



DEPARTMENT OF THE NAVY

PROGRAM EXECUTIVE OFFICE
INTEGRATED WARFARE SYSTEMS
1333 ISAAC HULL AVENUE SE, STOP 2205
WASHINGTON NAVY YARD DC 20376-2205

IN REPLY REFER TO

J&A No.: 54,016
Code: 02542
PR: N00024-10-NR-43636

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

1. Contracting Activity.

Naval Sea Systems Command, Surface Systems Contracts Division (SEA 025).

2. Description of the Action Being Approved.

The use of other than full and open competition in order to award a one-time buy for one (1) 76mm MK 75 MOD 2 Gun Mount (GM) including the associated equipment and services from Oto Melara North America. This procurement will meet the requirements of the fourth Egyptian Fast Missile Craft (FMC). At this time, there are no known requirements to procure additional MK 75 MOD 2 GMs for any future Foreign Military Sales (FMS) or United States requirements.

3. Description of Supplies/Services.

The proposed acquisition is for the procurement of one (1) 76mm MK 75 MOD 2 Gun Mount (GM) and associated engineering, technical services, spares, and technical data to support gun mount production, test and installation support for the Egyptian FMC Program (FMS Case EG-P-SBU). This acquisition is based upon Letter of Request (LOR) No. 10/LP/301 dated 22 October 2009 under FMS Case EG-P-SBU.

The contract with Oto Melara will be firm fixed price (FFP).

Funding required to support this effort is as follows (in millions):

Funding	FY 10	Total
FMS	\$8M	\$8M

The Government's minimum needs have been verified by the certifying technical and requirements personnel.

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

10 U.S.C. 2304 (c) (1). The supplies or services needed by the agency are available from only one responsible source and no other type of supplies or services will satisfy the needs of the agency.

5. Rationale Justifying Use of Cited Statutory Authority.

To date, FMS Case EG-P-SBU has procured three (3) 76mm MK 75 MOD 2 Gun Systems manufactured by Oto Melara North America as Contractor Furnished Equipment (CFE) via a subcontract to Lockheed Martin for the Egyptian Navy. This follow-on procurement for a quantity of one (1) 76 mm MK 75 MOD 2 is directed via an amendment to EG-P-SBU and will be provided as Government Furnished Equipment (GFE) via a direct contract with Oto Melara.

Use of other than full and open competition is justified in this case because there is only one responsible source for these supplies and services, as defined under FAR 6.302-1(a)(2)(iii). Award to another source would likely result in substantial duplication of cost to the Government that is not expected to be recovered through competition, and unacceptable delays in fulfilling the agency requirements.

This acquisition is for a one time buy to supply a 76mm MK 75 MOD 2 Gun Mount for the Egyptian Navy. Oto Melara is the original designer and manufacturer of this Gun Mount with the requisite knowledge, technical experience, and production capability necessary to satisfy FMS Case EG-P-SBU engineering and interface requirements, in a timely and economical manner. Oto Melara's capability cannot be replaced without substantial expense to the Government.

The Government does not have the required technical data to compete this procurement. Without the technical data, no other company would be capable of performing this effort. To reduce the technical risk, the Government would have to purchase the technical data for the MK 75 MOD 2 GM from Oto Melara, provide it to industry and allow competing companies to attain the requisite knowledge, technical experience, and production capability. This would result in both a substantial duplication of cost and unacceptable delays as detailed below.

Preparation of Level 3 drawings would take 24 months before beginning a competitive procurement. Based on past experience with similar procurements, it is estimated that it would take approximately 6 months to put a contract in place to procure the drawings from the current manufacturer, approximately 12 months to develop the drawings, and approximately 6 months to conduct a technical review and perform a physical configuration audit to ensure that the package is correct and ready to be released for a competitive procurement. The competitive procurement process would take an additional 6 months for award. This would result in a total delay of approximately 36 months, putting estimated delivery of the MK75 MOD 2 in November 2014, which is unacceptable due to the delivery

requirement to deliver the GM to the Egyptian Navy in July 2012 in order to honor the U.S. commitment to Egypt.

Utilizing a performance specification for this procurement will result in a different design and physical configuration. It would not only increase the technical and schedule risks but it would also increase the life cycle support costs due to supporting two separate configurations vice one. A gun system of this magnitude needs a production lead-time of 18 months. Qualifying a new product produced by an unknown manufacturer would add a minimum of one year to the schedule. Added to the contract lead time of one year, this would lead to a delivery date of July 2013, which is well beyond the required delivery date of July 2012. The 12 month delay in delivery and the increase in life-cycle support cost make this performance specification contracting approach prohibitive.

Additionally, PEO IWS 3C estimates award of this work to a new company would result in approximately \$2,700,000 in duplicated non-recurring costs. This figure is based on cost estimates for naval systems of similar complexity and includes the following:

- \$1,000,000 to buy technical data rights and level 3 drawing package from Oto Melara
- \$150,000 to conduct Procurement Configuration Audit
- \$500,000 to develop and verify the Technical Manual and Interactive Electronic Technical Manual
- \$400,000 for other Integrated Logistics Support documentation, Integrated Logistic Support documentation, Integrated Logistic Support Plan, Maintenance Plan, and Maintenance Requirement Cards
- \$500,000 for depot change
- \$150,000 for training

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

This procurement was synopsisized in both the Federal Business Opportunities (FedBizOpps) website located at <http://www.fbo.gov> and the Navy Electronic commerce Online (NECO) website located at <http://www.neco.navy.mil> in accordance with FAR 5.201 on 26 January 2010. No other contractor expressed interest. A formal market survey was not conducted other than the synopsis in FedBizOpps because it is not practicable to establish competition for reasons stated in paragraph 5 above. In this case, the FedBizOpps synopsis performs the same function as a market survey, advising industry of the proposed acquisition and soliciting inquiries from interested parties.

7. Determination of Fair and Reasonable Cost.

The Contracting Officer has determined that the anticipated cost to the Government of the supplies and services covered by this J&A will be fair and reasonable.

8. Actions to Remove Barriers to Future Competition.

For the reasons set forth in paragraph 5, NAVSEA has no plans at this time to compete future contracts for the types of supplies or services covered by this document. This procurement is a one-time buy and at this time there are no known requirements to procure additional MK 75 MOD 2 GMs for any future Foreign Military Sales (FMS) or United States requirements. If another potential source emerges, NAVSEA will assess whether competition for future requirements will be feasible.

CERTIFICATIONS AND APPROVAL

TECHNICAL/REQUIREMENTS CERTIFICATION (FAR 6.303-2(b))

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

TECHNICAL COGNIZANCE:

[Redacted Signature] [Redacted Name/Code] [Redacted Phone] [Redacted Date]
Signature Name/Code Phone Date

REQUIREMENTS COGNIZANCE:

[Redacted Signature] [Redacted Name/Code] [Redacted Phone] [Redacted Date]
Signature Name/Code Phone Date

LEGAL SUFFICIENCY REVIEW (NMCAG 5206.303(90)):

I have determined this Justification is legally sufficient.

[Redacted Signature] [Redacted Name/Code] [Redacted Phone] [Redacted Date]
Signature Name/Code Phone Date

CONTRACTING OFFICER CERTIFICATION (FAR 6.303-2(a) (12)):

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

[Redacted Signature] [Redacted Name/Code] [Redacted Phone] [Redacted Date]
Signature Name/Code Phone Date

APPROVAL BLOCK (FAR 6.304 for Approving Official):

Upon the basis of the above Justification, I hereby approve, as Designee of the Head of the Contracting Agency, the solicitation of the proposed procurements described herein using other than full and open competition, pursuant to the authority of 10 U.S.C. 2304 (c) (1).

[Redacted Signature] Michael G. Giermuth [Redacted Phone] 4/5/10
Signature Name/Code Phone Date