



DEPARTMENT OF THE AIR FORCE  
WASHINGTON DC

20 JUL 2002

Office Of The Assistant Secretary

MEMORANDUM FOR ALMAJCOM-FOA-DRU (CONTRACTING)

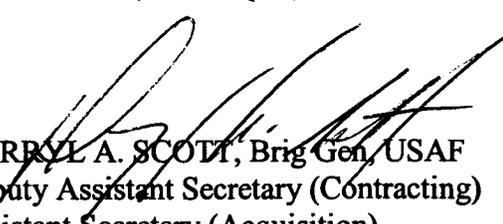
FROM: SAF/AQC  
1060 Air Force Pentagon  
Washington, DC 20330-1060

SUBJECT: Rights to Use Commercial and Commercial Derivative Aircraft Technical Data to Contract for Life Cycle Support Services

We have seen some recent examples where lack of technical data rights for commercial airframes complicated our ability to contract for life cycle support services. In these examples, the Government didn't have sufficient data rights to share the manufacturer's technical data with a third party support contractor, resulting in unnecessary expense and delay. These cases demonstrate how important it is to determine upfront whether the technical data and data rights normally provided by the airframe manufacturer will satisfy our total data needs. If the standard deliverables and rights do not meet our needs, we must negotiate specialized agreements or licenses acceptable to both parties.

For example, the manufacturer's standard data license provided with the purchase of the commercial airframe gives us the right to use the data in-house to operate and maintain our fleet, but does not permit us to release the data outside the government. Therefore, if we plan to use a third party contractor for life cycle support, we must negotiate an additional special data license or agreement upfront. We will generally need to negotiate delivery of more detailed technical data, accompanied by a special license agreement, if we'll need technical data sufficient to perform any structural modifications or to manufacture spare parts. During negotiations, keep in mind that although the Government normally expects unlimited rights in certain types of data (see DFARS 227.7102), in the commercial aircraft industry the airframe purchaser does not typically receive unlimited rights in any technical data. With this in mind, let's focus our negotiations on obtaining the data and rights that balance our needs with the contractor's proprietary rights and business interests.

Every effort should be made to identify and resolve data rights issues prior to contract award. A proactive approach preserves the Government's ability to maintain our commercial-based aircraft with the most current and accurate technical data. The attachments provide additional guidance and, as always, the SAF/AQC staff is available to assist. Our POC is Mr. Dave Powell, SAF/AQCP, DSN: 425-7062 or email at: [david.powell@pentagon.af.mil](mailto:david.powell@pentagon.af.mil).

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

Attachments:

SAF/AQC Memos, 11 Feb 02 and 27 Mar 01

cc:

AFPEO/AT, AFPEO/C2 & CS, AFPEO/FB  
SAF/AQI/AQL/AQP/AQQ/AQR/AQS/AQX/AQCK



DEPARTMENT OF THE AIR FORCE  
WASHINGTON DC

11 FEB 2002

OFFICE OF THE ASSISTANT SECRETARY

MEMORANDUM FOR ALMAJCOM-FOA-DRU (CONTRACTING)

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

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

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

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

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

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

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



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

Attachment:  
SAF/AQC Memo, 27 Mar 01

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



DEPARTMENT OF THE AIR FORCE  
WASHINGTON DC

Office Of The Assistant Secretary

27 MAR 2001

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

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

SUBJECT: Acquisition of Technical Data for Commercial Items

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

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

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

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

  
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