

DEPARTMENT OF THE NAVY
NAVAL FACILITIES ENGINEERING AND EXPEDITIONARY WARFARE CENTER
1000 23RD AVENUE
PORT HUENEME CA 93043-4301

IN REPLY REFER TO:

JA-13-013
18 March 2013

JUSTIFICATION FOR AN EXCEPTION TO FAIR OPPORTUNITY

1. Contracting Activity. Naval Facilities Engineering and Expeditionary Warfare Center (NAVFAC EXWC) Acquisitions

2. Description of the Action Being Approved. Request for fair opportunity exemption to award a non-competitive task order to Sound & Sea Technology Inc. (SST) under indefinite-delivery, indefinite-quantity (IDIQ) multiple award contract (MAC) N62583-09-D-0064.

3. Description of Supplies/Services.

The first phase of this effort, Cable Survivability Assessment, was performed under Task Order 0035 (Contract N62583-09-D-0064) and provided secured engineering support to research and implement a Horizontal Directional Drilling (HDD) solution as an approach for enhancing the survivability of cable systems. The Government-Contractor team was able to successfully plan and install a cable conduit route by HDD methods at an overseas location before the period of performance for Task Order 0035 ended.

This Justification covers Phase II, HDD Cable Installation, to complete the implementation of this solution by installing a cable in the HDD conduit. The proposed task order would include engineering and logistics support for the following:

- Install a cable inside the HDD conduit;
- Identify residual cable system vulnerabilities post-installation; and
- Document methods and findings in a technical summary report.

The period of performance for the Phase II HDD Cable Installation effort would be from task order award through Q4 FY13. The Phase II HDD Cable Installation effort is estimated to cost [REDACTED] and will be funded with Operations and Maintenance, Navy which expires Q4 FY13. Approval for exception to fair opportunity is requested for the full estimated cost.

4. Authority for Fair Opportunity Exception and Supporting Rationale.

The authority permitting this fair opportunity exception is FAR 16.505(b)(2)(i)(C), which states the following: “The order must be issued on a sole-source basis in the interest of economy and efficiency because it is a logical follow-on to an order already issued under the contract, provided that all awardees were given a fair opportunity to be considered for the original order.”

Based on the following, the Phase II HDD Cable Installation efforts must be procured on a sole-source basis in the interest of economy and efficiency because it is a logical follow-on to Task Order 0035 under Contract N62583-09-D-0064:

- a) **All Awardees Were Given Fair Opportunity to be Considered for the Original Order.** All of the contract holders under the MAC for Ocean Facilities Support Services (Contracts N62583-09-D-0064 through -0068) were given fair opportunity to compete for the Cable Survivability Assessment task order. The Cable Survivability Assessment task order requirement was competed under Request for Task Order Proposals (RFTOP) Cable Survivability Assessment dated 20 May 2011, which stated: “This task order is to provide engineering support to conduct an assessment of Horizontal Direction Drilling as an approach for enhancing cable survivability. This assessment will include both technical and economic/cost factors. Based on these results, additional tasking may result as a ‘follow-on’ effort to help implement a Horizontal Direction Drilling solution. This follow-on effort will be awarded to the winner of this task order without further competition.”

SST was the only contractor of the five Oceans MAC holders to submit a proposal for the effort. Task Order 0035 (Contract N62583-09-D-0064) was subsequently awarded to SST. Therefore, as expressly stated in the original RFTOP, the task order to complete the HDD Cable Installation will be solicited, solely, from SST.

- b) **Operational Security (OPSEC) Guidelines.** Operational security was a basis for the verbiage in the Performance Work Statement for Task Order 0035, which limited competition for follow-on work. The OPSEC guidelines of the program under which this work is being performed stipulate that the project be exposed to a limited number of individuals and on a need-to-know basis only. As the sole offeror and awardee of Task Order 0035, SST is the only contractor who was read into the program, is approved for access at secure facilities, and is familiar with local administrative/security protocols. Establishing additional sources to complete the cable installation would result in substantial duplication of effort and cost, and would delay the commencement and completion of the installation.
- c) **Efficiency, Timeliness, and Cost-Effectiveness.** The cable installation has a firm installation date of 10 June 2013. This aggressive timeline is driven by program requirements and is not mutable. It will be both efficient and cost-effective for the Government to use SST and their subcontractors for the HDD cable installation as they completed the preliminary work under Task Order 0035, which included geographic and bathymetric surveys, and the installation of HDD infrastructure at the location of interest. SST has successfully managed contracts with local subcontractors, and they have demonstrated the technical background and specialized expertise required to complete the installation with the greatest likelihood of success and in the shortest amount of time. SST and its subcontractors are intimately familiar with the location, work, security restrictions, and methods employed during the previous phase. Establishing additional sources to complete the cable installation would result in substantial duplication of effort, additional cost, and failure to meet program schedule requirements.

5. Description of Efforts Made to Solicit Offers from as Many Offerors as Practicable. The initial requirement was competed amongst the five MAC holders on 20 May 2011 with explicit instructions that the anticipated follow-on efforts would be awarded without further competition. No additional market research was conducted because it is not practicable, for the reasons discussed in Paragraph 4 above, for any company other than SST to provide the required supplies and services.

6. Determination of Fair and Reasonable Cost. The Contracting Officer has determined the price fair and reasonable for the services covered by this Justification using price analysis techniques described in FAR Part 15.

7. Actions to Remove Barriers to Future Competition. For the reasons set forth in Paragraph 5, NAVFAC EXWC has no plans at this time to compete future contracts for the types of supplies/services covered by this document. If another potential source emerges, NAVFAC EXWC will assess whether competition for future requirements is feasible.

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, except as noted herein are complete and accurate to the best of my knowledge and belief.

[Redacted Signature]

Signature

Name (Printed)

Phone No.

18-3-13
Date

LEGAL SUFFICIENCY REVIEW

I have determined this Justification is legally sufficient.

[Redacted Signature]

Signature

Name (Printed)

Phone No.

Date

CONTRACTING OFFICER CERTIFICATION

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

[Redacted Signature]

Signature

Name (Printed)

Phone No.

Date