



DEPARTMENT OF THE NAVY
NAVSUP FLEET LOGISTICS CENTER SIGONELLA
DET NAPLES, ITALY
PSC 817 BOX 50
FPO AE 09622-0050

IN REPLY REFER TO:

J&A No: 16-001

**JUSTIFICATION AND APPROVAL
FOR USE OF SOLE SOURCE**

1. Contracting Activity

Requiring Activities: Commander, Navy Region Europe, Africa, South West Asia (CNREURAFSWA), Naples, NAVSUP Fleet Logistics Center, Sigonella, (FLCSI); and Naval Facilities Engineering Command Europe and South West Asia (NAVFAC) Naples, Italy

Contracting Activity: NAVSUP Fleet Logistics Center, Sigonella DET Naples (FLCSI)
Shore Branch Naples, Italy
PSC 870 Box 50 - FPO AE 09622-0050

Requisition Number: N/A

2. Description of the Action Being Approved

This is a non-competitive action submitted for approval to issue a Firm Fixed Price (FFP) Indefinite-Delivery-Indefinite-Quantity (IDIQ) commercial contract to Verusio & Cosmelli (Cosmelli), Foro Traiano, 1A, 00187 Rome, Italy, in support of CNREURAFSWA, FLCSI and NAVFAC for legal consultancy services in matters of Italian law. The proposed contract will contain a five year ordering period broken down into five 12-month performance periods, plus a six-month option period pursuant to FAR 52.217-8, "Option to Extend Services" (NOV 1999). The total estimated dollar value is [REDACTED]

3. Description of Supplies/Services

The requirement is for Legal Assistance relating to matters of Italian and/or European law, in support of CNREURAFSWA, FLCSI, and NAVFAC, Italy. Such legal advice and services may include, but is not limited to analysis of laws and information affecting or relating to the following:

- Public works construction and repair;
- Oceanographic Engineering;
- Public Utilities;
- Military Construction;
- Military Family Housing;
- Real Estate Matters - Leasing , Management and Disposal of Real Property;
- Service Contracting;
- Labor laws, pre-litigation issues and related matters;
- Environmental laws and issues;
- Acquisition/Contract Matters;
- Civilian Personnel law;
- Criminal matters pending against U.S. personnel;
- Tax and bankruptcy law;
- Construction and Transportation Equipment;
- Support, research and recommendations in matters of Italian contract law;
- Licensing Laws; and,
- Public Works construction.

Source Selection Information See FAR 2.101 and 3.104

The proposed contract is detailed below:

Performance Period Dates	Total Estimated Amount EURO €	Total Estimated Amount U.S. DOLLARS \$
01 May 2016 – 30 Apr 2017	[REDACTED]	[REDACTED]
01 May 2017 – 30 Apr 2018	[REDACTED]	[REDACTED]
01 May 2018 – 30 Apr 2019	[REDACTED]	[REDACTED]
01 May 2019 – 30 Apr 2020	[REDACTED]	[REDACTED]
01 May 2020 – 30 Apr 2021	[REDACTED]	[REDACTED]
Pursuant to FAR 52.217-8	[REDACTED]	[REDACTED]
01 May 2021 – 31 Oct 2021	[REDACTED]	[REDACTED]
TOTAL	[REDACTED]	[REDACTED]

*The revised Budget Exchange Rate for Fiscal Year 2016, whereby \$1 = Euro 0.9049, was used for the above calculations obtained from the Office of Secretary of Defense (Comptroller).

4. Statutory Authority Permitting Other Than Full and Open Competition

The statutory authorities permitting other than full and open competition are 41 U.S.C. 1901 and 10 U.S.C. 2304 (c)(1) “(Only one responsible source),” as implemented by FAR 13.501(a)(1)(ii) and FAR 6.302-1.

5. Rationale Justifying Use of Cited Statutory Authority

Current services were previously obtained via contract N68171-10-D-0005, awarded to Cosmelli on 29 March 2010, with a period of performance of 01 April 2010 through 31 March 2015. The contract also included Federal Acquisition Regulation (FAR) clause 52.217-8 entitled “Option to Extend Services” (NOV 1999), however, since these CLINS/prices were not evaluated at time of award, a bridge contract authorization was requested to cover an extension of six months, from 01 April 2015 through 30 September 2015. The contract’s value for the base and all option performance periods is summarized as follows:

Historical Data – Contract N68171-10-D-0005 and Actual Usage

Period	Dates	Total Estimated Awarded Amount EURO €	Actual Usage/Value EURO €	Actual Usage/Value U.S. DOLLARS \$
Base	01 Apr 2010 – 31 Mar 2011	[REDACTED]	[REDACTED]	[REDACTED]
Option I	01 Apr 2011 – 31 Mar 2012	[REDACTED]	[REDACTED]	[REDACTED]
Option II	01 Apr 2012 – 31 Mar 2013	[REDACTED]	[REDACTED]	[REDACTED]
Option III	01 Apr 2013 – 31 Mar 2014	[REDACTED]	[REDACTED]	[REDACTED]
Option IV	01 Apr 2014 – 31 Mar 2015	[REDACTED]	[REDACTED]	[REDACTED]
Bridge	01 April 2015 – 30 Sept 2015	[REDACTED]	[REDACTED]	[REDACTED]
	TOTAL EURO	[REDACTED]	[REDACTED]	[REDACTED]
	TOTAL DOLLAR USD	[REDACTED]	[REDACTED]	[REDACTED]

*Rate of exchange used for above calculations was the revised FY16 BER of \$1 = Euro €0.9049

On 19 October 2015, a Sources Sought notification of this sole source action was posted on EURONECO. By the 07 November 2015 response due date, no responses were received to this notice.

Cosmelli is the incumbent contractor. This law firm has represented and advised the U.S. Navy on a regular basis since the 1950s and has developed a unique expertise and knowledge of U.S. Navy operations and legal requirements and how they interact with the Italian Legal System that other Italian law firms do not possess. Since 1997 alone, Cosmelli has represented the U.S. Navy in over 100 legal actions, and is currently representing the U.S. Navy in numerous ongoing matters related to Italian law. Currently, Cosmelli is to provide legal advice to the U.S. Government on courses of action to be taken regarding local national employees and the disciplinary actions to be taken, to include reviewing and commenting on final decision letters; Italian tax law studies; and ongoing litigations for NAVFAC. It would be detrimental to the requiring activities currently represented by Cosmelli to change representatives at this time on these ongoing matters.

Source Selection Information See FAR 2.101 and 3.104

Under its own statutory authority, U.S. Department of Justice retains Cosmelli to act as its representative for all litigation before Italian Courts and Tribunals. The Navy requires consistency between the legal advice it receives at the administrative and investigatory phase and any possible follow-on the litigation phase before Italian courts and only Cosmelli can provide this transitional legal advice. In the event litigation is ultimately required, then Cosmelli can seamlessly transition from providing advice, administrative and investigatory representation into full-blown legal representation under the authority of the Department of Justice Contract. Due to the in-depth familiarity with the ongoing U.S. Navy legal issues, no other law firm could provide the level of service required by the U.S. Navy without a significant learning curve, unacceptable delay and substantial duplication of costs. The legal staff of Cosmelli is completely fluent in the English language, which permits the firm to produce quality legal products without the additional time and expense of using translators. Cosmelli also has the necessary background checks to access the U.S. base, and to have access to information required for effective representation. Cosmelli is the only Italian law firm that can provide the required services for the U.S. Navy.

Given the foregoing, Cosmelli is uniquely qualified to provide specialized guidance on Italian law to U.S. Naval components in Italy. Its thorough knowledge of the Government procedures and requirements would take another law firm years to obtain. Most importantly, it is essential that preventative counsel and advice be provided by the same group of attorneys that will ultimately represent the U.S. Government in the event of litigation. As such, it has been determined that award to Cosmelli is necessary, in order to maintain continuity between the Italian legal advice obtained before litigation, and the legal representation provided vis-à-vis the U.S. Department of Justice, once litigation has commenced. Award to any other source would not achieve this continuity and would most probably result in substantial duplication of costs to the Government that is not expected to be recovered through competition, as stated at FAR 6.302-1(a)(2)(iii)(A).

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

In accordance with FAR 5.202(a)(12), the proposed action is exempt from the requirement for synopsis in the GPE as the proposed contract action is by a Defense agency and the proposed contract action will be made and performed outside the United States and its outlying areas, and only a local source will be solicited, and the Trade Agreements exceptions requiring synopsis do not apply in accordance with FAR 25.401(a)(5). For the reasons discussed in paragraph 5 above, it is not feasible for any legal firm other than Cosmelli to provide the required legal assistance. However, a Sources Sought synopsis was posted to EURONECO/NECO on 19 October 2015 with a response due date of 23 October 2015. The purpose of the Sources Sought was to determine the availability and technical capability of potential vendors and, in particular, their ability to provide the required services in order to confirm whether the sole source criteria are met. To date, 09 February 2016, no company/law firm has expressed an interest in this requirement.

7. Determination of Fair and Reasonable Cost

The Contracting Officer has determined the anticipated cost to the Government of the 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, NAVSUP FLCSI Naples has no plans at this time to compete future contacts for the types of services covered by this document. If another potential source emerges, NAVSUP FLCSI Naples will assess whether competition for future requirements is feasible.

9. Contracting Point of Contact

The contracting point of contact is Mrs. Mina De Stefano, who may be contacted at telephone (39) 081- 568-4083, facsimile (39) 081-568-4069, or via e-mail at Mina.DeStefano.it@eu.navy.mil.

Source Selection Information See FAR 2.101 and 3.104