



DEPARTMENT OF THE NAVY
NAVAL AIR WARFARE CENTER TRAINING SYSTEMS DIVISION
12350 RESEARCH PARKWAY
ORLANDO, FLORIDA 32826-3275

IN REPLY REFER TO:
CJ&A_15_25076

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

1. Contracting Activity.

Naval Air Warfare Center Training Systems Division (NAWC-TSD) - Orlando, FL

2. Description of the Action Being Approved.

The Naval Air Warfare Center Training Systems Division (NAWCTSD), Orlando, FL intends to issue a contract to L-3 Communications Corporation, Link Simulation & Training Division (L-3), Arlington, to meet the aircraft System Configuration Set (SCS)/Engineering Change Proposal (ECP) development needs for the F/A-18E/F and EA-18G aircraft programs using aircrew training systems (ATS) as aircraft software developmental assets. The anticipated dollar value of this requirement is \$10 Million. The requirements will be identified in Fiscal Years (FYs) [REDACTED] and all contract actions pursuant to the authority of this CJ&A will be awarded by September 2018.

3. Description of Supplies/Services.

This contract will allow for the procurement of modification and upgrades to the F/A-18E/F and EA-18G unique Tactical Operational Flight Trainer (TOFT) software that L-3 has the sole proprietary rights for to support aircraft SCS/ECP programs. This requirement includes incorporation of all ongoing aircraft ECPs, H14 and H16 SCS updates, and major subsystems identified in the F/A-18E/F and EA-18G aircraft development roadmap. The software developed will only be incorporated on TOFT 125 located at Naval Air Warfare Center Weapons Division (NAWCWD) and on Advanced Development Stations (ADS) located at NAWCWD China Lake, CA; Naval Air Warfare Center Aircraft Division (NAWCAD), Patuxent River, MD; Naval Air Warfare Center Training Systems Division (NAWCTSD), Orlando, FL; L3, Arlington, TX; and Boeing, St. Louis, MO. Logistic support, comprised of support equipment, technical manual updates and on-site training will also be included. In support of the above requirements, the funding types that are expected to be used by the Naval Air Systems Command are [REDACTED]. The F/A-18 aircraft System Configuration Set (SCS)/Engineering Change Proposal (ECP) development needs for the F/A-18E/F and EA-18G aircraft program requirements through September 2018 are estimated to be \$10 Million.[SUUPLIES_3]

See Appendix A for Estimated Dollar Value

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.

5. Rationale Justifying Use of Cited Statutory Authority.

The complexity and evolving nature of the F/A-18E/F and EA-18G requires that TOFT and ADS assets be used as developmental tools to implement software changes concurrently with the aircraft. It also supports reducing total cost of ownership by optimizing existing training systems hardware and software to support the FA-18E/F and EA-18G aircraft programs. TOFT and ADS assets can provide a robust, dynamic and accurate representation of the delivered aircraft and associated subsystems prior to or when delivered to the aircraft. This enables the aircraft program to evaluate software changes associated with aircraft SCS updates and ECPs with reduced costs and risk when compared to a similar evaluation in the aircraft. As a subcontractor to Boeing (N61339-05-D-0003), L-3 provided a significant share of the software and hardware of the existing seventeen (17) F/A-18E/F TOFTs, the six (6) EA-18G TOFTs, and the five (5) ADS' and provided upgrades and modifications for SCS H3E, H5E, H8E, and H10 and numerous aircraft ECPs. L-3 was responsible for Navy Aviation Simulation Master Plan (NASMP) interoperability, the Brief/Debrief Station (BDS), the Mission Operation Center (MOC), Image Generators (IG), the high definition visual system (HD9), the Storage Area Network (SAN) and visual databases, the Instructor Operator Station (IOS), and a large portion of the aircraft simulation models (e.g., weapon systems, stores management system, communication/navigation, malfunctions, radar, forward looking infrared, and aircraft fuel, hydraulic, and electrical systems). Any new modification or upgrade to F/A-18E/F and EA-18G TOFTs or ADS will require the use of computer software, computer software documentation and technical data that is not available to other contractors and is proprietary to L-3. Specifically, many of the key TOFT and ADS components (e.g., IG software, radar software, IOS) were developed by L-3 exclusively at private expense and, although the Government obtained specially negotiated license rights, the source code for these components was not included. These elements include the PC-Host executive, Simuview, Rightview, Video Combiner, Video Genlock, and portions of the IOS and BDS. Additionally, there are specially negotiated license rights for the technical data for such items as the Simusphere, Video Card Genlock, Video Combiner, Optical Lens Assembly, and portions of the IOS, BDS, and MOC. These license rights do not allow for the acquisition of new training systems that would require this technical data to permit competition for new F/A-18E/F and EA-18G training systems. Since the Government does not have the source code for the components specified above nor sufficient technical data rights, L-3 is the only source capable to meet the government's requirement. This proprietary information and data are essential for building, updating and maintaining a common supportable configuration that satisfies both aircraft software development and Fleet training requirements.

Government efforts to seek additional licensing rights to date have been unsuccessful. On December 30, 2009, in an effort to promote competition for future procurements under the program, the Government submitted a Request for Proposal (RFP) for the cost of obtaining all source code, software, software documentation, and technical data related to the following L-3 products:

Source Code, Software and Software Documentation:

- o Link's PC-Host Executive Environment Software
- o Mission Computer Emulator Software
- o Sensor Video Recording system (SVRS) Software
- o SimuView Image Generator Software
- o Visual Database Tools Software

- o Plan/Profile View Display (PPVD) Software
- o Event Time Line (ETL) Software
- o SimuStealth Software

Technical Data:

- o SimuView Image Generator Data
- o SimuSphere II Data
- o F/A-18 Tactical Operation Flight Trainer (TOFT) Cockpit Assembly Drawings
- o Plan/Profile View Display (PPVD) Data
- o Event Time Line (ETL) Data
- o SimuStealth Data

On 18 January 2010, L-3 declined to provide a proposal as requested by the Government citing DFARS 227.7103-1-(c), which does not require contractors to sell or relinquish rights in technical data related to items, components or processes developed at private expense.

Under the current circumstances, a competitive acquisition would allow for a new system to be introduced to the Fleet that may not be integrated and interoperable with the existing systems due to the lack of source code and insufficient data rights that resulted from the original competitive awards. This would require the Government to have two infrastructures in place for life cycle support or would require a significant rework of the current TOFT design that would, based upon actuals from the F/A-18E/F and EA-18G TOFTs, cost the Government approximately \$77M for additional non-recurring engineering effort, testing, and retrofit of existing TOFTs. The ability of the Government to recoup these additional costs through competition is very unlikely as the F/A-18E/F and EA-18G TOFT inventory is complete and inclusion of an additional software infrastructure would require a significant increase in funding.

Only L-3 possesses the requisite knowledge, engineering expertise, and data rights required to design, build, modify, upgrade and deliver L-3 proprietary F/A-18E/F and EA-18G TOFTs and ADS' software necessary to support F/A-18 and EA-18G aircraft SCS/ECP programs within the Government's requisite delivery schedule. Award to any contractor other than L-3 would result in substantial duplication of costs to the Government that would not be recovered through competition and would create unacceptable delays in fulfilling F/A-18E/F and EA-18G requirements and would introduce significant technical, cost, and schedule risk.

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

NAWCTSD maintains in-depth knowledge of simulation and training system technology developments and industrial base. This includes insight into technologies on which individual companies are focused and their technical and production capabilities. NAWCTSD representatives maintain this knowledge through routine review of industry journals and attendance at the annual Training and Simulation Industry Symposium (TSIS) and the annual Interservice/Industry Training, Simulation and Education Conference (I/ITSEC). These representatives also periodically visit industry provider facilities for briefings on independent Research and Development (IR&D) efforts. Based on its knowledge and expertise,

NAWCTSD has determined that no company other than L-3 has the knowledge and technical capability required to provide F/A-18E/F and EA-18G TOFTs and ADSs.

A synopsis was posted on 11 May 2015 to notify interested parties of the intent to award a sole source contract to L-3. The synopsis was posted on Federal Business Opportunities for 15 days with no responses received from this notice.

On 26 May 2015, NAVAIR Communique 15-38: FAR 6.302-1 J&A RFI/SS Requirement, was promulgated and directed contracting officers to post a Request for Information (RFI) or Sources Sought Notice (SSN) before soliciting for non-competitive efforts based on a J&A that relies upon FAR 6.302-1, Only One Responsible Source. As a result, an SSN was posted on Federal Business Opportunities on 5 June 2015, no responses were received by the Government.

7. Determination of Fair and Reasonable Cost.

In accordance with FAR 15.402(a), the contracting officer must ensure that all supplies and services ordered under this contract are procured at a fair and reasonable price. The contractor will submit a formal price proposal with cost or pricing data and sufficient information to support the accuracy and reliability of the estimate. The program engineers will evaluate the proposed labor hours and provide a detailed report which will be utilized to establish the Navy position. Rate recommendations provided by DCAA or DCMA will be evaluated for incorporation in the Navy position. The contracting officer will use cost and price analysis as the basis for negotiating for a fair and reasonable price.

8. Actions to Remove Barriers to Future Competition.

For reasons set forth in Paragraph 5, NAWCTSD has no plans at this time to compete future contracts for the types of supplies and services covered by this document. If another potential source emerges, NAWCTSD will assess whether competition for future requirements is feasible.