

U.S. Customs and Border Protection
Justification and Approval For Other Than Full and Open Competition
For contracts or orders above the Simplified Acquisition Threshold (SAT)

JUSTIFICATION FOR OTHER THAN FULL AND OPEN COMPETITION

1. Agency and Contracting Activity.

Department of Homeland Security (DHS) Customs and Border Protection (CBP) United States Border Patrol proposes to increase the scope of the existing Mobile Video Surveillance System (MVSS) single-award / single-vendor IDIQ contract HSBP1016D00002 on a basis of other than full and open competition.

2. Nature and/or description of the action being approved.

The current MVSS contract scope includes the procurement of MVSS units, Contractor Maintenance Logistics Support (CMLS), Vehicle Installation Kits (VIKs), Operator Training, Train-the-Trainer Training, Maintenance Training, and Sustainment Transition. This justification seeks authority to increase the scope of the existing MVSS contract to include the procurement of the following additional products and services:

- MVSS Spare Parts
- Other MVSS Repairs and Support

These additional products and services are critical to the Government's ability to sustain the MVSS units procured from Tactical Micro. The total estimated value for this additional scope is \$7.7M, increasing the total estimated contract value from \$42M to \$49.7M. The IDIQ contract ceiling remains unchanged at \$49.9M.

3. Description of Supplies/Services.

Under the increased contract scope, the Contractor Tactical Micro Inc. shall deliver necessary MVSS Spare Parts as required, and perform Other MVSS Repairs which do not fall under the contract requirements of Contractor Maintenance Logistics Support (CMLS) as required.

The necessary MVSS Spare Parts to be ordered in support of CMLS were mutually agreed upon by the Government and the Contractor and are identified in the contract's Integrated Contractor Support Plan. Other MVSS Repairs that do not fall under the contract requirements of CMLS, shall include repairs that are due to incidents/accidents, acts of nature, sabotage, malicious damages, corrosion restoration, etc. beyond the control and without fault or negligence of the Contractor. Other MVSS Support is for providing on-site labor for Government events outside the scope of CMLS, including outside of the CMLS places of performance, for the purpose of advising, observing, providing professional and technical expertise, maintenance and related activities relative to the MVSS system and its operation, including but not limited to testing events.

4. Identification of Statutory Authority Permitting Other Than Full and Open Competition.

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The statutory authority permitting other than full and open competition is 41 U.S.C. § 3304(a)(1) implemented by the Federal Acquisition Regulation (FAR) Subpart 6.302-1 entitled, “Only One Responsible Source and No Other Supplies or Services Will Satisfy Agency Requirements.”

5. Demonstration That the Nature of the Acquisition Requires Use of the Authority Cited.

Due to the proprietary nature of the procured MVSS units, a sole source award to Tactical Micro is the only viable option to deliver the aforementioned products and services within the quality and compatibility requirements and schedule needs of the Government. Tactical Micro is the sole manufacturer of Tactical Micro MVSS units, which are composed of a significant amount of Tactical Micro proprietary equipment and data. Currently, the government does not possess the necessary Tactical Micro proprietary equipment, data, and training required to procure all necessary MVSS spare parts, perform MVSS repairs. Also, Tactical Micro currently has established supply chain relationships that will enable the Contractor to obtain any non-Tactical Micro Spare Parts more efficiently and more cost effectively than the Government would be able to within the schedule needs of the Government.

Regarding the Other MVSS Repairs and Support, as a proprietary system, Tactical Micro is the only current Contractor with expertise and capability necessary to perform the MVSS repair/support work to be required. The time and cost of obtaining the technical data and training necessary for another entity to perform the work would be cost prohibitive and not meet the Government’s schedule needs.

6. Description of efforts made to ensure that offers are solicited from as many potential sources as is practicable.

In accordance with FAR Subpart 5.102 and 5.2, and Subpart 6.305, this effort will be publicized on Fbo.gov.

7. Determination by the Contracting Officer that the Anticipated Cost to the Government will be Fair and Reasonable.

Given the commercial nature of the supplies and services to be provided under the anticipated contract, the CO will use price analysis and/or other available data/information in order to ensure that the award price is fair and reasonable.

8. Description of Market Research.

Market research shows that there are no other sources available to fulfill its immediate schedule requirements besides Tactical Micro. Many of the MVSS spare parts are proprietary to Tactical Micro or require modification by Tactical Micro. Further, while the Government could possibly obtain some of the non-Tactical Micro spares parts through

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various vendors, including the Original Equipment Manufacturers (OEM), procuring the spares through such means would result in unacceptable delays in fulfilling CBP's requirements.

Because Other MVSS Repairs and Support are accomplished on a proprietary system, only the incumbent contractor currently has the requisite knowledge for performing these tasks until Government or other support personnel are adequately trained to do so.

9. Any Other Facts Supporting the Use of Other Than Full and Open Competition.

None.

10. A Listing of the Sources, if Any That Expressed, in Writing, an Interest in the Acquisition.

If any interest is received from the posting then it will be addressed accordingly.

11. A Statement of the Actions, if Any, the Agency May Take to Remove or Overcome Any Barriers to Competition Before Any Subsequent Acquisition for Supplies or Services Required.

The Program Office has decided the best approach for long term sustainment of the MVSS units is to utilize the existing Federal Aviation Administration Logistics Center (FAALC) Interagency Agreement (IAA) so that the FAALC can either perform all services and other support organically, or to establish contracts with suppliers to provide required services that the FAALC is unable to perform. When the transition from Tactical Micro to FAALC-provided sustainment support is complete, this requirement will no longer be required from Tactical Micro on a sole-source basis.

12. Planning and Funding Statement.

The sources for this requirement are not being limited due to poor planning or the expiration of funds, but due to the fact that Tactical Micro is the only one source that is capable at this time of providing the uninterrupted capabilities needed at the level of quality required in order to maintain and sustain the MVSS units procured from Tactical Micro.

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► **J&A CERTIFICATIONS**

13. REQUISITION/PROGRAM OFFICE CERTIFICATION

I certify that the foregoing justification is accurate, meets the Government's minimum needs and contains complete information necessary to support the action described in this document and the authority cited.

Office: U.S. Border Patrol
Name: (Print): Craig Doheny
Title: MVSS Program Manager

Signature: CRAIG M DOHENY Digitally signed by CRAIG M DOHENY
DN: c=US, o=U.S. Government,
ou=Department of Homeland Security,
ou=CBP, ou=People, cn=CRAIG M DOHENY,
0.9.2342.19200300.100.1.1=005710488.CBP
Date: 2018.08.17 09:47:56 -0400 Date: _____

14. CONTRACTING OFFICER CERTIFICATION/APPROVAL*

I certify that the data supporting the recommended use of other than full and open competition is accurate and complete to the best of my knowledge and belief.

Name (Print): Timothy Evans
Contracting Officer

Signature: TIMOTHY O EVANS Digitally signed by TIMOTHY O EVANS
DN: c=US, o=U.S. Government, ou=Department of
Homeland Security, ou=CBP, ou=People, cn=TIMOTHY O
EVANS, 0.9.2342.19200300.100.1.1=0896698055.CBP
Date: 2018.08.17 09:47:56 -0400 Date: 08/17/2018

* In accordance with FAR 6.304(a)(1), CO certification of a J&A for a requirement not exceeding \$700,000 shall constitute approval of the J&A.

15. SMALL BUSINESS SPECIALIST CERTIFICATION (Per HSAM 3019.501 - Above the SAT)

I certify that I have conducted a search for small businesses and other socio-economic concerns capable of participating in this acquisition.

If any were found, a list is attached.

Name (Print): Herman Shivers
CBP Small Business Specialist

Signature: *Herman Shivers* Date: 8.20.18

16. CHIEF COUNCIL REVIEW (Per HSAM 3006.304-70 - Above the SAT)

Name (Print): OCC Review Separate.

Signature: _____ Date: _____

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► **J&A APPROVALS**

17. **COMPETITION ADVOCATE (Per FAR 6.304(a)(2) - Above \$700,000)**

Approved Disapproved

Name (Print): Richard Gunderson
Competition Advocate

Signature: _____ Date: _____