



UNITED STATES MARINE CORPS
MARINE CORPS SYSTEMS COMMAND
2200 LESTER STREET
QUANTICO, VIRGINIA 22134-6050

J&A Number: 12-002

**JUSTIFICATION AND APPROVAL (J&A)
FOR USE OF OTHER THAN FULL AND OPEN COMPETITION**

JUSTIFICATION

1. Contracting Activity

Marine Corps Tactical Systems Support Activity
Contracting Office
Box 555171, Bldg 31335B
Camp Pendleton, CA 92055-5171

2. Description of the Action Being Approved

Authority to act under this J&A for the award of a contract on a sole source basis is provided under FAR Subpart 6.302-1(a) and (c). The use of other than full and open competition to procure numerous Ixia Maintenance H/W and S/W license renewals is in support of Government-owned software and hardware from Ixia, Inc. utilized by the Marine Corps Network Efficiency Lab (MCNEL), Marine Corps Tactical Systems Support Activity (MCTSSA). The proposed action is for the procurement of a follow-on sole source, firm-fixed-price contract with Ixia, Inc., 26601 West Agoura Rd., Calabasas, CA, 91302.

3. Description of Supplies/Services

The proposed contract action is to procure various Ixia, Inc. renewal maintenance licenses for existing Government hardware and software located at the Program Engineering Support Group (PESG), MCTSSA.

CLIN	PART NUMBER	QTY	EST. PRICE
0001	Ixia Renewal Subscriptions		
0001AA	Ixia Subscription Preventative Maintenance Licenses	1	\$17,876.71
0001AB	Ixia Extended Maintenance Software Licenses	1	\$158,095.65
0001AC	Ixia Extended Maintenance Operating System Licenses	1	\$2,041.79
0001AD	Ixia Extended Maintenance Hardware Licenses	1	\$20,181.82
	Ixia Various Licenses		
0002	The Licences below are used to ensure devices tested are in compliance with specific Request For Comments (RFCs.) The DoD Information Technology Standards and Profile Registry had mandated compliance with these RFCs.		
	Ixia Conformance Test Suite for L3 MPLS VPN (Binary License)		
0002AA	Layer Three, Multi Protocol Layered Switching, Virtual Private Network. This is to ensure compliance with RFC 4364 (BGP/MPLS IP Virtual Private Networks)	1	\$9,750.00
	Ixia Conformance Test Suite for IKEv2 (Binary License for IxANVL)		
0002AB	Performs protocol testing for RFC 4306,4307,4308 (Internet Protocol Security)	1	\$10,245.95

0002AC	Ixia Conformance Test Suite for SIP (Binary License) Performs protocol testing for RFC 3261 (Session Initiation Protocol). Ensures VoIP calls are initiated in conformance with the RFC.	1	\$11,700.00
0002AD	Ixia Interface Support Binary – Asynchronous Serial PPP (Binary License)	1	\$1,300.00
0002AE	Ixia Optional Software Bundle, DHCP Bundle	1	\$9,750.00
0002AF	Ixia 32-Port Bundle for IxVM Layer 4-7; SW Package includes perpetual floating licenses for 32 VM ports and IxLoad software for the VM ports.	1	\$67,600.00

The estimated dollar value for this procurement in its entirety is **\$295,000.00**.

4. Statutory Authority Permitting Other Than Full and Open Competition

The statutory authority permitting use of 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(a)(2)(ii) "Only One Responsible Source and No Other Supplies or Services Will Satisfy Agency Requirements – Follow-on Contract."

5. Rationale Justifying Use of Cited Statutory Authority

Although the original contracts to purchase Ixia commercial equipment (software and hardware) were originally competed using an unrestricted full and open competition strategy with brand-name or equal (FAR 52.211-6) over the past two years, this is the first occurrence of MCNEL or MCTSSA needing to renew all the maintenance licenses on its Government-owned equipment. Ixia, Inc. is the sole designer, developer, integrator, provider, and distributor of Ixia Maintenance Support License renewals. As a result, Ixia is uniquely qualified and solely authorized to provide the complete range of licensed maintenance support services required. In addition, much of the technical data, material, and expertise required to perform these maintenance support services were developed exclusively by Ixia and are singularly provided to their customers by Ixia. These privately held renewal licenses, along with the corporate expertise of the Ixia products themselves, are the sole property of Ixia, Inc.

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

Market research revealed that there were originally several companies from previous solicitations who expressed interest or submitted quotes for Ixia hardware and software that the MCNEL was acquiring for the first time. A couple of the vendors who provided quotes prior were SBA Section 8(a) firms that the Government had successfully done business with on other similar contracts. Based on that information, a request for a rough order of magnitude (ROM) was sent to the two (2) Section 8(a) firms as part of the Government's effort to estimate whether or not a Section 8(a) firm could provide the renewal licenses from Ixia, Inc. The two (2) SBA Section 8(a) participants that were under consideration during the market research phase were:

- 1.) Regency Consulting, Inc., Omaha, NE
- 2.) New Tech Solutions, Inc., Fremont, CA

The results of the ROMs revealed that estimated prices from the interested SBA 8(a) firms were fair and reasonable, and price quotes were obtainable. As the Government was contemplating its acquisition strategy for competitive 8(a), an Email conversation initiated by Regency Consulting, Inc. informed the Government that Ixia did not want to further pursue reselling their renewal licenses to third parties. A phone conversation between the Government and Ixia occurred on 11 Jul 12, and as a result, the two SBA 8(a) ROM responses were determined to be null and void. Ixia informed the Government via a letter dated 11 Jul 12 that they (Ixia) were asserting their status as the lone distributor and executor of their own maintenance support renewal licenses and would not subcontract these out to third party vendors or the 8(a) firms.

Ixia's letter states that "... Ixia does not engage third parties in the performance of its warranty obligations..." and "... attempts made by a third party to perform repairs on Ixia products could potentially violate the terms and conditions of the End User Software License Agreement between Ixia and the End User." The Ixia Account Manager for Renewal Sales also stated that "...Ixia is the sole provider for all SW, HW and technical support."

The current acquisition strategy is to award a sole source contract to Ixia as a direct result of Ixia's status as the sole authorized provider of these maintenance renewal support licenses. A notice of intent to award to a sole source will be posted to FedBizOps and NECO as required by FAR Subpart 5.2.

An estimate of the cost to the Government that would be duplicated if the entire Ixia line of products and services were recompeted would amount to approx. \$1,040,035. The estimate was derived from all the Ixia product and maintenance contracts purchased by MCTSSA Contract for MCNEL since FY10.

7. Determination of Fair and Reasonable Cost

The Contracting Officer has determined the anticipated cost to the Government of the supplies/services covered by this J&A will be fair and reasonable. The Contracting Officer determined that the fair and reasonableness of the cost/price will be based on a analysis of the contractor's cost/price quotation, including backup information supporting the cost/price, with the Independent Government Cost Estimate, which was determined in March 2012. It is anticipated this analysis will be conducted using an experienced Technical Representative and Contract Specialist.

8. Actions to Remove Barriers to Future Competition

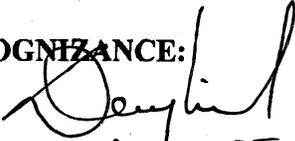
For the reasons set forth in Paragraph 5, the Marine Corps has no plans at this time to compete future contracts for the types of supplies/services covered by this J&A. If another potential source emerges, the Marine Corps will assess whether competition for future requirements is feasible. Future acquisition are planned for these same Ixia renewal maintenance support licenses beginning in September 2013.

CERTIFICATIONS AND APPROVAL

TECHNICAL AND REQUIREMENTS CERTIFICATION:

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

TECHNICAL COGNIZANCE:


LINH NGUYEN / CSE BRANCH HEAD 760-725-2804 07/19/12
(Name), (Title) Phone Date

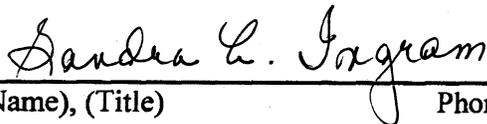
LEGAL SUFFICIENCY REVIEW:

I have determined this Justification is legally sufficient.


David R. Musgrave, MCTSSA Counsel 760-725-9872 19 JULY 2012
Date

CONTRACTING OFFICER CERTIFICATION:

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


Sandra L. Ingram 760-725-9189 7/19/2012
(Name), (Title) Phone Date