

<b>SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS</b> <i>OFFEROR TO COMPLETE BLOCKS 12, 17, 23, 24, &amp; 30</i>				1 REQUISITION NUMBER REQ-4100-15-0009		PAGE OF 1 11		
2 CONTRACT NO. CPSC-D-15-0004		3 AWARD/EFFECTIVE DATE		4 ORDER NUMBER 0005		5 SOLICITATION NUMBER		6 SOLICITATION ISSUE DATE
7 FOR SOLICITATION INFORMATION CALL:		a. NAME Eddie Ahmad		b. TELEPHONE NUMBER (No collect calls) (301) 504-7884		8 OFFER DUE DATE/LOCAL TIME ET		
9 ISSUED BY CONSUMER PRODUCT SAFETY COMMISSION DIV OF PROCUREMENT SERVICES 4330 EAST WEST HWY ROOM 523 BETHESDA MD 20814				CODE FMPS		10 THIS ACQUISITION IS <input checked="" type="checkbox"/> UNRESTRICTED OR <input type="checkbox"/> SET ASIDE. % FOR:		
				<input type="checkbox"/> SMALL BUSINESS <input type="checkbox"/> HUBZONE SMALL BUSINESS <input type="checkbox"/> SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS		<input type="checkbox"/> WOMEN-OWNED SMALL BUSINESS (WOSB) ELIGIBLE UNDER THE WOMEN-OWNED SMALL BUSINESS PROGRAM <input type="checkbox"/> EDWOSB <input type="checkbox"/> 8(A)		
11 DELIVERY FOR FOB DESTINATION UNLESS BLOCK IS MARKED <input type="checkbox"/> SEE SCHEDULE		12 DISCOUNT TERMS Net 30		13a THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700) <input type="checkbox"/>		13b RATING		
15 DELIVER TO CONSUMER PRODUCT SAFETY COMMISSION DIRECTORATE FOR ECONOMIC ANALYSIS 4330 EASTWEST HIGHWAY ROOM 723-02 BETHESDA MD 20814				CODE EC		14 METHOD OF SOLICITATION <input checked="" type="checkbox"/> RFP <input type="checkbox"/> IFB <input type="checkbox"/> RFP		
17a CONTRACTOR/OFFEROR INDUSTRIAL ECONOMICS INCORPORATED 2067 MASS AVE STE 4 CAMBRIDGE MA 02140				CODE		18 ADMINISTRATED BY CONSUMER PRODUCT SAFETY COMMISSION DIV OF PROCUREMENT SERVICES 4330 EAST WEST HWY ROOM 523 BETHESDA MD 20814		
TELEPHONE NO.				CODE		18a PAYMENT WILL BE MADE BY CPSC Accounts Payable Branch AMZ 160 P. O. Box 25710 Oklahoma City OK 73125		
17b CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER <input type="checkbox"/>				18b SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK 18a UNLESS BLOCK BELOW IS CHECKED <input type="checkbox"/> SEE ADDENDUM				
19 ITEM NO.	20 SCHEDULE OF SUPPLIES/SERVICES				21 QUANTITY	22 UNIT	23 UNIT PRICE	24 AMOUNT
	DUNS Number: [REDACTED] COR: Bill Zamula 301-504-7709 wzamula@cpsc.gov  Task order 0005 to contract CPSC-D-15-0004 is hereby issued to conduct an initial regulatory flexibility analysis and paperwork reduction act analysis for expansion gates and expandable exposures for the performance period of August 21, 2015 through August 20, 2016 in accordance <i>(Use Reverse and/or Attach Additional Sheets as Necessary)</i>							
25 ACCOUNTING AND APPROPRIATION DATA 0100A15DSE-2015-1412500000-EXHR004100-252H0						26 TOTAL AWARD AMOUNT (For Govt. Use Only) \$37,299.55		
27a SOLICITATION INCORPORATES BY REFERENCE FAR 52 212-1, 52 212-4 FAR 52 212-3 AND 52 212-5 ARE ATTACHED. ADDENDA <input type="checkbox"/>						ARE <input type="checkbox"/> ARE NOT ATTACHED. <input type="checkbox"/>		
27b CONTRACT/PURCHASE ORDER INCORPORATES BY REFERENCE FAR 52 212-4. FAR 52 212-5 IS ATTACHED. ADDENDA <input type="checkbox"/>						ARE <input type="checkbox"/> ARE NOT ATTACHED. <input type="checkbox"/>		
28 CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN COPIES TO ISSUING OFFICE CONTRACTOR AGREES TO FURNISH AND DELIVER ALL ITEMS SET FORTH OR OTHERWISE IDENTIFIED ABOVE AND ON ANY ADDITIONAL SHEETS SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED <input type="checkbox"/>						29 AWARD OF CONTRACT: _____ OFFER DATED _____ YOUR OFFER ON SOLICITATION (BLOCK 5), INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH HEREIN, IS ACCEPTED AS TO ITEMS: _____ <input type="checkbox"/>		
30a SIGNATURE OF OFFEROR/CONTRACTOR				31a UNITED STATES OF AMERICA (SIGNATURE OF CONTRACTING OFFICER) 				
30b NAME AND TITLE OF SIGNER (Type or print)			30c DATE SIGNED		31b NAME OF CONTRACTING OFFICER (Type or print) Kim Miles		31c DATE SIGNED 8-20-15	

19 ITEM NO.	20. SCHEDULE OF SUPPLIES/SERVICES	21. QUANTITY	22. UNIT	23. UNIT PRICE	24. AMOUNT
0001	with the attached statement of work and contractor proposal (dated August 10, 2015)  Initial Regulatory Flexibility Analysis and Paperwork Reduction Act Analysis for Expansion Gates and Expandable Enclosures  The total amount of award: \$37,299.55. The obligation for this award is shown in box 26.				37,299.55

32a. QUANTITY IN COLUMN 21 HAS BEEN  
 RECEIVED     INSPECTED     ACCEPTED, AND CONFORMS TO THE CONTRACT, EXCEPT AS NOTED: \_\_\_\_\_

32b. SIGNATURE OF AUTHORIZED GOVERNMENT REPRESENTATIVE \_\_\_\_\_ 32c. DATE \_\_\_\_\_ 32d. PRINTED NAME AND TITLE OF AUTHORIZED GOVERNMENT REPRESENTATIVE \_\_\_\_\_

32e. MAILING ADDRESS OF AUTHORIZED GOVERNMENT REPRESENTATIVE \_\_\_\_\_ 32f. TELEPHONE NUMBER OF AUTHORIZED GOVERNMENT REPRESENTATIVE \_\_\_\_\_  
 32g. E-MAIL OF AUTHORIZED GOVERNMENT REPRESENTATIVE \_\_\_\_\_

33. SHIP NUMBER \_\_\_\_\_ 34. VOUCHER NUMBER \_\_\_\_\_ 35. AMOUNT VERIFIED CORRECT FOR \_\_\_\_\_ 36. PAYMENT  COMPLETE  PARTIAL  FINAL 37. CHECK NUMBER \_\_\_\_\_  
 PARTIAL     FINAL

38. S/R ACCOUNT NUMBER \_\_\_\_\_ 39. S/R VOUCHER NUMBER \_\_\_\_\_ 40. PAID BY \_\_\_\_\_

41a. I CERTIFY THIS ACCOUNT IS CORRECT AND PROPER FOR PAYMENT \_\_\_\_\_ 42a. RECEIVED BY (Print) \_\_\_\_\_  
 41b. SIGNATURE AND TITLE OF CERTIFYING OFFICER \_\_\_\_\_ 41c. DATE \_\_\_\_\_ 42b. RECEIVED AT (Location) \_\_\_\_\_  
 42c. DATE REC'D (YY/MM/DD) \_\_\_\_\_ 42d. TOTAL CONTAINERS \_\_\_\_\_

**CPSC-D-15-0004, Task Order 5**  
**Initial Regulatory Flexibility Analysis and Paperwork Reduction Act Analysis for**  
**Expansion Gates and Expandable Enclosures**

**A. BACKGROUND INFORMATION**

The Danny Keysar Child Product Safety Notification Act, section 104 of the Consumer Product Safety Improvement Act of 2008 (“CPSIA”), requires the U.S. Consumer Product Safety Commission (“CPSC” or “the Commission”) to: (1) examine and assess voluntary safety standards for durable infant or toddler products, and (2) promulgate mandatory consumer product safety standards that are substantially the same as the voluntary standards or more stringent than the voluntary standards if the Commission determines that more stringent standards would further reduce the risk of injury associated with these products.

Section 104(f) of the CPSIA defines “durable infant or toddler products” as “durable products intended for use, or that may be reasonably expected to be used, by children under the age of 5 years.” “Gates and other enclosures for confining a child” were specifically mentioned as a durable infant or toddler product in section 104(f)(2).

As a result of the CPSIA, the Commission has adopted by reference numerous voluntary ASTM International (“ASTM”) standards for durable infant or toddler products. Some voluntary standards were adopted without modification. For others, the Commission approved changes to the voluntary standard to make the mandatory standard more stringent.

Section 104 of the CPSIA also requires the Commission to consult with representatives of consumer groups, juvenile product manufacturers, and independent child product engineers and experts to examine and assess the effectiveness of the voluntary standards. This consultation process began for gates and enclosures in August 2014. Staff began by analyzing the incident data for hazard patterns and evaluating the effectiveness of the existing voluntary standard (ASTM F1004-13) in addressing those hazards. As a result, CPSC staff brought several items to the ASTM gates subcommittee for consideration.

Since that time, ASTM has approved ten new ballot items for the gates voluntary standard that are expected to be published in late summer or early fall. However, work remains ongoing for the seven items CPSC staff believes can be addressed by changes to the gates standard. Five of the seven items are ready for ballot (with an end of August goal), including: (1) gates test fixture; (2) vertical strength; (3) completely bounded openings; (4) slat to rail and slat strength; and (5) cyclic conditioning test.

One ballot item is merely waiting on publication of the new standard to ensure that the references are consistent (locking/latching cyclic test and definitions). The final ballot item (push out test) is still in the development process. Given the recent CPSC focus on warning label consistency, it seems likely that recommendations for gates warning labels will be forthcoming as well. It is anticipated that most, if not all, of these ballot items will have been incorporated into the ASTM standard prior to the notice of proposed rulemaking (“NPR”).

Products known as expansion gates (“gates”) and expandable enclosures (“enclosures”) are intended for young children aged six months through 24 months. They are not to be confused with other types of gates or enclosures specifically designed for commercial, institutional, agricultural, pet use, or other use. An expandable enclosure (see Figure 1) is a self-supporting barrier intended to completely surround an area or play-space within which a young child may be confined. Enclosures may be marketed for indoor or outdoor use, or both. An expansion gate (see Figure 2) is a barrier intended to be erected in an opening, such as a doorway, to prevent the passage of young children, but which can be removed by older persons who are able to operate the locking mechanism. Such gates are available in a number of different styles of construction and are manufactured from a variety of different materials.

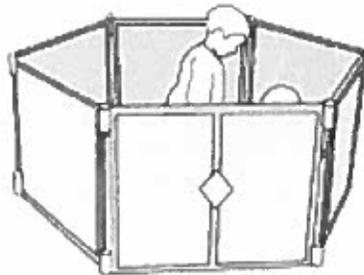


Figure 1. Expandable Enclosure

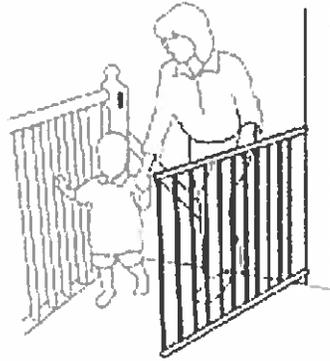


Figure 2. Expansion Gate

Starting in late fall, staff will begin preparing a briefing package for the Commission to consider for publication as an NPR. The Directorate for Economic Analysis (“EC”) is required to prepare an initial regulatory flexibility analysis (“IRFA”) of the proposed mandatory standard, a paperwork reduction act (“PRA”) section for the *Federal Register* notice, and a PRA supporting statement for the Office of Management and Budget (“OMB”). Once the NPR has been issued and public comments have been received, EC will be required to respond to the relevant comments on the economic analysis and prepare final versions of all of these documents.

The Regulatory Flexibility Act (“RFA”) requires that proposed rules be reviewed for their potential economic impact on small entities, including small businesses. Section 603 of the RFA requires that CPSC staff prepare an IRFA and make it available to the public for comment when the general notice of proposed rulemaking is published. The IRFA must describe the impact of the proposed rule on small entities and identify any alternatives that may reduce the impact. Specifically, the IRFA must contain:

- a description of, and where feasible, an estimate of the number of small entities to which the proposed rule will apply;
- a description of the reasons why action by the agency is being considered;
- a succinct statement of the objectives of, and legal basis for, the proposed rule;
- a description of the projected reporting, recordkeeping, and other compliance requirements of the proposed rule, including an estimate of the classes of small entities subject to the requirements and the types of professional skills necessary for the preparation of reports or records; and

- an identification, to the extent practicable, of all relevant federal rules which may duplicate, overlap, or conflict with the proposed rule.

The Paperwork Reduction Analysis requires the same reporting and recordkeeping information as the IRFA above, but also requires additional information for large U.S. firms not included under the Small Business Administration (“SBA”) guidelines and foreign firms who export to the United States, but do not have a domestic presence.

## **B. OBJECTIVES**

The period of performance is twelve months from the date the task is awarded. At this point, staff anticipates completion well within this time frame (the briefing is currently scheduled for mid to late spring 2016). The contractor shall conduct a conference call with CPSC staff within one week after receipt of the proposed task order.

### **Subtask 1: Market Research**

The contractor shall prepare a spreadsheet and other supporting documentation for the IRFA as part of this subtask. It shall also prepare and submit a market research methodology memorandum.

The supporting documentation shall include the name and (where possible) website address for each firm identified as supplying gates/enclosures to the U.S. market. Additional information on each firm shall include: (1) the type of firm (importer, manufacturer, and in some cases wholesaler or retailer); (2) the location of each firm (foreign/domestic) and, where relevant, information about any parent/subsidiary relationship(s) that may exist; (3) the size of each firm; (4) the number of gate/enclosure models supplied to the U.S. market by each firm; and (5) an evaluation of the significance of gates/enclosures to their product line. Criteria for determining firm type will be provided by CPSC, with input from the contractor. Size determinations will be made based on sales revenue and employment information from financial databases according to SBA guidelines. It is possible that one or more items may not be available for some firms. CPSC will assist the contractor in determining if and when to leave the element unknown. Prior market research for gates/enclosures has been extremely limited, but the information will be provided to the contractor. Only gates and enclosures that are currently part of a suppliers’ product line should be included as part of the market research; gates and enclosures that are no longer being manufactured/supplied will not require modifications to meet the staff-recommended mandatory rule. Also, extensions that can be added to existing gates should not be counted as separate models, but including

information on the number of different extensions pieces should be included as well.

The contractor shall also evaluate the degree of conformance of each firm's gates/enclosures with the ASTM voluntary standard, as well as their degree of compliance with the proposed mandatory standard, which could be the same thing if staff recommends that the Commission adopt the voluntary standard without modifications. As noted in guidance documents distributed as part of the high chair task order, if one product model is compliant with the ASTM standard, their other product models will be as well. However, compliance with one ASTM standard does not necessarily indicate compliance with other ASTM standards. In the context of the gates task order, this means that if one of a firm's gates complies with the ASTM standard, it can be assumed that all of the firm's gates will comply, but compliance with the high chair standard does not necessarily mean anything for compliance with the gates standard. Sources of information about compliance will come from several sources, as outlined in the aforementioned guidance document, including: (1) whether the firm's gates are certified as compliant by the Juvenile Products Manufacturers Association (JPMA); (2) whether the firm claims compliance with the ASTM standard on their website or possibly retailer websites; and (3) possibly CPSC testing results, where available.

The contractor shall also, to the extent possible, evaluate each firm's likely testing costs relative to their revenue. Revenue data may be available from the same financial databases that provide sales revenue and employment data. However, other sources may be used as well, and in some cases, particularly with smaller firms, revenue data may be unavailable. An estimate of the cost of testing to the voluntary standard and/or the proposed mandatory standard would most likely be collected from entities directly involved in the testing, such as manufacturer/importers, test laboratories, and JPMA. The contractor will work with CPSC staff to make the appropriate determinations.

Additionally, the contractor shall collect information on gate/enclosure product characteristics for each gate and enclosure model supplied by each firm to the U.S. market (based on older, very preliminary market research, staff anticipates approximately 25 firms). These characteristics include:

- (1) Price – Usually, this will be the manufacturer's recommended retail price, but sometimes that is not readily available. In those cases, a range of prices quoted on-line would be an acceptable alternative. This data should be collected as a range of prices for the gates and enclosures in each firm's product line.
- (2) Whether the product is an expansion gate or an enclosure – The definitions and illustrations of each type are shown above.

- (3) Type of expansion gate – For expansion gates only, there are two distinct types: (1) those that are hardware mounted and essentially permanent; and (2) those that are pressure mounted, similar to many shower rods. It does appear that most pressure mounted expansion gates may come with suction cups that can be hardware mounted to achieve better results (and pass existing ASTM requirements). This is one of the items staff is working with ASTM to address. However, the contractor is not expected to make a determination regarding hardware mounted suction cups for pressure mounted gates as part of the market research.
- (4) Material – Common materials that gates may be constructed of include: wood, plastic, metal, and mesh (or some combination thereof). Some requirements may only apply to gates/enclosures made of certain materials. Similarly, the impact of some requirements may depend upon the materials used to make the gates (i.e., mesh is easier to modify than metal). Any other materials that are discovered during market research should also be noted.
- (5) Whether the gates/enclosures have slats – Regardless of the material used for its construction, a simple notation as to whether the gate/enclosure has slats is requested.

The market research supporting documentation shall also include an estimate of national sales. Data that may be used to make this estimate will be provided to the contractor by CPSC. However, additional data may be independently collected by the contractor for this purpose as well.

Finally, the contractor shall assist CPSC in developing a summary table (similar to those supplied in earlier 104 rule examples) that breaks out all firms based on the following categories: foreign/domestic, manufacturer/importer, small/large, and degree of compliance (with an allowance for unknowns). This information shall be used to verify the numbers in the IRFA, as well as answer questions during the review process.

#### **Subtask 2: Monitor Voluntary Standard Development Meetings**

One member of the contractor's team shall attend the day of the ASTM meetings at ASTM headquarters in West Conshohocken, Pennsylvania in early October 2015 when the gates subcommittee is scheduled to meet. The contractor, along with CPSC staff in attendance, shall meet with gates/enclosure firm representatives during meeting breaks to line up respondents for the questionnaire discussed in Subtask 3. The contractor shall provide notes for the gates portion of the meeting.

Additionally, the contractor may be asked to monitor up to nine hours of ASTM gates subcommittee task meeting conference calls (call may last up to three hours each, although the majority last around one hour). CPSC

staff will inform the contractor of the time and date of the conference calls that would be beneficial for the contractor to monitor, as well as the subject matter of those meetings. CPSC staff will also keep the contractor informed of the progress made in ASTM gates task group meetings in which the contractor does not participate.

**Subtask 3: Develop and Conduct Gates/Enclosure Industry Questionnaire**

The contractor shall prepare a draft set of questions for the firm(s) that shall allow the contractor to evaluate the potential impact of the draft proposed rule on gates and enclosure suppliers. Questions shall address third party testing costs, tooling costs, and additional costs for labor and materials to comply with the proposed mandatory standard. The questionnaire may also include, as appropriate, questions about other potential impacts on product design, such as changes in the utility or aesthetics of the product. Questions might also address total industry sales, market shares for individual companies, and product trends. The draft questionnaire, as well as the list of firms to be contacted, shall be submitted to the CPSC for review prior to any contacts being made. Actual contacts will be limited to nine or fewer suppliers and shall include a representative sample of the marketplace within the constraint of being limited to nine or fewer interviews on a given question. CPSC staff will work with the contractor to determine the best contact method for individual firms. The contractor will prepare a log for each interview, including question responses and any relevant comments volunteered by the respondents on the industry in general and conformance to the gates standard in particular. The contacts may be conducted either over the telephone, via email, or in person..

**Subtask 4: Prepare an Initial Regulatory Flexibility Analysis (“IRFA”), a Paperwork Reduction Act (“PRA”) Section for the *Federal Register* (“FR”) notice, and a PRA Supporting Statement for the Office of Management and Budget (“OMB”)**

The contractor shall provide a baseline analysis using information collected as part of the first three subtasks, as well as information provided by CPSC staff, team meetings, or as part of other gates NPR briefing package memos. The contractor shall include the baseline analysis in their IRFA. Alternatives presented shall consist of feasible changes in the assumptions and quantitative assessments of their impact on the baseline. The contractor shall also prepare a PRA section for the gates NPR FR notice and an initial PRA submission to the Office of Management and Budget (OMB). The contractor shall provide spreadsheets for the baseline analysis that will allow CPSC to conduct future sensitivity analyses about various assumptions.

**Government Furnished Materials:** Notes and information collected from internal and external meetings about the development of a gates standard. Other memos prepared for the NPR briefing package (*e.g.* engineering, health sciences, human factors, epidemiology, etc.). Earlier market research conducted by EC staff. Preliminary results from the Durable Nursery Products Exposure Study. Injury Cost Model estimates of medically treated injuries and product population estimates for gates, if required. Financial reports as needed (and if available).

**C. DELIVERY OR PERFORMANCE**

- a. The Contractor shall appoint a lead program manager with overall responsibility for performance under the contract. The lead program manager shall be the single point of interface with the government for all matters concerning technical progress and problems, performance, schedule, resources, and other work-related matters.
- b. The following items shall be performed or delivered in accordance with the following schedule:

ITEM	QUANTITY	DELIVERY OR PERFORMANCE
(1) Conference call	1	Within 1 week after award of task order
(2) Draft market research – spreadsheet and other supporting documentation, and well as market research methodology memorandum	1	Within 8 weeks after award of task order
(3) Attend day of ASTM gates subcommittee meeting in West Conshohocken	1	October 2015
(4) Monitor various ASTM task meetings	As needed	
(5) Develop draft questionnaire	1	Within 18 weeks after award of task order
(6) Conduct questionnaire	Up to 9 interviews on the same topic	Within 22 weeks after award of task order
(7) Draft IRFA, as well as updated draft supporting market research and risk evaluation documentation	2 copies	Within 26 weeks after award of task order

(8) Interim final draft IRFA (EC comment responses only), as well as updated draft supporting market research	2 copies	Within 2 weeks after receiving EC comments (current due date 2/29/16)
(9) Draft PRA section for the FR NPR notice and draft OMB PRA supporting statement	2 copies	Within 32 weeks after award of task order
(10) Final IRFA, final PRA section for the FR NPR notice, final OMB PRA supporting statement, as well as final supporting market research	2 copies	Within 2 weeks after receiving second round of comments on the draft IRFA from CPSC

CPSC staff will review the Draft IRFA, as well as updated supporting market research, within one week. Staff will review the Draft PRA section for the FR NPR notice, draft OMB PRA supporting statement within two weeks.

All supporting data used in the preparation of the reports shall be provided in either Excel spreadsheets or Word documents. Reports shall be delivered according to the schedule above. Reports shall be emailed to William Zamula ([wzamula@cpsc.gov](mailto:wzamula@cpsc.gov)), preferably in some version of Microsoft Word. Technical questions or clarifications about the documents should be directed to William Zamula at 301-504-7709 (voice), 301-504-0109 (fax), or [wzamula@cpsc.gov](mailto:wzamula@cpsc.gov).

**D. Period of Performance**

All work shall be completed no more than 1 year after award of this task order