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IN REPLY REFER TO
J&A 11 9469

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

1. Contracting Activity.

Naval Air Warfare Center Weapons Division (NAWC-WD) - China Lake, CA

2. Description of the Action Being Approved.

This justification and approval authorizes and approves on a sole source basis a new Time & Materials (T&M) and Firm Fixed Price (FFP) Indefinite Delivery Indefinite Quantity (IDIQ) contract for Flight Test Aircraft Services (FTAS). This effort will provide aircraft flight test hours, ground support, aircraft modifications, and materials over a three year performance period. The contract will be with BAE Systems Information and Electronic Systems Integration Inc. (BAE), 16880 Flight Systems Dr., Mojave, CA 93501-2002.

3. Description of Supplies/Services.

This acquisition will provide FTAS for developmental and operational testing of avionics, sensors and other aircraft systems. It also will provide for test pod design, modification, and repair. Over the last few years, several programs have paid to modify two business jets for flight test support. This proposed procurement will provide these flight test aircraft services primarily to Joint Strike Fighter (JSF); however, this procurement is open for use by these same and other flight testing programs with the specific need to use and conduct flight testing with these uniquely modified aircraft. Further modifications may also be required to support the programs that invested in the modifications. These programs include: 1) F-35 Joint Strike Fighter (JSF), 2) Zipper program at Edwards AFB, 3) MIT Lincoln Labs Laser & Dark Star, 4) MIT Lincoln Labs Eagle Eyes, 5) LADAR, 6) NAVSEA, PEO(IWS), Aegis, 7) Navy Research Labs MADJAM, 8) NAWC WD, Tiger Pod, 9) NAWC WD, Flare Development & Testing, and 10) Multiple Classified Customers.

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.

Only BAE can provide the required supplies or services because an award to any other source would result in an unacceptable delay of work and substantial duplication of cost. Based on analysis, the duplication of cost for this effort would not be recouped if competed. The analysis was based on multiplying the estimated

flight test hourly rate for various companies/contractors by the most probable estimate of the number of flight test hours expected to be ordered on this contract and the possible maximum IDIQ quantity of hours. All the calculations for the probable estimate of hours and seventy-five percent of the calculations for the estimated maximum hours showed that the duplicate cost would not be recouped through competition. Due to there being substantial differences in flight hour rates depending on the type of aircraft utilized, and depending on the costs that the company/contractor includes in the hourly rates, any apparent cost savings from a significantly lower flight hour rate are likely to be offset by additional direct charges required to cover the contractor's total operating expenses. BAE foresaw the future need for surrogate aircraft to carry a pod during flight testing, while working DoD requirements in 2003-2004, and invested in the purchase of two aircraft for this purpose. Since then, the two purchased aircraft at BAE, the T-39 and Sabre-60, have been extensively modified and used to support JSF (F-35) developmental flight tests and other Department of Defense (DoD) programs' developmental flight test requirements. Following the purchase, BAE initiated the modifications and funded some of the structural alterations to both aircraft that help to support other additional task order/effort-specific modifications, all of which totaled about a quarter of the total modification costs. Approximately half of the rest of the modifications were accomplished through and in support of other Government contracts with funding from some of the other programs listed herein. Several test pods have also been built or modified to support various program requirements. Other programs (see Sct. 3 above) have paid for these modifications, which were completed and funded under several means. The remaining modifications were completed and funded under the recently-expired contract with BAE, number N68936-07-D-0046. Since the set of the modifications that were done under the recently-expired contract were completed under orders in a multiple-award environment, BAE was only awarded task order efforts for which they were the best value or sole contractor able to meet the requirements. Unless the task order requirement had a higher level security clearance that only BAE held, a fair opportunity to be considered was provided to both contractors. In FY11, these aircraft are needed again for several flights with this JSF hardware. During FY11-13, BAE intends to continually retain the aircraft on-site, keeping the capability in-house in order to provide flight services to the government. The preliminary modifications to the aircraft, completed by BAE, included adding equipment racks, electrical power, radio, intercom, and the external hard point/bomb rack, taking approximately 1 year to install. Additional modifications - such as unique antenna installations, test range equipment, and external camera mounts - have been performed since then for various DoD programs and took about 1 year to complete. As a result, to replace all these modifications in other aircraft, would take a little over 2 years. In addition to the labor time required to physically modify the aircraft, long lead times of ordered pieces and parts, as well as seeking extensive safety certifications, multiple inspections, and approvals from the Federal Aviation Administration (FAA), could drive the schedule further out by somewhere between 6-12 months. The JSF is in System Development & Design (SDD) phase of its acquisition. The pace of flight testing will rapidly increase in FY11 as SDD jets are produced and begin flying at PAX and Edwards AFB. In FY11-FY13 there are about 5000 test flights to be performed by the JSF flight test aircraft. The T-39 & Sabre 60 are needed for approximately 15 flights/year at Edwards AFB, NAWCWD test ranges including China Lake & Point Mugu, and other United States Government test ranges. Currently, the JSF program is significantly behind schedule, and is under intense pressure from Congress and the Pentagon to complete development and testing on time, if not ahead of schedule. A 2 year delay in having aircraft available for testing that carries JSF hardware would delay the Navy's contribution to the mission of developing the JSF platform and possibly cause delays in getting the fully capable aircraft to the warfighter, adversely impacting the JSF flight test program.

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

Market research was performed by the TPOC prior to this contract that identified three additional companies providing similar services. The information from those companies was included in the analysis that was done to determined whether the cost to duplicate this effort could be recovered through competition. The results of the market research showed that not only are there both commercial and government contractor companies that offer flight test support services, but it also showed how differently one company to another charges for flight test support services, and therefore, the variation in the dollar amount charged to customers, and that it is commercial practice for flight testing to be charged as a fixed rate per hour of flight for flight test support. While other companies offer the required services, it must also be considered that no funding is available for the up-front investment needed to modify additional aircraft in order to establish a competitive environment suitable for multiple offerors' proposals and possibly awards of contracts.

7. Determination of Fair and Reasonable Cost.

The negotiation and establishment of a fair and reasonable price will be conducted in accordance with FAR 15.4. As stated in FAR 15.402, the Contracting Officer shall purchase all supplies and services at a fair and reasonable price. Based upon historical cost data from performance of the BAE flight test service effort, the Contracting Officer, Defense Contract Management Agency, and Defense Contract Audit Agency auditors have adequate information and background to determine a fair and reasonable price. In accordance with FAR 15.402, the Contracting Officer shall ensure that all supplies and services provided under this contract are procured at a fair and reasonable price. The Contractor will submit a formal price proposal with certified cost or pricing data and sufficient information to support the accuracy and reliability of the estimate. BAE's proposal will be reviewed by an experienced technical analyst and contract specialist with the aid of necessary field pricing support. The Contracting Officer will utilize cost and price analysis as the basis for negotiating a fair and reasonable price.

8. Actions to Remove Barriers to Future Competition.

Currently, the JSF program is significantly over budget and approximately one year behind schedule; thusly, it is receiving considerable attention from Congress and the Pentagon. The annual funding and remaining schedule for surrogate aircraft flight test support is currently, and for the forseeable future, just enough to pay for the flight hours and accommodate essential additional modifications to the aircraft. With the current budget climate and schedule criticality, there is no possibility for getting program funding and additional time to modify additional aircraft with other contractors/companies.

Appendix A

Estimated Dollar Value In Thousands

	FY11	FY12	FY13	FY14	FY15	FY16	FY17	Total
(b)(2)High	(b)(2)High			0	0	0	0	7615
Total				0	0	0	0	$ 7615 k