



# DEPARTMENT OF THE NAVY

CRANE DIVISION  
NAVAL SURFACE WARFARE CENTER  
300 HIGHWAY 361  
CRANE INDIANA 47522-5001

IN REPLY REFER TO:

J&A Number: 12-029

Code: CXMR

P.R. Number: N00164-12-R-GR21

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

### JUSTIFICATION

#### 1. Contracting Activity

Naval Sea Systems Command, Naval Surface Warfare Center (NSWC) Crane, Contracting Operations Division.

#### 2. Description of the Action Being Approved

Award of a Firm Fixed Price, supply type contract with a one year option on a sole source basis for the acquisition of Kits to be installed on U.S. Navy (USN) and U.S. Coast Guard (USCG) ships in support of the AN/SPS-73(V)12 Below Deck Radar System to Raytheon Company - Integrated Defense Systems (IDS).

#### 3. Description of Supplies/Services

This procurement is for the production of Tech Refresh Kits and Installation and Check Out (INCO) Kits for the AN/SPS-73(V)12 Below Deck Radar System. This requirement includes the approved configuration modifications, Engineering Change Proposal (ECP) 4304-073, to the AN/SPS-73 radar console.

Items	Base Year Quantity (each)	Option Year Quantity (each)	Total Quantity for Base & Option Years
Tech Refresh Kits, Grade A Shock Qualified, USN Configuration	23	22	45
Tech Refresh Kits, Grade B, Not Shock Qualified, USCG Ships Configuration	23	22	45
INCO Kits	4	4	8

The estimated maximum total of this acquisition is \$12,356,925. The ordering period will be one year from the effective date of contract award, with a one year option. The Government's minimum needs have been verified by the certifying technical and requirements personnel.

## Estimated Dollar Value

	FY 12 USN	FY 12 USCG	FY 13 USN	FY 13 USCG	TOTALS
SCN	\$ 800,000		\$ 556,925		\$1,356,925
OPN	\$2,500,000		\$2,500,000		\$5,000,000
OTHER		\$3,000,000		\$3,000,000	\$6,000,000
TOTALS	\$3,300,000	\$3,000,000	\$3,056,925	\$3,000,000	\$12,356,925

4. Statutory Authority Permitting Other Than Full and Open Competition

10 U.S.C. 2304(c)(1), Only one responsible source and no other supplies or services will satisfy agency requirements as implemented by FAR 6.302-1.

5. Rationale Justifying Use of Cited Statutory Authority

This is a follow-on acquisition as implemented in FAR 6.302-1(a)(2)(ii), in which the supplies are deemed to be available only from the original source. Initial requirements were filled from a 1997 competitively awarded USCG contract to Hughes Aircraft Company - Radar Division (HAC-RD). In 1999, Raytheon Company (RC) - Integrated Defense Systems (IDS) bought HAC-RD. The purpose of the Kits is to mitigate obsolescence and provide an interface capability between the SPS-73 radar and the Integrated Bridge Navigation System (IBNS) on USN and USCG ships utilizing the AN/SPS-73(V) Below Deck Radar System. The Tech Refresh Kit was developed by RC in 2009 as part of ECP 4304-073 for over \$4,000,000. In August 2010, RC was awarded one follow-on sole source Contract N00164-10-C-GR44 to provide the required production quantity including data requirements totaling over \$5,100,000. The last deliveries are due 30 March 2012 to complete the contract. However, as discussed below unlimited rights to software were not included in the data requirements; therefore, a competitive procurement cannot be supported.

The baseline AN/SPS-73(V)12 Radar utilizes proprietary interface software code called Radar Data Service Communication Software (RDSCOMM<sup>®</sup>), developed by HAC and now owned by RC, who will neither license the software code rights to any other company nor to the Government. Therefore, the USN does not have data rights to the software code data to support a competitive procurement. RC is the only company that can reproduce or modify the RDSCOMM<sup>®</sup> software. Only RC has the engineering experience and necessary levels of system expertise required to produce the required items.

A vendor other than RC, the original equipment manufacturer, would have to include additional time and labor costs to develop a means to communicate with the RDSCOMM software. The current technical data package (TDP) is not certified for competition. The total estimated costs that would be duplicated, if the Government were to make an

award to another vendor, are \$5,200,000. This estimate to duplicate software and certify the TDP is based on past actuals plus a Government estimate.

Program funding is sufficient to cover emergent repairs with repair parts and field installation support, but not the development of an alternate source.

In order to provide for the immediate need, this J&A covers two years at a maximum total amount of \$12,356,925.

Costs and Delays Anticipated:

Time Delay	Description	Basis of Estimate
5 years	Duplicate Software, Certify Hardware	ISEA historical experience
Cost Impact		
\$5,200,000	Software Development and TDP Cert	ISEA\NWSC Crane historical experience plus Govt estimate

The estimated duplication of costs is so high, it will not be recouped through competition and the delay is unacceptable in support of the program requirements.

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

A synopsis has been issued as required by FAR 5.2 via posting on Federal Business Opportunities website (FEDBIZOPPS) on 15 September 2011. The Navy's Presolicitation Notice describes an immediate need for services and supplies to sustain and upgrade the Navy's existing AN/SPS-73(V) systems. To date, Sterling Design has expressed interest in providing a new radar to replace the AN/SPS-73(V) radar. A reply was issued to Sterling Design that at this time the Navy is not seeking to replace its AN/SPS-73(V) systems as the USCG is considering doing. Any expression of interest by another vendor will be fully evaluated to determine if these requirements can be procured competitively.

A formal sources sought was performed prior to the award of contract N000164-10-GR44, a predecessor to the current effort N00164-12-R-GR21. It's the Requiring Technical Activities (RTA) opinion there has been no technical changes made in the navigation radar industry over the past two years. Therefore, the results of the previous sources sought remain. At that time ten responses were received from nine companies. Results of that sources sought were reviewed in February/March of 2012 by the RTA. The results of that review are as follows:

- A. In the RTA's opinion the results of the sources sought and its findings are applicable to the current N00164-12-R-GR21 efforts.

B. In the RTA's opinion the driving technical factors behind the sole source award to Raytheon under N00164-10-C-GR44 still apply to N00164-12-R-GR21.

1. According to the RTA, of the nine companies only one, Barco, has two subassemblies that still apply to the current N00164-12-R-GR21 effort. Barco was/is an exclusive supplier to Raytheon. Other subassembly companies that responded, such as Acromag have subassemblies that are incompatible with the AN/SPS-73 radar requirements.

2. Other radar OEMs such as Sperry Marine or Kelvin Hughes (who did not respond to the N00164-10-C-GR44 sources sought) can provide navigation radars. However, according to the RTA they do not support the legacy functions that are required in N00164-12-R-GR21. These legacy functions include compatibility with RDSCOMM<sup>®</sup> software code. RDSCOMM<sup>®</sup> is a COTS software package which the Navy only has limited right with data restricted rights with software.

3. Non-navigation radar OEMs such as Phase IV that responded to the sources sought, only wanted to deliver new radars that are incompatible with the legacy AN/SPS-73 radar.

C. The conclusion of the RTA and his SME team is that only Raytheon has the technical capability to produce the AN/SPS-73 radars required under in N00164-12-R-GR21, due to the requirement to support legacy AN/SPS-73 radars.

7. Determination of Fair and Reasonable Costs

The Contracting Officer will determine that the anticipated cost to the Government for the supplies covered by the subject J&A will be fair and reasonable.

8. Actions to Remove Barriers to Competition

Justification & Approval (J&A) 09-090 for the acquisition of Kits on Contract N00164-10-C-GR44 stated there were no plans on competing future acquisitions. Since then, the Navy has continued to use the current radar system with the Tech Refresh Kits.

For the reasons set forth in Paragraph 5, NSWC Crane does not plan to compete future contracts for the types of supplies covered by this document. No effort has been made to foster competition because of (1) the unique nature of the proprietary RDSCOMM software, (2) the duplicative costs estimated at ~\$5,200,000, and (3) the increase in time that fostering competition would take to fulfill these requirements, which would result in unacceptable delays in fulfilling the agency's requirements and could compromise the ability of the ships to achieve the highest mission readiness and effectiveness.

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, including Acquisition Plan No. NAVSEA PEO(IWS) 00-001 Rev01(05) except as noted herein, are complete and accurate to the best of my knowledge and belief.

TECHNICAL COGNIZANCE:

[Redacted Signature Block]

Signature Name (Print) and Title (Code) Phone No. Date

REQUIREMENTS COGNIZANCE:

[Redacted Signature Block]

Signature Name (Print) and Title (Code) Phone No. Date

LEGAL SUFFICIENCY REVIEW (NMCARS 5206.303(90))

I have determined this justification is legally sufficient.

[Redacted Signature Block]

Signature Name (Print) and Title (Code) Phone No. 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 Block]

Signature Name (Print) and Title (Code) Phone No. Date

APPROVAL BLOCK (FAR 6.304 for Approving Official)

Upon the basis of the above justification, I hereby approve, as Crane Division Competition Advocate, the solicitation of the proposed procurement described herein using other than full and open competition, pursuant to the authority of 10 U.S.C. 2304(c)(1).

COMPETITION ADVOCATE

[Redacted Signature Block]

Signature Name (Print)

KELLY SIFFIN

4/16/12  
Date