

Limiting Sources Justification

U.S. Army Joint Product Manager – Consequence Management (JPdM-CM)
Over and Above Services
To Support Non-Intrusive Inspection (NII) Systems

Reference FAR 13.5, 6.3

1. Contracting Activity: The Assisted Acquisition Services Division, Federal Acquisition Service U.S. General Services Administration (GSA) New England Region (Region 1), 10 Causeway Street, Boston, MA 02222, is the procuring activity responsible for this action.

2. Description of Action: The U.S. Army has 107 NII systems deployed throughout southwest Asia (Afghanistan, Iraq, Kuwait, Qatar and Uzbekistan) that require over and above work (e.g. force majeure repairs, redeploying or refurbishing systems) that are not covered under the existing sustainment services FSS task order.

The Government intends to place a sole source requirements contract (see FAR 16.503) with the original equipment manufacturer - SAIC. Task orders under this contract will be awarded after a scope of work is established and an acceptable proposal is received from the contractor.

Operations and Maintenance-Army (OMA) funds will be used for this action. This action will result in the obligation of funds by Army Materiel Command (AMC) for the period of performance from 25 September 2012 through 24 September 2013 with a ceiling of \$4.8M.

3. Description of Supplies/Services: The contract action will provide the government with over and above coverage (see DFARS 217.7701) for the SAIC NII systems. The types of NIIS produced by SAIC, and currently sustained under an FSS task order, include: Vehicle and Cargo Inspection Systems (VACIS), Military Mobile VACIS (MMV), Relocatable VACIS (RVACIS), Mobile VACIS (MVACIS), and Railroad VACIS located in Southwest Asia (SWA). These systems are designed to permit the remote inspection of vehicles and cargo containers for weapons, explosives, or other contraband, using a variety of technologies.

This action will allow the contractor to provide over and above services (e.g. force majeure repairs, redeploying or refurbishing systems) for the aforementioned types of SAIC-specific NIIS located in SWA.

These systems are necessary to help protect U.S. and Coalition Forces from imminent threats from Improvised Explosive Devices (IEDs) and other concealed weapons being used in southwest Asia.

4. Authority Cited: FAR 6.302-1 – Only One Responsible Source and No Other Services Will Satisfy Agency Requirements; 10 U.S.C. 2304(c)(1) or 41 U.S.C. 253(c)(1).

5. Reason for Authority Cited: SAIC is uniquely qualified to perform the work required to support and ensure that the SAIC NII systems remain fully operational. SAIC's NII systems utilize radiation sources that fall under the authority of the Nuclear Regulatory Commission (NRC).

The registration certificates received by SAIC from the NRC requires that "only SAIC or authorized specific licensee may perform the following: installation, relocation, moving any component of the device, maintenance, repair, source installation or exchange, leak testing and radiation surveying." Letter from SAIC dated 28 Mar 2012 states that only SAIC is an authorized Specific Licensee. Therefore only SAIC can maintain and repair these systems.

In addition, SAIC has proprietary rights to its system manufacturing data and software which produces the images from which the operator detects anomalies indicative of the presence of explosives or other contraband.

The Product Manager - Force Protection Systems (PM-FPS) procured the product systems on a sole source basis from SAIC under the authority of 10 U.S.C. 2304 (c) (1). While there are other commercially available non-intrusive inspection systems or scanning devices, the PM-FPS selected SAIC's commercial systems. Notwithstanding their commercial nature and availability, these non-intrusive inspection systems are highly technical and complex.

Utilization of any nonstandard parts or maintenance performed by non-certified personnel would endanger current warranty provisions and risk system operability.

6. Efforts to Obtain Competition: Because the NRC license allows only specific licensees to service the systems and SAIC has not licensed any other entity, there is no competition.

7. Actions to Increase Competition: SAIC stated on 21 February 2012, "SAIC is not willing to sell or license its proprietary information to the U. S. Government for any amount." No further actions to increase competition are contemplated at this time.

8. Market Research: The Contracting Officer confirmed the regulations and the approved certificate and limitations with the NRC. See e-mail from John Jankovich, dated 30 April 2012.

9. Other Factors:

a. Procurement History:

(1) Contract: GS-07F-0210J / GST0112BK0019

Contractor: SAIC

Award Date: 31 July 2012

- (2) Authority: FAR 8.405-6(a)(1)(i)(B)
- (3) Actions to increase competition were limited due to proprietary data rights, service provider licensing and Nuclear Regulatory Commission licensing of the Contractor.

b. Subcontracting Competition: Subcontracting opportunities are not available. Therefore, no action was taken to increase subcontracting competition. SAIC is the sole provider of training and maintenance, no other third party personnel are authorized to perform training and maintenance on the VACIS® Inspection Systems. In addition to SAIC being the owner of this intellectual property, there is also a Nuclear Regulatory Commission (NRC) requirement that requires the manufacturer to possess an approved Sealed Source and Device Registry for each product and have a valid Possession and Distribution license relative to the jurisdiction in which the product is manufactured and distributed. Under the Sealed Source and Device Registry for VACIS® Inspection Systems, only an authorized Specific Licensee (i.e. SAIC) may perform training and maintenance on these products amongst other important service such as the annual leak testing.

10. Fair and Reasonable Cost Determination:

I hereby determine that the anticipated cost for this contract action will be fair and reasonable based on historical price analysis. The services and spare parts provided under this contract are commercial in nature and have been repeatedly procured under recently expired contract vehicles.

11. Technical Certification:

I certify that the supporting data under my cognizance which are included in this justification are accurate and complete to the best of my knowledge and belief.

Name: Walter Litzenberger

Signature: R.1145473531

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DN: cn=US, o=U.S. Government, ou=DoD, email=LITZENBERGER.WALTE, 1145473531
Date: 2012.08.17 12:56:49 -0400

Title: Logistic and Life Cycle Manager

Date: 17 Aug 2012

12. Justification Certification:

I certify that this justification is accurate and complete to the best of my knowledge and belief.

Name: David Feit

Signature: DAVID FEIT

Title: Contracting Officer, GSA

Date: _____

Digitally signed by DAVID FEIT
DN: CN = DAVID FEIT C / US O = U.
S. Government, OU = General
Services Administration
Date: 2012.08.17 13:55:37 -05'00'
Reason: I am approving this document

Concurred by: Anthony Guerra

Signature: Anthony Guerra

Title: Acquisition Executive,
GSA FAS Region 1

Date: 8/20/2012

Approved by: Sharon Wall

Signature: Sharon A. Wall

Title: Head of Contracting Activity,
GSA FAS Region 1

Date: 8/20/2012