

**CLASS JUSTIFICATION AND APPROVAL (J&A)
FOR USE OF OTHER THAN FULL AND OPEN COMPETITION**

1. Contracting Activity: Department of the Navy, Military Sealift Command (MSC).

2. Description of the Action Being Approved: Award of contracts and purchase orders on a sole source basis for Appleton Marine crane parts and technical representative services in support of MSC vessels. Appleton Marine is the sole supplier of these parts. The authority to act under this class justification expires on 30 September 2024.

- a. This action provides the basis and rationale for awarding of Firm Fixed Price contracts on an other than full-and-open competition basis for long-standing, recurrent requirements covering a broad range of Appleton Marine Crane systems, parts and services in support of the following MSC class vessels: AS (Submarine Tender); T-AH (Hospital); T-AKE (Dry Cargo/Ammunition); T-AO 187 (Fleet Replenishment Oiler); T-ESB (Expeditionary Mobile Base), T-ESD (Expeditionary Transfer Dock) and T-ARS (Rescue and Salvage).
- b. MSC recognizes its obligation to promote competition to the maximum extent possible, which it routinely does and will continue to do. However, as further described below, the decision to procure these items via limited sources is based on significant MSC experience purchasing the very systems/items listed in paragraph 5, using previous related J&As. Specifically, contract history shows that MSC has consistently procured parts and services for these systems/items utilizing other than full-and-open competition for at least the past six (7) years. Rather than duplicate a J&A, each time the covered systems/parts/services are required, this J&A consolidates the previous, relevant J&As for efficiency.

3. Description of Supplies/Services: MSC requires Original Equipment Manufacturer (OEM) parts and services to support overhaul and repairs of Appleton Marine systems installed aboard MSC vessels. The actions executed under this class J&A have an estimated value of using fiscal years (FY) 2022, 2023 and 2024 United States Navy Working Capital Funds (NWCF).

4. Statutory Authority Permitting Other Than Full and Open Competition: The statutory authority for commercial procurements greater than \$250,000.00 is 41 U.S.C. 1901e(2) as implemented by FAR Part 13.501(a), Simplified Procedures for Certain Commercial Items, Sole Source—including Brand Name. Section 815 of the National Defense Authorization Act (NDAA) of Fiscal Year 2015 makes this authority permanent. The statutory authority for simplified acquisitions less than \$250,000.00 is FAR 13.106-1.

5. Rationale Justifying Use of Cited Statutory Authority: Appleton Marine is the OEM for Appleton Marine Cranes Systems installed on MSC vessels, including MSC ships and any other

Government-owned or Government-chartered ships designated by MSC. The types of cranes include Model KB90-46 Knuckle Boom Crane, Model FB15-465 Crane Foldable, KEB50-35 Towing Crane, AMD-1712 Pedestal Crane, AMD 1975 Cargo Crane, SB90-50 Electro-Hydraulic Crane, SB90-52 Stores Handling, YMD-5094-R, AMD-2034, AMD- 2067, AMD-2310, AMD-2581. This action covers maintenance and procurement of Appleton Marine parts and services for MSC Vessels on a worldwide basis. Maintenance may include, but is not limited to, appraisals, groom, inspections, life cycle management, overhauls, refurbishment, repairs, reports, tests, and upgrades. Regulatory bodies such as the United States Coast Guard and American Bureau of Shipping only recognize servicing and repairs of this shipboard equipment by an authorized OEM representative (Appleton Marine). In addition, MSC is directed to use only OEM parts on this equipment aboard MSC Fleet Vessels per COMSCINST 4490.1. In addition, Appleton Marine retains the rights to all design drawings, tolerances, and original parts for the cranes. Accordingly, the manufacturing knowledge, special tools, and equipment required to manufacture the parts used for the OEM cranes are not known to MSC. MSC does not have the manufacturing and technical information required to reverse-engineer or manufacture the parts, and procuring alternative replacement parts will compromise the required reliability and effectiveness of the cranes installed on MSC vessels. Any work performed by any company other than the OEM would void warranties on this equipment. Safety Management Systems (SMS) number 10.6-002-ALL lists the cargo cranes as critical equipment. Failure of the cranes would restrict the ship from performing its required mission of underway replenishment. Proper refurbishment and maintenance of the installed cranes are critical to the safe operation of MSC vessels.

6. Description of Efforts Made To Solicit Offers from as Many Potential Sources as Practicable: In accordance with FAR 5.201(b)(1)(i), the Government intends to issue a synopsis and solicitation on SAM.GOV for each separate procurement, with the intent of awarding a firm fixed price contract or purchase order.

7. Determination of Fair and Reasonable Cost: The Contracting Officer will determine the contract prices to be fair and reasonable using price analysis techniques described in FAR 13.106-3 or 15.404-1, as appropriate, on a per solicitation/contract basis.

8. Actions To Remove Barriers to Future Competition: For the reasons set forth in Paragraph 5, MSC has no plans at this time to compete future contracts for the types of supplies/services covered by this document, and there are no actions planned to remove or overcome the brand name requirement. If another potential source emerges, MSC will assess whether competition for future requirements is feasible.

9. Description of Market Research Conducted: A sources sought (SS) notice was posted on the SAM.GOV website on 03 November 2021 and closed 18 November 2021. The SS respondents were required to demonstrate the ability to provide the required items or alternative solutions that are compatible with the existing Appleton Marine Cranes. One (1) response was received from Appleton Marine. To date, there has been no indication of changes in the market for providing parts and services for these pumps. Additionally, a review of contracts for Appleton Marine Cranes for the past seven years only shows contract awards only to Appleton Marine. Appleton Marine does not utilize a parts or services distributor network for the sales of its parts or services.

10. List of Sources that Expressed Interest in Writing: To date, no qualified sources, other than Appleton Marine, have expressed an interest in writing. However, when applicable, requirements will be advertised through Sam.Gov.

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.

COMPETITION ADVOCATE

Upon the basis of the above Justification, I hereby approve as the Competition Advocate, the solicitation of the proposed procurement(s) described herein using other than full and open competition.

MARTIN.THOMAS.JOSEPH.1277484885

 Digitally signed by MARTIN.THOMAS.JOSEPH.1277484885
Date: 2021.12.07 12:08:12 -05'00'

Signature

Name (Printed)

Phone No.

Date

