Performance Technical Specifications vs Proprietary Specifications

The designers shall be careful to provide Performance Technical Specification (PTS) instead of proprietary specifications. Except as allowed by NASM, do not use proprietary or restrictive requirements unless it is conclusively established that no substitute will serve the purpose. When a situation arises in which only a single product will perform the required function, forward a request from the DOR fully justifying the use of a sole source product. In addition to the detailed justification, provide an estimate of the proprietary item in relation to the total project contract cost. Use of proprietary items is prohibited unless formal written approval is obtained from a Contracting Officer.

*If authorization is granted, specify the proprietary item by manufacturer's name and catalog number, followed by the phrase: “notwithstanding any other provision of the contract, no other product will be acceptable.” This statement is necessary to override the contract clause that permits substitution of any supposedly equal product unless such language is used.*

Any specification section that contains proprietary items must include a notice to that effect on the first page of the section. Place the following above the section number and title at the top of the first page of the section:

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**This Specification Contains Proprietary Products.**
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The use of proprietary items has been the subject of many contract claims. Project designers and specifiers must be aware of the restriction on the specification of proprietary items and take special precautions to avoid their use unless formal written approval is obtained.