

MEMORANDUM TO THE FILE

Subj: FAR SUBPART 8.4 LIMITED SOURCES JUSTIFICATION

I. BACKGROUND:

- A. FAR 8.405-6 states that orders placed or BPAs established under Federal Supply Schedules are exempt from the requirements in FAR Part 6. However, an ordering activity must justify its action when restricting consideration. This memorandum documents the justification for limiting sources, in accordance with FAR 8.405-6(c).
- B. This acquisition is conducted under the authority of the Multiple-Award Schedule Program (see FAR 8.401).

II. IDENTIFICATION OF THE AGENCY AND CONTRACTING ACTIVITY:

This acquisition is being conducted by the Department of the Navy, under the Headquarters Marine Corps, Installation and Logistics (HQMC, I&L) Head of the Contracting Activity (HCA). The executing contracting office is Marine Corps Installation East Regional Contracting Office.

III. NATURE AND/OR DESCRIPTION OF THE ACTION BEING APPROVED

Award of a contract on a sole source basis for the purchase of HCL AppScan software licenses in support of the MCIEAST-G6 programs and machines from Vertosoft, LLC.

IV. DESCRIPTION OF THE SUPPLIES OR SERVICES REQUIRED TO MEET THE AGENCY'S NEEDS (INCLUDING THE ESTIMATED VALUE):

This requirement is for the purchase of four (4) HCL Security AppScan software licenses manufactured by HCL Technologies. The HCL Security AppScan software license will be used to test web applications for security vulnerabilities. The period of performance starts 1 April 2025 and ends 31 March 2026, and will be used to maintain an existing software service and upgrade plan already in place. The estimated value to procure this requirement is \$37,207.68.

V. THE DETERMINATION TO LIMIT SOURCES IS BASED ON THE FOLLOWING AUTHORITY AND SUPPORTING RATIONALE (*select all that apply*):

- A. **AN URGENT AND COMPELLING NEED EXISTS, AND FOLLOWING THE PROCEDURES IN FAR 8.405-2 OR 8.405-3 WOULD RESULT IN UNACCEPTABLE DELAYS (FAR 8.405-6(a)(1)(i)(A)):**

The supplies or services are of such unusual and compelling urgency that the Government would be seriously injured unless the agency is permitted to limit the number of sources from which it solicits bids or proposals. Urgent requirements are supplies or services that will result in a work stoppage or are mission critical and the routine processing time would result in injury to the Government. The determination that the procurement for the above item/service is an urgent and compelling requirement is based on the following:

1. Date on which the requirement was first identified:
2. Required delivery date/period of performance:
3. Explanation of why delivery/commencement of services by the date mentioned above is required:

4. Market research:

B. X ONLY ONE SOURCE IS CAPABLE OF PROVIDING THE SUPPLIES OR SERVICES REQUIRED AT THE LEVEL OF QUALITY REQUIRED BECAUSE THE SUPPLIES OR SERVICES ARE UNIQUE OR HIGHLY SPECIALIZED (FAR 8.405-6(a)(1)(i)(B)) (select all that apply):

1. RESTRICTIVE RIGHTS. The source has established proprietary rights, limited rights in data, patent rights, copyrights or secret processes in the item or service required.
2. EXCLUSIVE LICENSING AGREEMENTS. The item or service is only available from the Original Equipment Manufacturer (OEM), or there is only one authorized distributor or technical representative for the OEM.
3. X OTHER REASONS.

According to DFARS PGI 208.7403(1), requiring officials shall fulfill the requirement from the DoD inventory, if software or services are available through DoD Enterprise Software Initiative (DoD ESI). Market research was conducted to search through required sources before considering soliciting through open market. Market research showed that only one vendor was available to provide the software through DoD ESI, Vertosoft LLC. Therefore, this requirement will be sole sourced to Vertosoft LLC.

C. IN THE INTEREST OF ECONOMY AND EFFICIENCY, THE NEW WORK IS A LOGICAL FOLLOW-ON TO AN ORIGINAL FEDERAL SUPPLY SCHEDULE ORDER (FAR 8.405-6(a)(1)(i)(C)):

The original order was placed in accordance with the applicable Federal Supply Schedule ordering procedures. The original order or BPA was **not** issued under sole-source or limited-sources procedures.

D. ITEMS PECULIAR TO ONE MANUFACTURER (FAR 8.405-6(b)):

An item peculiar to one manufacturer can be a particular brand name, product, or a feature of a product, peculiar to one manufacturer. A brand name item, whether available on one or more schedule contracts, is an item peculiar to one manufacturer.

HCL AppScan software has an approved Authority to Operate (ATO) on the Marine Corps Enterprise Network, which is currently in use by MCIEast G6. The use of other software would require a new ATO, which could approximately take six months to a year to obtain. Using any other software, than what is already cleared to operate on the network, may leave MCIEast open to security vulnerabilities causing untold damage to the Marine Corps.

VI. DETERMINATION THAT THE ORDER OR BPA REPRESENTS THE BEST VALUE:

The Contracting Officer has determined that the order or BPA covered by this justification will represent the best value to the Government. Fair and reasonable pricing will be determined in accordance with DoD Class Deviation 2014-O0011 using the proposal analysis techniques at FAR 15.404-1.

VII. DESCRIPTION OF THE MARKET RESEARCH CONDUCTED AMONG SCHEDULE

HOLDERS:

A discussion of the market research conducted among schedule holders and the results, or a reason market research was not conducted, is included in Section V, above.

VIII. ACTIONS TAKEN TO REMOVE OR OVERCOME BARRIERS:

For the reasons set forth in Part III, the activity has no plans at this time to take action to eliminate the barriers that led to restricted consideration for the types of supplies/services covered by this justification; however, this will be reassessed during follow-on acquisition planning.