212.102 Applicability.

(a)(i) When using FAR Part 12 procedures for acquisitions exceeding $1 million in value, the contracting officer shall—
(A) Determine in writing that the acquisition meets the commercial item definition in FAR 2.101; and
(B) Include the written determination in the contract file.
(ii) Follow the procedures at PGI 212.102(a) regarding file documentation.

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212.207 Contract type.

b) In accordance with Section 805 of the National Defense Authorization Act for Fiscal Year 2008 (Pub. L. 110–181), use of time-and-materials and labor-hour contracts for the acquisition of commercial items is authorized only for the following:
(i) Services acquired for support of a commercial item, as described in paragraph (5) of the definition of commercial item at FAR 2.101 (41 U.S.C. 403(12)(E)).
(ii) Emergency repair services.
(iii) Any other commercial services only to the extent that the head of the agency concerned approves a written determination by the contracting officer that—
(A) The services to be acquired are commercial services as defined in paragraph (6) of the definition of commercial item at FAR 2.101 (41 U.S.C. 403(12)(F));
(B) If the services to be acquired are subject to FAR 15.403–1(c)(3)(ii), the offeror of the services has submitted sufficient information in accordance with that subsection;
(C) Such services are commonly sold to the general public through use of time-and-materials or labor-hour contracts; and
(D) The use of a time-and-materials or labor-hour contract type is in the best interest of the Government.

212.211 Technical data.

The DoD policy for acquiring technical data for commercial items is at 227.7102.