



IN REPLY REFER TO:
 MCLC 13417

**JUSTIFICATION AND APPROVAL FOR
 USE OF OTHER THAN FULL AND OPEN COMPETITION**

1. Contracting Activity.

Marine Corps Logistics Command (LOGCOM), 814 Radford Blvd. Albany, GA

2. Description of Action Being Approved.

The authority sought by this J&A is the approval to award a sole source firm-fixed price, indefinite-quantity contract to Oshkosh Corporation, Oshkosh, WI (Cage 45152) 2307 Oregon Street, Oshkosh, WI in support of the USMC and USN Medium Tactical Vehicle Replacement (MTVR) Family of Vehicles (FOV). The NAICS code is 336390.

3. Description of Supplies/Services.

This Justification and Approval (J&A) authorizes award of a sole source, firm-fixed price, indefinite-quantity contract to Oshkosh Corporation, Oshkosh, WI (Cage 45152) 2307 Oregon Street, Oshkosh, WI for management of the Class IX Parts listed on Attachment #1 to this J&A, and Contractor Logistics Support (CLS) Secondary Reparable Assemblies for the MTVR. This effort also encompasses the maintenance of data for the MTVR FOV, the update, maintenance, and production of the System Operation Manuals and the Interactive Electronic Maintenance Manual (IETM), as well as Field Service Representatives (FSR) support. The effort will be for one base year and one option year. The performance period for this contract will be from October 1, 2014 to September 30, 2015 for the base year. The option year period of performance would be from October 1, 2015 to September 30, 2016. Each delivery order will specify a delivery date for items ordered under this contract. Current year funding will be applied to individual orders. The estimated value of this effort for both years is \$12,400,000.00.

Funding	Base Year FY15	Option Year FY16	Total
O&M	\$6,200,000.00	\$6,200,000.00	
Total	\$6,200,000.00	\$6,200,000.00	\$12,400,000.00

4. Statutory Authority Permitting Other Than Full and Open Competition.

The statutory authority permitting other than full and open competition is 10 U.S.C. Section 2304 (c)(1), as implemented by the Federal Acquisition Regulation (FAR) 6.302-1, Only One Responsible Source and No Other Supplies or Services Will Satisfy Agency Requirements.

5. Rationale Justifying Use of Cited Statutory Authority.

The items being managed are the Class IX Parts and Contractor Logistics Support (CLS), as well as the maintenance of data for the MTRV FOV. It also encompasses the update, maintenance, and production of the System Operation Manuals and the Interactive Electronic Maintenance Manual (IETM), and FSR support. Marine Corps Systems Command (MARCORSYSCOM) Program Management Office assigned this effort an Acquisition Method Code/Acquisition Method Suffix Code (AMC/AMSC) of 3H directing all acquisition activity directly from the actual manufacturer. The OEM is the designated source of supply for over 4,000 parts and major components unique to the MTRV FOV. The government physically does not have in its possession sufficient, accurate or legible data for these items. It was initially determined by the Government that it was uneconomical to purchase the data since the initial contract was awarded in 2001 to Oshkosh as a three-year contract with seven option years, as well as the life-cycle support strategy for the MTRV. A performance specification, technical data package, specifications, or a detailed engineering description suitable for full and open competition cannot be developed because the components of the MTRV are proprietary to Oshkosh Corporation. In accordance with FAR 6.302-1 (b)(2), "the existence of limited rights in data, patent rights, copyrights, or secret processes make the effort available from only one source."

Based on market research and analysis of the MTRV, MARCORSYSCOM determined another vehicle comparable to the Oshkosh MTRV is non-existent in the market place. This determination was based on factors such as significant modification requirements needed from other vendors to meet MTRV requirements. An initial Business Case Analysis (BCA) was completed at the end of 2009 and the results of the BCA recommended continuation of Contractor Logistics Support (CLS) with the addition of performance based elements from Oshkosh Corporation.

In the current BCA completed in 2011, MARCORSYSCOM has determined a schedule delay of 21-23 months if the Government were to pursue a competitive acquisition strategy versus a sole source award schedule. The primary drivers in delays are time to fully test systems from new vendors and urgency of finished items to the commands. MARCORSYSCOM is in the process of completing a 2nd BCA possibly in early 2015, but it is not anticipated that the document will be completed before contract award. However, if in the final analysis the Product Support determines organic support is the most cost effective strategy, introducing new vendors will exacerbate the transition risk because of the amount of time it will take to achieve the learning curve and same level of competence of the current vendor. In addition, a change in the product support strategy will require a significant period of transition to ensure availability of parts.

The MTRV has utilized the prime vendor for post-production support and replacements of parts for the past 14 years. As a result, Oshkosh Corporation is uniquely qualified to provide the effort required because they have highly trained personnel who have continually performed these efforts for the Government thus providing the maximum turn-around time, and they are the only responsible source to satisfy agency requirements. The Government intends to negotiate a sole source contract with Oshkosh Corporation. Oshkosh provides the expertise, responsiveness, and knowledge of the program.

Based on the foregoing rationale and the fact that the Government does not own the TDP, there is a reasonable basis to conclude the Marine Corps' and Navy's minimum needs can only be satisfied by continuing to contract on a sole source basis with Oshkosh Corporation. If the proposed BCA indicate organic support is reasonable, the alteration of standard operating procedures would hinder the overall completion of the projects in a timely manner. In accordance with FAR 6.302-1(a)(2)(ii)(A), supplies deemed to be available only from the original source when it is likely the award to any other source would result in substantial duplication of cost to the Government that is not expected to be recovered through competition and there would be unacceptable delays.

6. Description of Efforts Made to Solicit Offers from as Many Offerors as Possible.

This effort will be synopsisized in FedBizOps in accordance with the requirements in FAR 5.2. Any responses received will be evaluated prior to award of a contract. The notice will specifically state there is no technical data available and the Government intends to negotiate a sole source contract with Oshkosh Corporation. No additional market research will be conducted because it is not practicable, for the reasons discussed in paragraph 5, for any company, other than Oshkosh Corporation, to provide the requirement.

7. Determination of Fair and Reasonable Cost.

The Contracting Officer will determine if the anticipated cost to the Government for the requirements covered by this J&A will be fair and reasonable. The fair and reasonableness of the cost/price will be based on an analysis of the contractor's cost/price proposal, including backup information supporting the cost/price, as well as previous history. It is anticipated the analysis will be conducted using experienced technical representatives, contract specialists, and field pricing support from DCMA/DCAA to evaluate cost drivers and develop a negotiated price.

8. Actions to Remove Barriers to Future Competition.

For the reasons set forth in Paragraph 5, the Marine Corps currently have no plans to compete future contracts for this type of requirement covered by this J&A. The Program Manager is conducting a Product Support Business Case Analysis (BCA) to determine the optimal product support strategy. If additional potential sources emerge, the Marine Corps will assess whether competition for future requirements is feasible. Logistics Command does not anticipate obtaining a technical data package or developing performance specifications that will support competition for future acquisitions of the same or similar items.

CERTIFICATIONS AND APPROVAL

Technical/Requirements Certification

I certify that the facts and representations under my cognizance, which are included in this Justification and its supporting acquisition planning documents, AS-0210-14, except as noted herein, are complete and accurate to the best of my knowledge and belief.

(Signature) Chris A. Berry Date 10 April 2014
Printed Name and Phone No. CHRIS A. BERRY (229) 639-6451

Legal Sufficiency Review

I have determined that this Justification is legally sufficient.

(Signature) [Signature] Date 6-11-2014
JOHN P. MCHUGH, (229) 639-7098

Contracting Officer Certification

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

(Signature) Barbara A. Banks Date 21 Apr 14
BARBARA A. BANKS, (229) 639-6761

Command Competition Advocate Approval

(Signature) George Brown Date 12 June 2014
GEORGE BROWN, (229) 639-6573