than governmental purposes. The technical information provided was determined acceptable for a technical determination of commerciality under contract W58RGZ-05-C-0371. Lord has provided sales invoices for the exact same part and similar parts sold to Sikorsky Aircraft Corp. for use on Government and Commercial variants of the Blackhawk and other commercial aircraft such as the S-76, S-92, S-70A International and the VH-60 VIP Executive transport.
6. **Briefly describe the specific steps taken to ensure price reasonableness:** A price analysis using available information was performed. Based on this price analysis, it was determined that the major cost drivers for the unit price increase are the titanium forgings and the special stainless steel used in the production of the item. The determination of reasonableness of proposed base year unit price is based on evaluation of information other than cost or pricing data. Evaluation of data obtained from the contractor supported proposed price increases that are consistent with fluctuations of past purchases. The contracting officer was not able to rely on non-government sales for comparable quantities to determine price reasonableness.

Exception 45

1. **Contract Number:** W58RGZ-06-D-0286
   Procurement Name: IDIQ contract for up to 10,263 Rod End Bearing, National Stock Number 3120-01-417-0133, Part Number SB7110-101 for the UH-60 Black Hawk Helicopter.
2. **Contractor Name:** Lord Corporation
3. **Activity:** US Army Aviation and Missile Command (AMCOM)
4. **Total Dollar Value of Exception:** $28.7M
5. **Briefly explain the basis for determining the item(s) is commercial:** The contractor, Lord Corp., provided technical and commercial pricing information showing this part to be of a type item, offered for sale and sold by Lord to a non-governmental entity for purposes other than governmental purposes. The technical information provided was determined acceptable for a technical determination of commerciality under contract W58RGZ-05-C-0371. Lord has provided sales invoices for the exact same part and similar parts sold to Sikorsky Aircraft Corp. for use on Government and Commercial variants of the Blackhawk and other commercial aircraft such as the S-76, S-92, S-70A International and the VH-60 VIP Executive transport.
6. **Briefly describe the specific steps taken to ensure price reasonableness:** A price analysis using available information was performed. Based on this price analysis, it was determined that the major cost drivers for the unit price increase are the titanium forgings and the special stainless steel used in the production of the item. The determination of reasonableness of proposed base year unit price is based on evaluation of information other than cost or pricing data related to prices, obtained from the offeror, showing changes to forging costs, shim & inner member costs (stainless steel), as well as Lord's value added costs. The contracting officer was not able to rely on non-government sales for comparable quantities to determine price reasonableness.

Exception 46

1. **Contract Number:** W912EIN-06-C-0006
   Procurement Name: Temporary Modularity Complex, Hunter Army Airfield, Georgia
2. **Contractor Name:** Chugach Industries, Inc.
   [GE Capital Modular Space (GEMS), subcontractor]
3. **Activity:** US Army Corps of Engineers, Savannah District
4. **Total Dollar Value of Exception:** $18.2M
5. **Briefly explain the basis for determining the item(s) is commercial:** GE Capital Modular Space (GEMS) is a first tier subcontractor. It is the largest dealer of mobile and modular facilities in North America. It owns and maintains an inventory in excess of 80,000 modular buildings (Equipment) through a network of 75 branch locations. Over the past twenty-five years, GEMS has provided such equipment and installation services to the construction industry, public school systems, state and local governments, private entities, and Federal Government agencies. (b)(6) (b)(6) Whether based on revenue or quantity of equipment leased or sold, Federal Government transactions account for less than three percent (3%) of GEMS' overall business. GEMS has only bid on and accepted awards based on a firm fixed price, adequate competition, and commercial item basis.

The modular facilities we specified fit within the definition of commercial items in part because our requirements are for industry standard construction, with the only exceptions being the window upgrades for Force Protection and additional fire sprinklers at the COF Supply/Storage buildings. This is due to the presence of mission-essential equipment. The Force Protection is considered a minor modification of a type not customarily available in the commercial marketplace made to meet Department of Defense requirements. The fire sprinklers are considered modifications or a type customarily available in the commercial marketplace. Based on this information the equipment, its components, and installation are deemed commercial items.

6. **Briefly describe the specific steps taken to ensure price reasonableness:** The contracting officer relied on the following information and non-government sales data in the analysis to determine price reasonableness. GEMS does not maintain catalog pricing for any of its "used/currently in inventory" equipment. With 75 GEMS branch locations purchasing various sizes of equipment from over ten manufacturers, GEMS cannot adequately maintain records to ensure that the catalog pricing yields acceptable returns with every deal. Likewise, given the variation and expense associated with specialty items requested by their customers, each floor does not necessarily depreciate on the same schedule; some are more accelerated.

   This type of pricing is standard to the industry. To determine market prices the Government looked at sales contracts provided by GEMS on seven (7) commercial contracts. This analysis was limited to a sale price per square foot versus the total sales price comparison between the subcontractor's proposal and unaudited historical sales data provided by GEMS.

   Since GEMS sells commercial products, their commercial line is not subject to audit. The offeror stated that many of its transactions for modular space are in the form of leases and GEMS provided extensive documentation to demonstrate this. However, these were not used in this analysis because the contemplated subcontract will be a purchase as opposed to a lease. Technical aspects also affected the analysis. Specifically, we relied on the offeror's statement that "The modular complexes that GEMS intends to provide to Hunter Army Airfield are comprised of similar size floors and construction to that of the...completed sales." Some of the completed sales data did not contain details as to type of module (i.e. office, residential, or storage), or the inclusion of ancillary items such as furniture or fixtures, landscaping, and installation services. Of course, it is not reasonable to expect that the Government should find an exact match to the Hunter Army Airfield procurement, since floors are usually customized.

   The sale price per square foot versus the total sales price comparison was made at the project level due to the inability to discern the specific types of modules, configurations, and ancillary items represented by the historical sales. At the project level, the proposed price of (b)(6) on the commercial contracts provided by GEMS.

Air Force FY06

Exception 1

1. **Contract Number:** FA3020-06-F-0008
   Procurement Name: Full Food Service
2. **Contractor Name:** Work Services Corporation, Wichita Falls, TX
3. **Activity:** 82d Contracting Squadron, Sheppard AFB, TX 76311
4. **Total Dollar Value of Exception:** $16.1M
5. **Briefly explain the basis for determining the item(s) is commercial:**
   This contract is performed under a performance-based statement of work that was written after extensive market research on the food service industry. It is comparable to full food service performed in the commercial marketplace and is outcome-based.
6. **Briefly describe the specific steps taken to ensure price reasonableness:**
   Note: This contract is performed by a non-profit agency under the auspices of the Javits-Wagner-O'Day Act, of 1971. Prices are determined to be fair and reasonable after comparison to prices for like service in the commercial marketplace and prices for this service at other Air Force and DoD installations. Cost analysis is used to ensure that the price, which is primarily labor-based, is reasonable for the effort expended and the outcome received. Prices are reviewed by the contracting officer as well as the Committee for Purchase from People who are Blind or Severely Disabled.

Exception 2

1. **Contract Number:** FA3020-06-F0144
   Procurement Name: Full Food Service, 24 Sep 06-23 Sep 07
2. **Contractor Name:** Work Services Corporation, Wichita Falls, TX
3. **Activity:** 82d Contracting Squadron, Sheppard AFB, TX 76311
4. **Total Dollar Value of Exception:** $16.7M
5. **Briefly explain the basis for determining the item(s) is commercial:**
   This contract is performed under a performance-based statement of work that was written after extensive market research on the food service industry. It is comparable to full food service performed in the commercial marketplace and is outcome-based.
6. **Briefly describe the specific steps taken to ensure price reasonableness:**
   Note: This contract is performed by a non-profit agency under the auspices of the Javits-Wagner-O'Day Act of 1971. Prices are determined to be fair and reasonable after comparison to prices for like service in the commercial marketplace and prices for this service at other Air Force and DoD installations. Cost analysis is used to ensure that the price, which is primarily labor-based, is reasonable for the effort expended and the outcome received. Prices are reviewed by the contracting officer as well as the Committee for Purchase from People who are Blind or Severely Disabled.

Exception 3

1. **Contract Number:** FA7014-06-C-0017
   Procurement Name: Bench-Top Infectious Disease Identification System
2. **Contractor Name:** Applied Biosystems Group

3. **Activity:** Air Force District of Washington (AFDW), Acquisition Division, Bolling AFB, DC
4. **Total Dollar Value of Exception:** $24.5M
5. **Brief explanation of the basis for determining the item is commercial:**
The commercially available unit analyzes samples (nasal swabs, etc.) for bacterial and viral pathogens. The system is sold in substantial quantities commercially and also under GSA schedule. The modified commercial unit will perform the same basic function of analyzing samples (nasal swabs, etc.) for bacterial and viral pathogens and will also be sold commercially. The predominately commercial customer base consisting of medical labs, hospitals and other health related diagnostic establishments are expected to be highly interested in the significantly improved system. The modifications to the item are customary standard commercial marketplace advances as indicated by FAR 2.101 "Commercial Item" definition, paragraph (3)(i), "Modifications of a type customarily available in the commercial marketplace." Specifically, the item will be much smaller, more mobile (due to its reduced size and ruggedized design) and test results will be available in approximately one fourth the time of the current system (1 hour vs. 4 hours).
6. **Brief description of specific steps taken to ensure price reasonableness:**
A cost analysis was conducted and the Firm-Fixed-Price was negotiated based upon the following DCAA Auditor verification that, even though the following factors had not been audited, they did compare well with historical actuals and appear to be reasonable:
    a. Salary rates
    b. Incentive Compensation rates
    c. Payroll Tax rate
    d. Fringe Benefits rate
    e. Annual salary increase estimates
    f. Overhead rate
    g. G&A rate

The Technical evaluation performed by the requiring activity recommended acceptance of the proposed materials and supplies and estimated travel amounts.

Exception 4

1. **Contract Number:** FA7012-05-C-0020
Procurement Name: Bilingual Bicultural Advisors – Subject Matter Experts
2. **Contractor Name:** REEP Inc. doing business as OSS
3. **Activity:** Air Force District of Washington (AFDW), Acquisition Division, Bolling AFB, DC
4. **Total Dollar Value of Exception:** $45.4M
5. **Brief explanation of the basis for determining the item is commercial:**
The Office of Secretary of Defense, in coordination with CENTCOM, MNF-I and USACAPOC, had a requirement for 200 Western oriented individuals of Iraqi background who can communicate in both English and Iraqi-dialect Arabic or Kurdish and who are committed to a democratic Iraq to act as advisors to Civil Affairs units of the MNF-I on reconstruction and democratization projects in Iraq. A bilingual bicultural advisor – subject matter expert (BBA-SME) must have language skills but is not technically considered a "linguist"; each must have a subject matter expertise of specific value to MNF-I/Civil Military Operations (CMO). The BBA-SME is a fully vetted, degreed professional able to

provide professional service, advice, and assistance in their area of subject matter expertise to US and Coalition organizations supporting Operation Iraqi Freedom. Although this was a new requirement for OSD, similar services have been acquired by the State Department and by private contractors in support of nation building. Whether to stabilize an emerging new democratic nation, or to provide a stable political and economic environment for an entrepreneurial company, nation building experts, are both available and "sold" in substantial quantities in the commercial marketplace.

6. **Brief description of specific steps taken to ensure price reasonableness:**
Comparison to State Department salary tables for similar subject matter expert services which are advertised as both government and contractor filled positions. Additionally, GSA schedule contract rates for linguist services were compared for price reasonableness. The proposed labor rates for all categories of program office support were compared to equivalent commercial rates for professional services of the same type as those proposed by OSS (the contractor), including program managers/contract managers, administrative assistants, deputy program managers, financial managers and help desk support. Sources of comparison included federal government General Salary schedules, General Services Administration (GSA) Management Oriented Business Integrated Services (MOBIS) schedule fully burdened rates, and Monster.com Salary Center areas. For those employees who are, or will be deployed in Iraq, the post adjustment, cost of living multiplier and hazard pay were added to the base rate to determine that the proposed rates were fair and reasonable. These same factors are added to GS State Department employees deployed to Iraq.

Exception 5

1. **Contract Number:** FA8771-04-C0003 (Modification P00014)
Procurement Name: Microsoft Support Services
2. **Contractor Name:** Microsoft Corporation
3. **Activity:** HQ 754th ELSG, Maxwell AFB-Gunter Annex, AL
4. **Total Dollar Value of Exception:** $15.8M
5. **Briefly explain the basis for determining the item(s) is commercial:**
Microsoft operating system software is globally recognized as the predominant operating system for computer platforms in use by the general public worldwide and as such have been unquestionably categorized as commercial items for years since their introduction into the commercial marketplace [FAR 2.101 Commercial Item - (5) Installation services, maintenance services, repair services, training services, and other services if-- (i) Such services are procured for support of an item referred to in paragraph (1), (2), (3), or (4) of this definition, regardless of whether such services are provided by the same source or at the same time as the item; and (ii) The source of such services provides similar services contemporaneously to the general public under terms and conditions similar to those offered to the Federal Government;]. This performance based commercial services contract is for total corporate Air Force (AF) Enterprise level Microsoft Support Services consisting of Microsoft Premier Support including Microsoft Alliance Support Teams (ASTs) and Technical Account Managers (TAMS), and, Consulting Support. All clearly fall under the definition of other services in support of commercial items, which are provided in similar fashion contemporaneously to the general public for business and corporate use under similar terms and conditions.

6. **Briefly describe the specific steps taken to ensure price reasonableness:**
Comparable general public marketplace pricing data were available to assess price reasonableness in conjunction with information provided by the offeror. Additionally, at the time of the Basic award preceding this annual option, the AF currently had seventeen (17) organizational-specific expiring contracts for the same services scattered around the agency's various Commands, those were being consolidated into this AF wide enterprise agreement. A similar agency wide contract had also been awarded by the Army in Aug 02 (DAA15-02-D-I-002) and was referred to for corroborating price comparability. Price analysis techniques used to satisfy FAR 15.404-1, Proposal Analysis Techniques, included the use of the following FAR references: (b)(2)(iv) Comparison with competitive published price lists, published market prices of commodities, similar indexes, and discount or rebate arrangements; (vi) Comparison of proposed prices with prices obtained through market research for the same or similar items; and (vii) Analysis of pricing information provided by the offeror.

Exception 6

1. **Contract Number:** FA8523-06-C-0035
Procurement Name: Radar Signal Simulators – FT1000-3AN/PLM-4(V3)
2. **Contractor Name:** EDO Technical Services Operation
3. **Activity:** 542 CBSSS, Warner-Robins Air Logistics Center, Robins AFB, GA
4. **Total $ Value of Exception:** $18.7M
5. **Briefly explain the basis for determining the item(s) is commercial:**
Prior to the solicitation for the subject item, it was determined in January 2001 under contract number F09603-01-D-0079 when a replacement for the APM-427 would be procured, a COTS item would be the replacement. Therefore, prior to even procuring the item, it was determined that the item would be a commercial item.
When the offeror submitted the proposal for the prior contract (F09603-01-D-0079), sales data was provided. The sales were to Veridian, Boeing, Bell Helicopter, and Sikorsky in 1999, and to Litton in 2000. The government team at that time was provided with copies of invoices for review.
6. **Briefly describe the specific steps taken to ensure price reasonableness:**
For this procurement, to determine reasonableness, historical prices were compared to those proposed. Those commercial buys included Lockheed Martin, Nov 2005, Global Defense Solutions, Feb 2006, Utah Defense Alliance, Nov 2005, and NAWC AD(LKE), Nov 2005. By reviewing the data submitted, it was clear the government received a "most favored customer" status. We found that the government should receive discounts at lower quantities than those proposed, and negotiated those reductions.

Exception 7

1. **Contract Number:** FA8504-06-C-0004-PZ0001
Procurement Name: Propulsion System Support for C-130J Aircraft
2. **Contractor Name:** Rolls Royce Corporation, Defense North America
3. **Activity:** 330 ACSSS, Warner-Robins Air Logistics Center, Robbins AFB, GA
4. **Total $ Value of Exception:** $82.2M

5. **Briefly explain the basis for determining the item(s) is commercial:**
With respect to the commercial aspect, the Navy had previously made the FAR Part 12 commercial determination for its contract N00019-02-C-3026. Because of the time lapse between the determination and the current acquisition as well as a change in philosophy regarding commercial determinations, WR-ALC was tasked to provide additional support for a FAR Part 12 acquisition. This data, consisting of a background discussion and comparison of the AE2100E Series engines, was first submitted to WR-ALC/JAQ Contracts Attorney for review and approval based on the parameters set forth in FAR. Legal counsel provided an opinion commensurate with that provided by the PCO and submitted the documentation to SAF/GCQ Assistant Deputy General Counsel (Acquisition) who concurred with the decision. Based on this response, the Contracting Officer determined commerciality existed for this requirement.
6. **Briefly describe the specific steps taken to ensure price reasonableness:**
For this procurement, the Government utilized various methods to determine reasonableness. Historical prices were compared to those proposed with respect to engines, spares and engine sustainment, as well as verifying catalog pricing. The contractor provided the government team with copies of invoices from the current year (2006). Limited cost analysis was performed with regards to engine sustainment and program management costs in which historical engine support (engine sustainment) and personnel equivalents and their duties (program management) were discussed in detail. These discussions included comparison to the Performance Work Statement in order to ensure the correct mix of support was being acquired. In addition, data from Salary.com web site and Defense Contract Management Agency provided salary and indirect cost rate data was utilized to provide a baseline of salaries to comparative job categories the Government determined was part of the Program Management support. These processes enabled the Government to "negotiate" concessions to those costs proposed.

Exception 8

1. **Contract Number:** F33657-01-C-0022, P00113
Procurement Name: Joint Primary Aircrew Training System (JPATS) (T-6A Aircraft)
2. **Contractor Name:** Raytheon Aircraft Company (RAC)
3. **Activity:** 337 AESG (formerly the Training Aircraft Systems Group), 664 AESS/PK, Wright-Patterson AFB, OH
4. **Total $ Value of Exception**: $268M
5. **Briefly explain the basis for determining the item(s) is commercial:**
This modification is an option exercise for A/C production Lot 13. Determination of commerciality centered on the fact that the T-6A/Beech 3000 aircraft is a modified Pilatus PC-9 non-military aircraft that was developed at contractor expense. The Beech 3000 is an FAA certified aircraft that is available for sale to the general public. Verification of this was accomplished by the SAF/AQ directed Joint Estimating Team (JET). Based on this information, as well as the JET findings, the PCO determined that this requirement met the requirements of FAR definition of a commercial item.
Note: The JPATS program was originally determined to be commercial. The original award and options were coded as commercial. Lots 1 – 14 are a FAR PART 12 effort. Future Lots 15 – 20 will be a FAR PART 15 effort.

6. **Briefly describe the specific steps taken to ensure price reasonableness:**
In order to determine price reasonableness, the PCO relied on a combination of non-government sales, as well as, assistance from DCMA, DCAA, technical experts within the Program Office and the application of a jointly developed cost model to review and assess the contractor's proposal. Prior to exercising option PCO, conducted a thorough review of the current assembly hours, commercial rate increases, and reviewed current market research of potential competitors to ensure that exercise of the options was the most advantageous and price effective method of fulfilling the government's requirements.

Exception 9

1. **Contract Number:** F33657-01-C-0022, P00114
Procurement Name: Joint Primary Aircrew Training System (JPATS) (T-6A Aircraft)
2. **Contractor Name:** Raytheon Aircraft Company (RAC)
3. **Activity:** 337 AESG (formerly the Training Aircraft Systems Group), 664 AESS/PK, Wright-Patterson AFB, OH
4. **Total $ Value of Exception**: $30.6M
5. **Briefly explain the basis for determining the item(s) is commercial:**
This answer is basically the same as Exception 8. The only difference is the value on the next modification. This modification is an option exercise for A/C production Lot 13. Determination of commerciality centered on the fact that the T-6A/Beech 3000 aircraft is a modified Pilatus PC-9 non-military aircraft that was developed at contractor expense. The Beech 3000 is an FAA certified aircraft that is available for sale to the general public. Verification of this was accomplished by the SAF/AQ directed Joint Estimating Team (JET). Based on this information as well as the JET findings the PCO determined that this requirement met the requirements of FAR definition of a commercial item.
Note: The JPATS program was originally determined to be commercial. The original award and options were coded as commercial. Lots 1 – 14 are a FAR PART 12 effort. Future Lots 15 – 20 will be a FAR PART 15 effort.
6. **Briefly describe the specific steps taken to ensure price reasonableness:**
In order to determine price reasonableness, the PCO relied on a combination of non-government sales, as well as, assistance from DCMA, DCAA, technical experts within the Program Office and the application of a jointly developed cost model to review and assess the contractor's proposal. Prior to exercising option, PCO conducted a thorough review of the current assembly hours, commercial rate increases, and reviewed current market research of potential competitors to ensure that exercise of the options was the most advantageous and price effective method of fulfilling the government's requirements.

Exception 10

1. **Contract Number:** F33657-01-C-0038, P00083
Procurement Name: FY06 Lease Payment for five C-37 COCOM aircraft
2. **Contractor Name:** Gulfstream
3. **Activity:** 655th AESS/PK, Wright-Patterson AFB, OH
4. **Total $ Value of Exception**: $32,820,000
5. **Briefly explain the basis for determining the item(s) is commercial:**
There is a broad commercial marketplace for leasing Gulfstream 500/550 series aircraft. This contractor provides only commercial sales via catalog pricing.

6. **Briefly describe the specific steps taken to ensure price reasonableness:**
The contracting officer performed both a price analysis and cost analysis to determine the government's negotiation objective. Gulfstream provided detailed information other than cost or pricing data in support of the proposed price. This information included material costs, labor hours, and direct and indirect rates. The contracting officer analyzed this information including inputs from DCAA and DCMA to formulate the government's negotiation objective based on the cost analysis. A price analysis was also performed based on comparison to previous like buys or prices from competing commercial sources.

Exception 11

1. **Contract Number:** F33657-01-C-0038, P00084
Procurement Name: C-37 FY06 Contractor Logistics Support
2. **Contractor Name:** Gulfstream
3. **Activity:** 655th AESS/PK, Wright-Patterson AFB, OH
4. **Total $ Value of Exception**: $20.8M
5. **Briefly explain the basis for determining the item(s) is commercial:**
Since the aircraft is commercial, Gulfstream utilizes a worldwide spare parts pool to maintain and support these COCOM assets. Similar resources support nonmilitary aircraft around the world as well.
6. **Briefly describe the specific steps taken to ensure price reasonableness:**
The contracting officer performed both a price analysis and cost analysis to determine the government's negotiation objective. Gulfstream provided detailed information other than cost or pricing data in support of the proposed price. This information included material costs, labor hours, and direct and indirect rates. The contracting officer analyzed this information including inputs from DCAA and DCMA to formulate the government's negotiation objective based on the cost analysis. A price analysis was also performed based on comparison to previous like buys or prices from competing commercial sources.

Exception 12

1. **Contract Number:** F33657-01-D-0013, 0132
Procurement Name: CY06 Communication Equipment Lease for C-40B/C-32A Aircraft
2. **Contractor Name:** Boeing
3. **Activity:** 655th AESS/PK, Wright-Patterson AFB, OH
4. **Total $ Value of Exception:** $23.8M
5. **Briefly explain the basis for determining the item(s) is commercial:**
This equipment is commercial off-the-shelf items such as printers, shredders, and CD players that the government leases.
6. **Briefly describe the specific steps taken to ensure price reasonableness:**
A technical evaluation was performed to ensure that the products would meet the government's requirements. A price comparison was then performed based on similar and identical commercial items available in the commercial marketplace. The marketplace information was obtained via an internet search for various vendor catalogs and published price lists.

Exception 13

1. **Contract Number:** F33657-01-D-0013, 0135
   Procurement Name: Auxiliary Fuel System Restoration for four C-32A Aircraft
2. **Contractor Name:** Boeing
3. **Activity:** 655th AESS/PK, Wright-Patterson AFB, OH
4. **Total $ Value of Exception**: $29M
5. **Briefly explain the basis for determining the item(s) is commercial:**
   This delivery order modifies fuel tanks for the Boeing 757 fleet in accordance with Boeing commercial Service Bulletin as mandated by FAA.
6. **Briefly describe the specific steps taken to ensure price reasonableness:**
   The contracting officer performed both a price analysis and cost analysis to determine the government's negotiation objective. Boeing provided detailed information other than cost or pricing data in support of the proposed price. This information included material costs, labor hours, and direct and indirect rates. The contracting officer analyzed this information including inputs from DCAA and DCMA to formulate the government's negotiation objective based on the cost analysis. A price analysis was also performed based on comparison to previous like buys or prices from competing commercial sources.

Exception 14

1. **Contract Number:** F33657-02-C-0017, P000034
   Procurement Name: Lease and Insurance payments for three C-40C aircraft
2. **Contractor Name:** Boeing
3. **Activity:** 655th AESS/PK, Wright-Patterson AFB, OH
4. **Total $ Value of Exception**: $40.9M
5. **Briefly explain the basis for determining the item(s) is commercial:**
   These aircraft are Boeing 737 commercial aircraft without any military unique modifications.
6. **Briefly describe the specific steps taken to ensure price reasonableness:**
   The contracting officer performed both a price analysis and cost analysis to determine the government's negotiation objective. Boeing provided detailed information other than cost or pricing data in support of the proposed price. This information included material costs, labor hours, and direct and indirect rates. The contracting officer analyzed this information including inputs from DCAA and DCMA to formulate the government's negotiation objective based on the cost analysis. A price analysis was also performed based on comparison to previous like buys or prices from competing commercial sources.

Exception 15

1. **Contract Number:** F33657-02-D-2011, 0077
   Procurement Name: Contractor Logistics Support, Repair and Replacement of Government Owned Inventory, Corporate Care - Engine Maintenance, Commercial Publications Revision Services, Over & Above, AFIS Fees, AFMATIC Fees and Service Center/Maintenance Visits for USAF, Navy and Army C-37 aircraft in FY06
2. **Contractor Name:** Gulfstream
3. **Activity:** 655th AESS/PK, Wright-Patterson AFB, OH
4. **Total $ Value of Exception**: $19.8M

5. **Briefly explain the basis for determining the item(s) is commercial:**
   Since the aircraft is commercial, Gulfstream utilizes a worldwide spare parts pool to maintain and support these COCOM assets. Similar resources support nonmilitary aircraft around the world as well.
6. **Briefly describe the specific steps taken to ensure price reasonableness:**
   The contracting officer performed both a price analysis and cost analysis to determine the government's negotiation objective. Gulfstream provided detailed information other than cost or pricing data in support of the proposed price. This information included material costs, labor hours, and direct and indirect rates. The contracting officer analyzed this information including inputs from DCAA and DCMA to formulate the government's negotiation objective based on the cost analysis. A price analysis was also performed based on comparison to previous like buys or prices from competing commercial sources.

Exception 16

1. **Contract Number:** F33657-02-D-2011, 0081
   Procurement Name: Purchase of one USAF C-37B Aircraft
2. **Contractor Name:** Gulfstream
3. **Activity:** 655th AESS/PK, Wright-Patterson AFB, OH
4. **Total $ Value of Exception:** $44.9M
5. **Briefly explain the basis for determining the item(s) is commercial:**
   This aircraft is a basic Gulfstream 550 commercial jet.
6. **Briefly describe the specific steps taken to ensure price reasonableness:**
   The contracting officer performed both a price analysis and cost analysis to determine the government's negotiation objective. Gulfstream provided detailed information other than cost or pricing data in support of the proposed price. This information included material costs, labor hours, and direct and indirect rates. The contracting officer analyzed this information including inputs from DCAA and DCMA to formulate the government's negotiation objective based on the cost analysis. A price analysis was also performed based on comparison to previous like buys or prices from competing commercial sources.

Exception 17

1. **Contract Number:** F33657-00-D-2118, 0021
   Procurement Name: 134 Non-FMS T-38 PMP Combined Engine Kits (Kit #() and 68 Non-FMS T-38 PMP Ejector Kits (Kit # 7)
2. **Contractor Name:** General Electric Company
3. **Activity:** 577 AESG/PK, Wright-Patterson AFB, OH
4. **Total $ Value of Exception**: $68.8M
5. **Briefly explain the basis for determining the item(s) is commercial:**

   This contract procures engine modification kits and ejector nozzle kits for the T-38 Propulsion Modernization Program (PMP), which is an upgrade to the T-38 "Talon" aircraft operated by Air Education and Training Command (AETC). 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. 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 which have been sold commercially. These items

are in GE's commercial catalog and offered for sale to commercial customers for use on either commercially owned T-38's or F-5A/B's.

6. **Briefly describe the specific steps taken to ensure price reasonableness:**
The Air Force Negotiation Team examined previous prices paid on this contract as well as sales history for the same or similar parts including discounts and prices paid on orders from Defense Supply Center Richmond contracts and the OC-ALC Corporate Contract with the contractor.

Exception 18

1. **Contract Number:** F33657-00-D-2118, 0025
Procurement Name: The basic contract is to procure J-85 Propulsion Modernization Program Upgrade Kits; Order 0025 is for the acquisition of 31 non-FMS T-38 PMP Combined Engine Kits (Kit #9)
2. **Contractor Name:** General Electric Company
3. **Activity:** 577 AESG/PK, Wright-Patterson AFB, OH
4. **Total $ Value of Exception:** $15.1M
5. **Briefly explain the basis for determining the item(s) is commercial:**
This contract procures engine modification kits and ejector nozzle kits for the T-38 Propulsion Modernization Program (PMP), which is an upgrade to the T-38 "Talon" aircraft operated by Air Education and Training Command (AETC). 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. 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 which have been sold commercially. These items are in GE's commercial catalog and offered for sale to commercial customers for use on either commercially owned T-38's or F-5A/B's.
6. **Briefly describe the specific steps taken to ensure price reasonableness:**
The Air Force Negotiation Team examined previous prices paid on this contract as well as sales history for the same or similar parts including discounts and prices paid on orders from Defense Supply Center Richmond contracts and the OC-ALC Corporate Contract with the contractor.

Exception 19

1. **Contract Number:** F33657-02-C-0006, P00014
Procurement Name: The basic contract is for procurement of F117-PW-100 Engines; P00014 is for the FY06 Interim Economic Price Adjustment for CLIN 0004 Install Engines and obligation for CLIN 0004 Install Engines
2. **Contractor Name:** Pratt & Whitney
3. **Activity:** 577 AESG/PK, Wright-Patterson AFB, OH
4. **Total $ Value of Exception:** $368.5M
5. **Briefly explain the basis for determining the item(s) is commercial:**
This multi-year contract procures F117-PW-100 engines; four of which are used to power each C-17 aircraft. The F117-PW-100 engine is a derivative of the commercial PW2037/2040 engine which is FAA certified and configured for use on the Boeing 757 aircraft. The largest operators are Delta Airlines, United Airlines, Northwest Airlines, and

United Parcel Service. The F117-PW-100 engine is 91% common by part number and has 100% common rotating machinery with the PW2000 commercial family of engines that power the Boeing 757.

6. **Briefly describe the specific steps taken to ensure price reasonableness:**
The current contract uses a Most Favored Customer discount rate applied to a base price which is adjusted using an agreed to Economic Price Adjustment formula for labor, materials, and energy. During fact-finding, the Government requires the contractor to show contract sales history with other customers, to support proposed USAF prices, terms and conditions.

Exception 20

1. **Contract Number:** F33657-02-C-0006, P00015
Procurement Name: The basic contract is for procurement of F117-PW-100 Engines; P00015 is the Final EPA for CLIN 0002AC; 33 each FY04 installs
2. **Contractor Name:** Pratt & Whitney
3. **Activity:** 577 AESG/PK, Wright-Patterson AFB, OH
4. **Total $ Value of Exception:** $25.2M
5. **Briefly explain the basis for determining the item(s) is commercial:**
This multi-year contract procures F117-PW-100 engines; four of which are used to power each C-17 aircraft. The F117-PW-100 engine is a derivative of the commercial PW2037/2040 engine which is FAA certified and configured for use on the Boeing 757 aircraft. The largest operators are Delta Airlines, United Airlines, Northwest Airlines, and United Parcel Service. The F117-PW-100 engine is 91% common by part number and has 100% common rotating machinery with the PW2000 commercial family of engines that power the Boeing 757.
6. **Briefly describe the specific steps taken to ensure price reasonableness:**
The current contract uses a Most Favored Customer discount rate applied to a base price which is adjusted using an agreed to Economic Price Adjustment formula for labor, materials, and energy. During fact-finding, the Government requires the contractor to show contract sales history with other customers, to support proposed USAF prices, terms and conditions.

Exception 21

1. **Contract Number:** F33657-02-C-0006, P00018
Procurement Name: The basic contract is for the procurement of F117-PW-100 Engines; P00018 is for (1) exercise of option CLIN 0008 for 4 each, FY06 spare engines and associated data associated data and (2) to identify fund cites for transportation costs on P00014 and P00018.
2. **Contractor Name:** Pratt & Whitney
3. **Activity:** 577 AESG/PK, Wright-Patterson AFB, OH
4. **Total $ Value of Exception:** $28.5M
5. **Briefly explain the basis for determining the item(s) is commercial:**
This multi-year contract procures F117-PW-100 engines; four of which are used to power each C-17 aircraft. The F117-PW-100 engine is a derivative of the commercial PW2037/2040 engine which is FAA certified and configured for use on the Boeing 757 aircraft. The largest operators are Delta Airlines, United Airlines, Northwest Airlines, and

United Parcel Service. The F117-PW-100 engine is 91% common by part number and has 100% common rotating machinery with the PW2000 commercial family of engines that power the Boeing 757.

6. **Briefly describe the specific steps taken to ensure price reasonableness:**
The current contract uses a Most Favored Customer discount rate applied to a base price which is adjusted using an agreed to Economic Price Adjustment formula for labor, materials, and energy. During fact-finding, the Government requires the contractor to show contract sales history with other customers, to support proposed USAF prices, terms and conditions.

Exception 22

1. **Contract Number:** FA8208-05-D-0004
Procurement Name: Hamilton Sundstrand Corporation (HSC) Strategic Sourcing Initiative (SSI)
2. **Contractor Name:** Hamilton Sundstrand Corporation, Windsor Locks, CT
3. **Activity:** OO-ALC, Hill AFB, UT
4. **Total Value of Exception:** $250.4M (Basic only, options not yet awarded)
Nine (9) year Requirements Contract (3 yr basic and two 3 yr options)

	Estimated Amt
Basic Period	$250.4M
Option I	$284.1M
Option II	$325.5M
Total Est Amt	$860M

Note: To date, no single obligation (delivery order) has exceeded $15M

5. **Briefly explain the basis for determining the item(s) is commercial:**
Approximately 1,100 items were determined to be commercial under phase 1 of this contract. The items are either (1) items sold to the general public or are (2) of a type customarily used by and sold to the general public. Because of the voluminous number of items, the commerciality determination for the DLA managed items (959) was based on a sample of the items. All of the AF managed items (52) were reviewed individually by engineers and technical personnel. The majority of the items (AF and DLA managed) were determined to be "of a type" customarily used by the general public. Since the majority of the items were "of a type," non-government sales were not available. Instead either prior government sales or non-certified cost data were used to determine the price reasonableness. In situations in which non-government sales were available, the contractor's sales histories were reviewed and verified during the negotiation process.
6. **Briefly describe the steps taken to ensure price reasonableness:**
The negotiation team employed a range of pricing techniques to ensure price reasonableness for the 1,011 parts that were priced under the subject contract. These techniques included: comparisons of proposed prices with sales of the exact same item to non-government entities, comparisons of proposed prices with sales for similar items to non-government entities, and comparisons of proposed prices with recent sales of the same item to the government. All of these comparison techniques included adjusting for the differences in quantities using a learning curve where the part was considered "quantity sensitive" and adjusting for time by developing appropriate escalation factors using applicable escalation indices. Then, where none of the aforementioned methods were deemed appropriate because of the unavailability

of recent sales to either a non-government or government entity, the Air Force requested and the contractor provided "Information other than Cost or Pricing Data." Since all of the phase 1 parts on the contract were determined to be "commercial" and, therefore, were procured using the provisions of FAR Part 12, no "Cost and Pricing Data" (certified) was obtained by the negotiation team. In instances where "Information other than Cost or Pricing Data" was obtained (uncertified cost information), this data was provided to Defense Contract Audit Agency and their recommendations were incorporated in the Air Force objective for the applicable parts.

Navy FY06

Exception 1

1. **Contract Number:** N00033-06-C-2002, CLINs 0001, 0002, 0003, and 0004
   Procurement Name: Charter of Four U. S. Flag, Jones Act Compliant Offshore Supply Vessels (OSVs).
2. **Contractor Name:** Hornbeck Offshore Services, LLC
3. **Activity:** Military Sealift Command
4. **Total Dollar Value of Exception:** $20.4M
5. **Briefly explain the basis for determining the item(s) is commercial:**
   Contract N00033-06-C-2002 is a time charter of four U.S. Flag Offshore Supply Vessels (OSVs). Two OSVs on the East Coast and two on the West Coast provide transit security escort services to various subsurface ships, transiting on the surface, into and out of Kings Bay, Georgia and Bangor, Washington. Vessels providing services under this contract are commercial OSVs owned by the contractor, Hornbeck Offshore Services, LLC. The focus of Hornbeck's OSV business is support of the offshore energy industry. Under commercial time charter contracts, Hornbeck provides OSVs to major oil companies, large independent oil and gas exploration, development and production companies and large oil service companies. The four vessels provided under contract N00033-06-C-2002 are offered competitively to the commercial energy industry using time charter standard commercial contract terms and conditions. OSV commercial charter day rates are routinely published by Hornbeck and by marine industry reporting sources. In support of their proposal Hornbeck provided copies of recent time charter invoices for nine OSVs providing services to oil companies.
6. **Briefly describe the steps taken to ensure price reasonableness:**
   The RFP for contract N00033-06-C-2002 required Hornbeck to provide commercial OSV pricing information to support their proposed day rate. Hornbeck provided actual copies of invoices sent to their customers for OSV services provided under commercial time charter contracts. Using the rates from these invoices the Contracting Officer computed a current average commercial charter day rate for Hornbeck's OSVs. Based on this information the Contracting Officer was able to make an affirmative determination of price reasonableness. On average the final negotiated day rate for contract N00033-06-C-2002 was $1,064.48 lower than Hornbeck's current average commercial day rate.

Exception 2

1. **Contract Number**: N00033-05-C-3301, CLINs 0001, 0002, 0003, and 0004
   Procurement Name: Charter of one U. S. Flag High Speed Vessel (HSV).

2. **Contractor Name:** Austal Hull 130 USA
3. **Activity:** Military Sealift Command
4. **Total Dollar Value of Exception:** $21M
5. **Briefly explain the basis for determining the item(s) is commercial:**
   Contract N00033-05-C-3301 is a time charter of a high speed vessel, the Westpac Express. High Speed Vessels are used throughout the world to transport cargo and personnel and are offered competitively. The previous procurement was competitively procured from commercial sources.
6. **Briefly describe the steps taken to ensure price reasonableness:**
   The price for this charter was compared to responses received to the market survey. Price analysis was also conducted to determine the specific reasons for the price increasing from the previous procurement. The specific differences between the two contracts included the need for an engine overhaul during the currency of the new contract and additional operational costs.

Exception 3

1. **Contract Number:** N00019-06-C-0122, CLINs 0001, 0002, 0003, 0004, and 0005
   Procurement Name: V-22 Osprey Mission Auxiliary Tank Systems (MATS)
2. **Contractor Name:** Robertson Aviation, LLC.
3. **Activity:** Naval Air Systems Command
4. **Total Dollar Value of Exception:** $18.9M
5. **Briefly explain the basis for determining the item(s) is commercial:**
   The V-22 MATS system was determined to be a commercial item due to the commonality of the V-22 MATS to the GUARDIAN® fuel tank sold to various other commercial and military helicopter customers. The *GUARDIAN* ® fuel tank is currently in use on both commercial (i.e., the MD500 and Puma) and military (i.e., Apache, Blackhawk, Chinook, and CH-53) helicopters. The MATS used on the V-22 aircraft requires only minor modifications of a type customarily available in the commercial marketplace in order to meet the requirements of the procuring department or agency.
6. **Briefly describe the steps taken to ensure price reasonableness:**
   For purposes of this price analysis, three steps were taken. The proposed unit prices of the MATS were compared to the most recent sub-contracted prices through Bell-Boeing for the MATS in the V-22 Lot 10 production contract; the proposed unit prices were compared to an Independent Government Estimate; and a validation of the proposed unit prices by comparison to published commercial catalog pricing was conducted. These comparisons were adequate to determine price reasonableness.

Exceptions 4 and 5

1. **Contract Number:** N61339-06-D-0013/D.O. 0002 and 0004
   Procurement Name: Talon Robotic Systems and Spares
2. **Contractor Name:** Foster-Miller Incorporated
3. **Activity:** Naval Air Warfare Center TSD, Orlando, FL
4. **Total Dollar Value of Exception:** D.O. 0002 total value $21.8M
   D.O. 0004 total value $19.8M
5. **Briefly explain the basis for determining the item(s) is commercial:**
   The Talon robotic systems have been available for sale to the general public since 2001. Prior to this contract award, Foster-Miller had sold a large number of Talon Robotic Systems to various police

agencies and foreign Governments. Foster-Miller provided a list of commercial purchases and customers as a means to verify the commercial nature of the Talon Robotic System.

6. **Briefly describe the steps taken to ensure price reasonableness:**
Price analysis for N61339-06-D-0013 utilized a comparison of proposed prices to historical pricing on Blanket Purchase Agreement (BPA) N61339-05-A-0004 issued in August 2005, under which NAVAIR Orlando first acquired these systems/parts. The instant contract IDIQ prices were equal to or less than the BPA prices, which in turn had been based upon a price comparison to historical procurements made by the U.S. Army Aviation and Missile Command. The Army procurements were for a basic Talon platform and a list of add on components, allowing for an evaluation of a full up Talon robotic system price as well as individually priced components for comparison to the NAVAIR BPA price list.

Exception 6

1. **Contract Number:** N00019-95-C-0209/ P00123
Procurement Name: FY2006 Option for AE1107C Engines
2. **Contractor Name:** Rolls Royce Corp.
3. **Activity:** Naval Air Systems Command
4. **Total Dollar Value of Exception:** $58.7M
5. **Briefly explain the basis for determining the item(s) is commercial:**
This contract action is the FY06 option of Contract N00019-95-C-0209 for 28 each AE1107C Gas Turbine engines. On 10 Sept 1996, the Contracting Officer determined that the AE1107C engine manufactured by Rolls Royce Corp. is a commercial item. It was developed from its military predecessor, the T-406, for the V-22 Osprey. It is sold in significant quantities to both commercial aviation and military customers. This engine together with its commercial aviation twin, the AE2100, has been flown over 20 million flight hours.
6. **Briefly describe the steps taken to ensure price reasonableness:**
The price was negotiated as part of the three year extension for the AE1107C covering Fiscal Year buys 2003 through 2006. There was ample historical data for performing price analysis (over 200 AE1107Cs purchased for V-22s the previous 8 years). NAVAIR received inputs from DCMA and DCAA based on their independent pricing models utilizing the Standard Model Unit Theory using EZ-Quant Software and inputs from AIR 4.2 based on their independent learning curve model. After review of the three pricing models and underlying assumptions, NAVAIR relied upon DCAA's recommendation as it was the only model to account for quantity, escalation and learning. In addition, NAVAIR took into consideration prices for similar commercial items, market conditions, technology changes and Government unique requirements. NAVAIR also compared the AE1107C unit price to unit prices for similar engines on other programs – for example, the C-130J Hercules aircraft utilizes the same core engine priced at $2M and the equivalent engine has been sold to other commercial customers at similar prices. Its twin, the AE2100, is sold at comparable prices to Saab and Embraer for use on their commercial regional airliners. Finally, during negotiations Rolls Royce provided information to support (1) additional fixed costs due to production delays; (2) fixed costs associated with fewer engine quantities being procured under the contract than NAVAIR's original intent; and (3) fixed costs attributed to extending the contract by three years. Based on all the foregoing information, NAVAIR determined the negotiated prices to be fair and reasonable. NOTE: NAVAIR later negotiated a credit of $420,000 in conjunction with the procurement of 6 additional engines by modification P00136, awarded

25 August 2006. Therefore, the net price for the P00123 lot was reduced to $58,303,200 ($58,723,200 - $420,000 = $58,303,200).

Exception 7

1. **Contract Number:** N00421-05-C-0011 P00008
   Procurement Name: Naval Aviation Enterprise Naval Aviation Readiness Integrated Improvement Program & Enterprise Cost Management.
2. **Contractor Name:** CACI Inc. – Federal
3. **Activity:** Naval Air Systems Command
4. **Total Dollar Value of Exception:** $16.9M
5. **Briefly explain the basis for determining the item(s) is commercial:**
   Process value management techniques and methodology performed in support of the NAE/NAVRIIP effort are commensurate with the consulting services procured by a wide range of industries and government agencies with the goal of transforming government's business processes to emulate those of a commercial enterprise. Since these services are available and have been provided to the general public, they were considered to be commercial. Upon further review, additional analysis and documentation should have been included in the contract file to support the commercial item determination. The contracting officer has been counseled and processes have been established to prevent this from re-occurring.
6. **Briefly describe the steps taken to ensure price reasonableness:**
   The price analysis included a comparison of the contractor's proposed prices to the Independent Government Cost Estimate, which was provided by the NAVAIR technical community, and a comparison of this effort to similar efforts from a prior government contract. Additionally, the contractor provided information other than cost or pricing data to support the government's cost and price analysis, consisting of a breakout of both direct and indirect costs which were evaluated/verified with the assistance of DCAA.

Exception 8

1. **Contract Number:** N00024-06-D-4107
   Procurement Name: FY06/FY07 ETF40B Marine Gas Turbine Engines for LCAC SLEP
2. **Contractor Name:** Vericor Power Systems LLC
3. **Activity:** Naval Sea Systems Command
4. **Total amount of exception:** $33.3M
5. **Briefly explain the basis for determining the item(s) is commercial:**
   The ETF40B engine is a marine gas turbine engine. Marine gas turbine engines are customarily used by the general public for purposes other than governmental purposes, and have been sold, leased or licensed to the general public. It has been verified that the ETF40B engine is offered for sale to the general public as a power solution for various marine applications such as mega yachts, fast ferries and military vessels.
6. **Briefly describe the steps taken to ensure price reasonableness:**
   The contracting officer was able to rely on recent non-U.S. Government sales of the ETF40B engine and a very similar engine, the TF50, to determine price reasonableness. Specifically, price analysis was performed by comparing recent prices for the ETF40B sold directly to the Korean Navy (not FMS) and also the price for the TF50, a similar engine with a different and slightly more expensive combustor turbine, which has extensive commercial sales.

Exceptions 9 and 10

1. **Contract Number:** N00383-00-D-007J, D.O.s 0019 and 0021
   Procurement Name: Aircraft auxiliary power units, engine fuel controls, engine driven compressors and Performance Based Logistics (PBL) support for F/A-18, S-3, P-3, C-2 and C-130 aircraft. These are orders under an IDC for the period beginning 1 October 2005 through 31 March 2006.
2. **Contractor Name:** Honeywell International, Inc
3. **Activity:** NAVICP - Philadelphia
4. **Total Dollar Value of Exception:** 0019: $17.2M
   0021: $19.3M
5. **Briefly explain the basis for determining the item(s) is commercial:**
   The contracting officer had a commerciality study performed by the Navy Price Fighter Department in June 1998 to verify that the items to be procured were commercial or modified commercial items. The study determined that the items were commercial items or modified commercial items, the services were commercial in nature and provided support for the Contracting Officer determination that the items to be procured under this contract were a commercial item or services in accordance with FAR 2.101 under paragraph (3)ii of the commercial definition.
6. **Briefly describe the steps taken to ensure price reasonableness:**
   In determining price reasonableness, the Contracting Officer requested "information other than cost or pricing data" which is similar to the kind of data that is required when doing a FAR Part 15 contract; the only difference is that the contractor did not have to certify the data. This data included sales reports of similar or like items, review of vendor purchase orders/quotes and historical labor hours. The contracting officer was able to conduct a cost and price analysis on the data provided. Since this procurement includes Performance Based Logistics (PBL), effort other cost elements related to logistics and engineering were also reviewed. Finally, a favorable price analysis was conducted comparing the commercial market price of contractor's Maintenance Service Agreements with the proposed price under the contract.
   In addition to the above, a Business Case Analysis (BCA) was used to establish cost comparison. A BCA is required for all PBL efforts. The BCA compares total cost of doing business under the current state to that of a proposed PBL. The BCA for this PBL showed a savings favorable to the Navy.

Exception 11

1. Contract Number: N00039-06-C-0014
   Procurement Name: Tactical Switching – Procure the Micromuse Netcool® software suite, licensing and maintenance, and the hardware required to implement the Netcool® system to facilitate a consolidated, Navy-shore approach towards network monitoring capability.
2. **Contractor Name:** EYAK Technology LLC
3. **Activity:** Space and Naval Warfare Systems Command
4. **Total Dollar Value of Exception::** $15.2M
5. **Briefly explain the basis for determining the item(s) is commercial:**
   Netcool is a COTS software suite that was developed at private expense and owned by Micromuse, Inc. Micromuse, Inc. has since been purchased by IBM. Eyak Technologies,

Inc. was the sole 8(a) U.S. reseller. The hardware required to implement the Netcool solution is also COTS.

This acquisition process included market research and discussion with other DoD sites with related requirements. Netcool was selected from among many commercially-available products, and it was previously selected under competitive procurements by other DoD commands including the Air Force Combat Information Transport System, DISA, JFCOM, CENTCOM, STRATCOM, HLS, and the Pentagon Information Technology Agency. Selection of Netcool assures interoperability, reduces future training time and costs, and facilitates moving towards increased joint operations and migration to the DoD Global Information Grid (GIG).

6. **Briefly describe the steps taken to ensure price reasonableness:**

For this firm-fixed price contract an Alpha-Contracting strategy was used to achieve best value for the Government. Extensive negotiations were conducted between May and September 2005. Micromuse CFO Ian Hallifax verified that Micromuse was offering the Navy pricing as good as or better than its major industry partners (specifically listed) for a comparably-sized procurement. Micromuse was asked for other than cost or pricing data to help establish price reasonableness of software. Initially Micromuse offered a 40% discount on software and 25% on hardware. The final negotiated price increased the software discount to 50% and kept the 25% discount on options for software maintenance. Hardware prices utilized volume and government pricing discounts that were discounted off commercially advertised and GSA schedule prices. Installation prices used the contract labor rates in NASA Scientific, Engineering, Workstation Procurement (SEWP) III contract NNG04DA32B to determine cost reasonableness.

DLA FY06

Exception 1

1. **Contract Number:** SPM300-05-D-3119 (Modification P00036 to SPM300-05-D-3061)
   Procurement Name: Subsistence
2. **Contractor Name:** Public Warehousing Company (PWC)
3. **Activity:** Defense Supply Center Philadelphia
4. **Total Dollar Value of Exception:** $876.9M
5. **Briefly explain the basis for determining the item(s) is commercial:**

This action was for the procurement of perishable and semi-perishable subsistence items (chilled products, semi perishable food stuffs, frozen fish, meat, and poultry, fruits, vegetables, dairy, etc.) provided under DSCP Subsistence Prime Vendor Program to provide continued support to US Troops stationed in Kuwait, Qatar, Iraq, and Afghanistan. The items were commercial and available to customers via electronic catalogs.

6. **Briefly describe the specific steps taken to ensure price reasonableness:**

This acquisition was implemented as a modification to an already existing DSCP Subsistence Prime Vendor Contract – SPM300-05-D-3061. It maintained all of the SPM300-05-D-3061 contract terms and conditions to include prices. The SPM300-05-D-3061 prices were determined to be fair and reasonable based on adequate competition and comparison with market trends. Price analysis was conducted on the offered prices: delivered costs and distribution fees. Delivered cost is the manufacturer/supplier's actual invoice price for the product delivered to the Prime Vendor's distribution point. The

delivered price is variable and based on market trends. Distribution fees encompass cost of doing business and profit and are the fixed portion of the contract pricing remaining constant for each contract period (base and each option period) in accordance with the terms of the contract. Contracting pricing was monitored throughout the contract period to ensure compliance with product (prices), market trends (delivered prices) and contract pricing (distribution fees and categories).

Exception 2

1. **Contract Number:** SP0600-06-D-0465
   Procurement Name: Turbine Fuel, Aviation Grade, JP-8
2. **Company Name:** Abu Dhabi National Oil Company Distribution, Abu Dhabi, UAE
3. **Activity:** Defense Energy Support Center
4. **Total Dollar Value of Exception:** $494.3M
5. **Briefly explain the basis for determining the item(s) is commercial:**
   The turbine fuel, JP-8 is essentially commercial jet fuel (Jet A1) used by all commercial jet aircraft modified by the addition of commercial and non-commercial additives to meet the specific DoD military aircraft fuel requirements. This modification does not alter the nongovernmental function or essential physical characteristics of the required jet fuel.

6. **Briefly describe the specific steps taken to ensure price reasonableness:**
   A reasonable objective price was established based on a recently competitively awarded contract for a similar product, Jet A1 commercial jet fuel, in the same geographic region, Bahrain. Despite requests for additional supporting pricing information and direct involvement in negotiations by the Head of Contracting Activity, the objective price was not obtained. Additional time in negotiations were not pursued as there was no expectation they would result in additional price reductions. The negotiated price exceeded the objective by 3.3% and was accepted as the fuel was needed for mission critical support of the CENTCOM Area of Operations and had to be satisfied as there is no other source of supply for delivery to the in-county Al Dhafra airbase.

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

Army FY 2006

Waiver 1

1. **Contract Number:** W15P7T-06-C-L010
   Procurement Name: Vehicle Intercom Systems (VIS) and spares
2. **Company Name:** Northrop Grumman
3. **Activity:** Communications-Electronics Lifecycle Management Command - Project Manager Defense Communications and Army Transmission Systems
4. **Total Dollar Amount Waived:** $74.0M
5. **Briefly describe why this item(s) could not be reasonably obtained without a waiver:** DoD designated these items as urgent to avoid loss of soldiers' lives on the battlefield. DoD has directed that no vehicles be sent to Southwest Asia without the VIS installed. Because a major system subcontractor is located in England, audits frequently take up to 3 months. As a result, the contracting officer determined that a waiver was necessary to ensure the required delivery schedule could be met.
6. **Briefly describe the specific steps taken to ensure price reasonableness:** The first step was to compare the proposed prices to amounts paid for items purchased under previous requirements. This analysis considered the effect of quantity on price. Prices were adjusted for inflation as appropriate to normalize values for analysis. The Government's position was then reviewed using a program which was based on learning curve and quantity comparisons to verify the accuracy of the position. Based on the analysis, the Government negotiated with Northrop Grumman.
7. **Briefly describe the demonstrated benefits of granting the waiver:** By waiving the audit and using price analysis, the contracting office was able to save a minimum of three months and meet the delivery schedule for these items. The contracting officer's decision to pursue an exceptional case waiver was based on the fact that there was sufficient recent historical data to negotiate the contract using price analysis rather than cost analysis. Contracts for the same items were awarded on 27 April 2005, 29 July 2005, 30 September 2005 and 20 January 2006, each for several million dollars. Because these contracts were for the same items, the contracting officer had sufficient data for determining price reasonableness. The previous contract prices had been audited by the Defense Contract Audit Agency.

Waiver 2

1. **Contract Number:** DAAH23-02-D-0225, Orders 0010-0013
   Procurement Name: UH-60 Crashworthy External Fuel System
2. **Company Name:** Robertson Aviation, L.L.C.
3. **Activity:** US Army Aviation and Missile Command (AMCOM)
4. **Total Dollar Amount Waived:** $26.9M
5. **Briefly describe why this item(s) could not be reasonably obtained without a waiver:** The contractor asserted that their accounting system was not designed to collect costs by labor hour, or material dollars; the data would not be certifiable, and therefore was unable to comply with the requirements of Federal Acquisition Regulation (FAR) 15.403-4(a) (1). In

light of the contractor's position and the critical need for their crashworthy system, it was determined a waiver of the requirement for cost or pricing data was in the Government's best interest.

The existing auxiliary fuel system being utilized on the UH-60 aircraft is pressurized, non-crashworthy, non-ballistic tolerant, and is considered to be a general safety hazard for personnel. The hazard associated with the existing non-crashworthy system has resulted in significant operational restrictions and requires field commanders to justify (sign off) each extended range mission. The contractor's fuel system is the only system currently available which is capable of alleviating this safety hazard. Since the contractor is on record as being unwilling to sell their system unless the requirement for certified cost or pricing data is waived, the Government would have had to go elsewhere for the tanks and it was estimated that it would take another source approximately 3 to 4 years (assuming no engineering and/or testing setbacks) and $8.0M to complete the qualification process to design, develop, manufacture, and test a similar system. Delay in fielding the system creates an unacceptable safety hazard.

6. **Briefly describe the specific steps taken to ensure price reasonableness:** A Price Analysis of the major components (A-Kit, B-Kit, and Interim Support) utilizing a costing methodology was prepared by the Utility Helicopter Project Management Office (UH-PMO) validated that the contractor's discounted catalog prices were deemed fair and reasonable. The Price Analysis was conducted on the major components (A-Kit, B-Kit, and Interim Support) being procured under the Indefinite Delivery/Indefinite Quantity IDIQ contract utilizing 2002 pricing. Since prices for ordering periods 2 thru 5 were increased across the board by escalation factors ranging from (b)(6), only analysis of the base year was necessary. No exception was taken to the escalation factors utilized.
7. **Briefly describe the demonstrated benefits of granting the waiver**: Granting of the waiver eliminated significant delays that could have created an unacceptable safety hazard; in that, it would have taken another source approximately 3 to 4 years and $8.0M to complete the qualification process to design, develop, manufacture, and test a similar system.

Waiver 3

1. **Contract Number:** W58RGZ-06-D-0021
   Procurement Name: 100 gallon fuel tanks with ammunition packs to support the Iraqi, Afghanistan War, current events, and near term missions of the Apache helicopter.
2. **Contractor Name**: Robertson Aviation, L.L.C.
3. **Activity:** US Army Aviation and Missile Command (AMCOM)
4. **Total Dollar Amount Waived:** $19.5M
5. **Briefly describe why this item(s) could not be reasonably obtained without a waiver:** The requirement to acquire 100 gallon fuel tanks with ammunition packs to support the Iraqi, Afghanistan War, current events, and near term missions of the Apache helicopter. This tank will provide additional fuel in order to support the aircraft's mission for a longer period of time. This is crucial in the current environment faced by our units supporting Operation Iraqi Freedom (OIF) Operation Enduring Freedom (OEF) efforts. Robertson is the only source with a fuel system that is qualified on the Apache aircraft. The Robertson IAFS is the only system that has the safety, crashworthiness, and ballistic tolerance performances required to support Apache. Robertson Aviation is a small business. Robertson considers their product as commercial off the shelf non-developmental item sold at catalog prices available to the commercial market place should anyone have a requirement. Robertson stated their

company is small, highly specialized business and neither maintains nor supplies traditional cost or pricing data. All Robertson products are proprietary to Robertson and are developed exclusively at its own expense, without development funding from a third party, including the US Government. Robertson does not maintain a government cost accounting system because such a system adds no value to the ultimate product, and it is not required for catalog pricing. Robertson has submitted a letter refusing to provide certifiable cost and pricing data. In addition, history with this contractor reveals the same refusal to submit a certificate of current cost or pricing data. Robertson Aviation has advised that their accounting system is not designed to collect cost by job, labor hour category or material dollars; therefore the data would not be certifiable.

6. **Briefly describe the specific steps taken to ensure price reasonableness:** The contracting officer has determined that Robertson Aviation's proposed price is fair and reasonable based on two separate pricing methodologies. The Government performed independent price fair market using price history from previous fuel tanks purchased on Government contracts with Robertson which supported a total price of $24,864,399.63. The Defense Contract Management Agency (DCMA) performed an analysis using historical data which resulted in a price estimate of $19,939.905. The analysis indicates that Robertson's offered price of $19,478,577 is fair and reasonable.
7. **Briefly describe the demonstrated benefits of granting the waiver:** Robertson Aviation is the only source that could provide the Comb-PAK B-kits. These tanks supported the aircraft mission for a longer period of time. This was crucial in the current environment faced by our units supporting Operation Iraqi Freedom (OIF)/Operation Enduring Freedom (OEF) efforts. If this requirement was not awarded immediately, back orders would begin to accumulate. Failure to award the contract to Robertson would seriously delay fielding the tanks in the Iraqi War and the War against Terrorism which would jeopardize the safety and mission effectiveness of any Apache battalion going to war.

Waiver 4

1. **Contract Number:** W31P4Q1-05-C-0221 (Buy 12)
   Procurement Name: HELLFIRE II Missiles
   (630) AGM-114K Heat Missiles
   (612) AGM-114M BFWM
   (1,399) AGM-114N MAC Warhead Missiles
   (1) TGM-36E3 TGM)
2. **Contractor Name:** Lockheed Martin Missiles and Fire Control
3. **Activity:** US Army Aviation and Missile Command (AMCOM)
4. **Total Dollar Amount Waived:** $169.3M
5. **Briefly describe why this item(s) could not be reasonably obtained without a waiver:** Definitization of the Buy 12 letter contract, and exercise and award of the Firm-Fixed Price (FFP) options, would not have occurred in May 2006. It was anticipated that at least 60 days would be required for receipt of a proposal substantiated by cost or pricing data. Therefore, the earliest date that the letter contract would be definitized and the additional quantities could be added to the definitized contract would have been September 2006. If award of the additional quantities was delayed, readiness would be severely impacted because of a critical delay in addressing a capabilities gap to service an emerging target set.
6. **Briefly describe the specific steps taken to ensure price reasonableness:** Adequate certified cost or pricing data was furnished on previous HELLFIRE II missile production buys, and that data was determined sufficient, when combined with updated information to

make a reasonable price determination. Over a decade of cost or pricing history for HELLFIRE II missile production was available. Current cost or pricing data for BUYS 7 through 11 were reviewed by AMCOM, DCAA, and DCMA.

a. Adequate certified cost or pricing data was furnished on previous HELLFIRE II missile production buys, and this data was sufficient, when combined with updated information to make a reasonable price determination.
b. There was over a decade of cost or pricing history for HELLFIRE II missile productions.
c. Approximately 95% of the HELLFIRE II missile is common to all configurations, with the warhead being the only discernable difference.
d. The average missile unit price offered in the 27 April 2006 BUY 12 TINA Waiver Request is equivalent to the BUY 11 average missile unit price escalated to current year dollars less (b)(6) The Defense Contract Management Agency (DCMA) conducted an examination and validation of the actual cost for Production BUYS 7 thru 9. The Defense Contract Audit Agency (DCAA) reported that an escalation rate between (b)(6) (b)(6) would be applicable to the BUY 11 missile unit prices to adjust like quantities from the September 2005 BUY 11 definitization date to the middle of the period of performance for Buy 12 (Dec 06) based on the Producer Price Index. This escalation percentage, however, exceeded the escalation included in the contractor's TINA request. Management Challenge included in the contractor's TINA request equates to a (b)(6) decrement. Based on historical information, it was unlikely that reductions of this amount could be achieved through any means other than the contractor's offer, which includes waiver of certified cost or pricing data.
e. The Contracting Officer concluded that the unit prices for the missile variants included in the basic letter contract requirement and the missile variant quantities to be added upon letter contract definitization could be determined to be reasonable without submission of certified cost or pricing data.

7. **Briefly describe the demonstrated benefits of granting the waiver:**
   a. Award was made in May 2006 instead of September 2006.
   b. Missiles would be provided to the warfighters in a timely manner.
   c. Proposal preparation substantiated by certified cost and pricing data, evaluation of the proposal submission, and the ensuing negotiation process expends valuable contractor and Government resources. This was avoided because reasonable prices were able to be determined without the requirement for certified cost and pricing data.

Waiver 5

1. **Contract Number:** DAAE07-02-C-M001, Mod P00029
   Procurement Name: Improved Thermal Sight Systems (ITSS)
2. **Company Name:** Raytheon
3. **Activity:** US Army Tank and Automotive Command (TACOM)
4. **Total Dollar Amount Waived:** $16.1M
5. **Briefly describe why this item(s) could not be reasonably obtained without a waiver:** A waiver was needed to award the action timely and preserve the delivery schedule of the hardware to match the delivery of the vehicles into which these ITSS are being integrated.
6. **Briefly describe the specific steps taken to ensure price reasonableness:** The Government determined the price fair and reasonable without certified cost or pricing data because the hardware that was procured was the same as that purchased in November 2005. Raytheon submitted a certified proposal for that previous purchase. The Defense Contract Audit Agency (DCAA) audited that proposal. Government pricing personnel did an analysis

that used the (previous) certified proposal submitted by Raytheon as the basis for comparison; this analysis indicated that the price was reasonable because it remained the same.

7. **Briefly describe the demonstrated benefits of granting the waiver:** The Government maintained the required delivery schedule. The Government achieved cost savings by not having to prepare a Request for Proposal, and avoiding the unnecessary use of Government resources for evaluation, auditing, and negotiations. The contractor avoided a lot of proposal preparation time and effort.

Waivers 6 & 7

1. **Contract Number:** W56HZV04-D-0322, Call No. 0010 & Call No. 0011
   Procurement Name: Overhaul Heavy Tactical Vehicles
2. **Contractor Name:** Oshkosh Truck
3. **Activity**: US Army Tank and Automotive Command (TACOM)
4. **Total Dollar Amount Waived:** $44.2M and $54.8M respectively
5. **Briefly describe why this item(s) could not be reasonably obtained without a waiver:** The waiver was needed in order to negotiate the contract prices within the necessary time frame.
6. **Briefly describe the specific steps taken to ensure price reasonableness:** The buying group obtained sufficient information to make a determination of fair and reasonable pricing, without obtaining additional, certified data. The information included a complete, costed bill of materials, a summary of assembly and teardown hours for each item, and all of the applicable overhead rates (FPRA). Since this was a follow-on/continuation of a previously-awarded RESET contract for the Heavy Tactical Vehicle (HTV), price reasonableness was determined by comparison with similar prices in the FHTV contract, past overhaul contracts and the current RESET contract.
7. **Briefly describe the demonstrated benefits of granting the waiver:** This included maintaining the required delivery schedule and the cost savings resulting from not having to prepare a certified proposal, and avoiding the unnecessary use of Government resources for evaluation, auditing, and negotiations.

Waiver 8

1. **Contract Number:** W56HZV-05-G-0005, Call 0005, Mod 0007 and Mod 0005
   Procurement Name: Reset Bradley Fighting Vehicles
2. **Contractor Name:** BAE Systems
3. **Activity:** US Army Tank and Automotive Command (TACOM)
4. **Total Dollar Amount Waived:** $26.5M and $27.1M respectively
5. **Briefly describe why this item(s) could not be reasonably obtained without a waiver:** The waivers were necessary to ensure that the Government acquired these needed vehicles at the lowest possible price and to ensure a timely fulfillment of these urgent requirements.
6. **Briefly describe the specific steps taken to ensure price reasonableness:** The Government considered the data and evaluation from the previous award of 262 vehicles, and the negotiated decrements that were included in the subcontractor costs. For the additional 43 each (Mod 0007) and 44 each (Mod 0005) vehicles, the contracting officer also evaluated the cost impacts in the areas of material, labor and overhead. The negotiated subcontractor cost decrements (for the 262 vehicles) were reflected in the price for these additional vehicles. The Procuring Contracting Officer (PCO) also considered period of performance.

7. **Briefly describe the demonstrated benefits of granting the waiver:** First, the Government did not incur additional overhead and administrative costs, and did not expend the additional administrative lead time related to the normal course of this type of acquisition. The granting of this waiver eliminated the task of gathering and evaluating cost and pricing data, bid and proposal costs, possible Temporary Duty (TDY) expenses to subcontractor facilities, and extensive usage of critical personnel specialties, such as legal and pricing expertise that are normally an integral part of this high dollar value procurement process. Additional demonstrated benefits of granting this waiver included the cost and lead time avoidance associated with performance of a Government audit and ensuring timely contract award to meet the urgent requirements.

Waiver 9

1. **Contract Number:** W52H09-06-C-0223
   Procurement Name: M2 .50-Caliber Flex Machine Guns
2. **Company Name:** General Dynamics Armament and Technical Products (GDATP)
3. **Activity:** US Army Tank and Automotive Command (TACOM)
4. **Total Dollar Amount Waived:** $27.6M
5. **Briefly describe why this item(s) could not be reasonably obtained without a waiver:** Sufficient data was available to evaluate the price, based on recent audit and technical reviews, and the recent Forward Pricing Rate Agreement.
6. **Briefly describe the specific steps taken to ensure price reasonableness:** The Government analyzed costs against the recent negotiated procurement, updated for the new Forward Pricing Rate Agreement. The Government compared the results of this analysis to the historic price.
7. **Briefly describe the demonstrated benefits of granting the waiver:** The Government saved months of time in awarding the contract, and avoided the expense incurred for an audit and/or technical review.

Air Force FY06

Waiver 1

1. **Contract Number:** FA8675-05-C-0070, P00016
   Procurement Name: Advanced Medium Range Air-to-Air Missiles (AMRAAM)
2. **Company Name:** Raytheon Missile Systems Company, Tucson
3. **Activity:** 695th Armament Systems Squadron (695 ARSS), Eglin AFB
4. **Total Dollar Amount Waived:** $50,739,270
5. **Why this item could not be reasonably obtained without a waiver:**
   Raytheon is the sole manufacturer of the AMRAAM AIM-120 C-5 missile. In May 2001, Air-to-Air Joint Systems Program Office (JSPO) obtained a TINA waiver for the FY02 – FY07 production lots (Lots 16-21, which includes the subject contract) pursuant to FAR 15.403-1(c)(4). The requirements included a forecasted maximum of 1,200 missiles per lot.
6. **Specific steps taken to ensure price reasonableness:**
   There was a high degree of similarity between the FY98-01 Lots 12-15 missiles and the FY02-07 Lots 16-21 projected missile buys. The FY98-01 Lots 12-15 production contracts contained a Long Term Pricing Agreement (LTPA), which was based on certified cost or pricing data. Prior to the exercise of each option, a price reasonableness assessment (PRA) was conducted which substantiated the option prices as fair and reasonable and the most

advantageous method of fulfilling the Government's needs. The PRA provided a "bottoms-up" price for items and validated the option prices in the LTPA. These reviews showed that the model price was consistently lower than a price using cost analysis techniques when exercising each option. A revised LTPA was incorporated into the FY02-07 Lots 16-21 production contract that was based on price analysis. The AMRAAM program had 15 years of historical data that was used for the pricing of the AIM-120 C-5 missile.
During the Lot 20 negotiations, the parties agreed to place options for an additional 750 C-5 missiles for FMS customers on the Lot 19 contract. The price for these missiles was again established utilizing price analysis and allowed for escalation based on FY05 dollars utilizing the approved Raw Inflation Rates based on OSD Inflation Rates for Aircraft and Missile Procurement (3010/3020). This action was for 102 C-5 missiles and brought the total number of missiles purchased on Lot 19 to 547.

7. **Demonstrated benefits of granting the waiver:**
Using price analysis, instead of requiring certified cost or pricing data, made better use of scarce resources (procurement dollars and manpower) through bid and proposal cost savings, a reduced proposal support package and proposal development time, a shortened proposal review process, and an expedited negotiation process.

Waiver 2

1. **Contract Number:** FA8675-05-C-0070, P00026
Procurement Name: Advanced Medium Range Air-to-Air Missiles (AMRAAM)
2. **Company Name:** Raytheon Missile Systems Company, Tucson
3. **Activity:** 695th Armament Systems Squadron (695 ARSS), Eglin AFB
4. **Total Dollar Amount Waived:** $65.8M
5. **Why this item could not be reasonably obtained without a waiver:**
Raytheon is the sole manufacturer of the AMRAAM AIM-120 C-5 missile. In May 2001, Air-to-Air Joint Systems Program Office (JSPO) obtained a TINA waiver for the FY02 – FY07 production lots (Lots 16-21, which includes the subject contract) pursuant to FAR 15.403-1(c)(4). The requirements included a forecasted maximum of 1,200 missiles per lot.
6. **Specific steps taken to ensure price reasonableness:**
There was a high degree of similarity between the FY98-01 Lots 12-15 missiles and the FY02-07 Lots 16-21 projected missile buys. The FY98-01 Lots 12-15 production contracts contained a Long Term Pricing Agreement (LTPA), which was based on certified cost or pricing data. Prior to the exercise of each option, a price reasonableness assessment (PRA) was conducted which substantiated the option prices as fair and reasonable and the most advantageous method of fulfilling the Government's needs. The PRA provided a "bottoms-up" price for items and validated the option prices in the LTPA. These reviews showed that the model price was consistently lower than a price using cost analysis techniques when exercising each option. A revised LTPA was incorporated into the FY02-07 Lots 16-21 production contract that was based on price analysis. The AMRAAM program had 15 years of historical data that was used for the pricing of the AIM-120 C-5 missile.
During the Lot 20 negotiations, the parties agreed to place options for an additional 750 C-5 missiles for FMS customers on the Lot 19 contract (P00016). The price for these missiles was again established utilizing price analysis and allowed for escalation based on FY05 dollars utilizing the approved Raw Inflation Rates based on OSD Inflation Rates for Aircraft and Missile Procurement (3010/3020). This action was for 123 C-5 missiles and brought the total number of missiles purchased on Lot 19 to 670.

7. **Demonstrated benefits of granting the waiver:**
Using price analysis, instead of requiring certified cost or pricing data made better use of scarce resources (procurement dollars and manpower) through bid and proposal cost savings, a reduced proposal support package and proposal development time, a shortened proposal review process, and an expedited negotiation process.

TRICARE FY 06

1. **Contract Number:** MDA906-03-C0009/Modification P00149
Procurement Name: Target Health Care Costs
2. **Company Name:** TriWest Healthcare Alliance
3. **Activity:** TRICARE Management Activity, Target Health Care Costs
4. **Total Dollar Amount Waived:** $2.1B
5. **Why this item could not be reasonably obtained without a waiver:** 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.
6. **Specific steps taken to ensure price reasonableness:** 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 and 2 costs, and comparison of cost-per-eligible to other Regional target healthcare negotiations.

7. **Demonstrated benefits of granting the waiver:** In light of the reorganization from 12 regions to 3, 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.

Defense Information Systems Agency FY 06

1. **Contract Number:** HC1013-06-D-2006
Procurement Name: DISN Transmission Services-CONUS/Access Optimization (DTS-C/AO).
2. **Company Name:** AT&T
3. **Activity:** DITCO-Scott/PL82
4. **Total Dollar Amount Waived:** $95M

5. **Briefly describe why this item(s) could not be reasonably obtained without a waiver:** The work to be done under this contract could only be performed by AT&T. In order to prepare for upcoming network transitions, DISN circuits needed to be re-routed to an existing contract that AT&T was performing under. However, the existing contract was expiring on 27 Oct 06 and could not be extended. Therefore, a new contract was awarded to AT&T on a sole source basis. AT&T advised they were unable to provide certified cost or pricing data. The transition of these circuits was critical to the operation and maintenance of the DISN and no other vendor could perform the work.
6. **Briefly describe the specific steps taken to ensure price reasonableness:** The proposal submitted by AT&T for this effort contained prices which were a continuation of the prices in the final year of the expiring contract. The expiring contract was competitively awarded.
7. **Briefly describe the demonstrated benefits of granting the waiver:** The Government was able to ensure all DISN circuits were re-routed prior to the start of transitions. AT&T was able to re-route and maintain the circuits under this contract at no additional increase in price from the contract that expired in Oct 2006.

EXCEPTIONAL CASE WAIVER OF COST ACCOUNTING STANDARDS (FAR 30.201-5)

United States Transportation Command FY 2006

1. **Contract Number:** Not awarded, estimated award date 3rd quarter FY07
   Procurement Name: Defense Transportation Coordination Initiative (DTCI)
2. **Contracting Activity:** United States Transportation Command
3. **Total Dollar Amount of Award:** Contract award expected in 3rd quarter FY 2007.
4. **Brief description of why the property or service could not be reasonably obtained under the contract without granting the waiver:** Without the waiver competition would have been significantly restricted and was likely to eliminate world class competitors.
5. **Briefly describe the specific steps taken to ensure price reasonableness:**
   Cost risk mitigation provisions incorporated into the DTCI RFP include: establishment of NTE transportation rates; the Management Services Contract Line Item Number (CLIN) will be competitively awarded on a firm fixed price basis without the submission of cost or pricing data, the cost reimbursable Line Haul CLIN will be based on commercial market rates without the submission of cost or pricing data, invoice/payment auditing of transportation rates for allowability; exclusion of any indirect costs or markups on top of direct freight transportation charges; inclusion of FAR Part 44 Subcontracting/Contractor Purchasing System Review controls and DFARS 215 estimating system controls; and, inclusion of Award Fee Plan provisions which include incentives for achieving overall lower transportation costs.
6. **Briefly describe the demonstrated benefits of granting the waiver:**
   The Government is currently in the source selection process, we anticipate significant benefits through increased competition on the initial award, and significant opportunities for operating efficiencies and cost savings.