

Justification and Approval for Other Than Full and Open Competition Justification

1. **Contracting Activity:** U.S. Army Corps of Engineers, Louisville District, Contracting Division, 600 DR. ML King, Jr. Place, Louisville, KY 40202 (CELRLCT-M)

2. **Description of Action:** Approval is requested for use of a brand name item, RS Means, as part of the Single Award Task Order Contract (SATOC) for various construction task orders to be performed at Defense Supply Center Columbus (DSCC), Ohio. The base contract will be an IDIQ containing \$3,200,000 in capacity. The individual task orders will be awarded using multiple funding types (O&M, Defense Working Capital, etc.) across the multiple years of the contract. The funding types will be reviewed for fiscal compliance prior to the issuance of the individual task orders.

3. **Description of Supplies/Services:** Proprietary RS Means cost estimating software. The estimated sole source cost for the equipment is approximately [REDACTED]

4. **Authority Cited:** The statutory authority permitting acquisition of the requirement by Other than Full and Open Competition is 10 U.S.C. 2304 (c)(1), as implemented by FAR 6.302-1, Only One Responsible Source and No Other Supplies or Services Will Satisfy Agency Requirements.

5. Reason for Authority Cited:

(a) Background: This contract is intended to provide rapid response for a variety of projects that include new construction, upgrades, maintenance, or repair of situations relating but not limited to site work, interior/exterior finishes, architectural woodwork, electrical, mechanical, plumbing, and structural and fire suppression system of Government facilities in a cost-effective manner. Work requiring the use of civil funds is not allowed. The contract will be for five (5) years with a total capacity of \$3,200,000. Work may include but will not be limited to:

General Construction: New construction, renovation, repair and/or upgrades of all permanent structures to include but not be limited to: interior/exterior finishes (floors, ceilings, doors, windows, paint, siding, etc.), architectural woodwork (molding, cabinets, etc.), electrical systems (conduit, wire, breakers, panels, transformers, emergency generators, interior/exterior high and low voltage electrical power lines, interior/exterior lights, emergency shut offs, lighting protection, etc.), mechanical systems (HVAC instrumentation and controls, HVAC control systems, commissioning, decommissioning, retro-commissioning, total building commissioning, gas lines, insulation, acoustical systems, underground high temperature lines, boilers, chillers and chilled water distribution systems, variable frequency controls on HVAC systems, etc.), plumbing systems (sanitary sewer, domestic water lines, backflow preventers, pumps, water coolers, etc.), fire suppression systems (fire alarm systems, sprinkler system, etc.), communication systems (mass notification system, IT lines, telephone and data lines, etc.), renewable energy systems (solar panels, ground source heat pumps, etc.), roofing systems (various roof types, gutters, downspouts, flashing, fascia, soffit, etc.), structural systems, fencing,

gates, conduit and cables for security systems, Anti-Terrorism Force Protection systems (site layout, security design, building construction, threat development, level of protection, design constraints and communications, etc.) and the necessary appurtenances to consider the structure complete and usable.

Other Construction: New construction, renovation, repairs and/or upgrades of highways, roads, streets, sidewalks, decorative pavers, athletic/recreational surfaces, landscaping and irrigations systems, seeding/sodding, detection loops, pedestrian bridges, highway bridges (bridges that do not span over major waterways), parking lots, traffic lines/markings/signs. Work may also include but not be limited to site preparation, earthwork, grading, excavation and filling, clearing and grubbing, surveying, traffic and signalization and traffic studies, storm water management, storm drainage systems, and erosion control.

Incidental Work: Work incidental to the tasks performed in any of the above paragraphs may include but will not be limited to demolition, carpentry, lighting, and similar minor electrical work that may be required to provide a complete, safe, and usable facility during and after the course of roofing, mechanical, plumbing, or painting services.

Damage such as ceiling replacement, painting, and carpet cleaning as a result of roof leaks.

Lead, asbestos, and mold remediation work incidental to renovation work.

Surface deterioration incidental to interior/exterior repairs such as patching drywall, replacing siding, trim work, etc.

Relocating furniture and workstations incidental to construction.

Testing, reports, and surveys associated with new construction, renovation, repairs and/or upgrades and additions to buildings (including lead and asbestos), structures, roads (including traffic/pedestrian patterns).

(b) Justification: Use of RS Means software would provide a uniform basis for estimating the construction cost of facility renovation projects for ease of comparison between the Contractors' proposals and the Government's Independent cost estimates. This software is user-friendly and allows the Government and the Contractor to agree on scope using the pre-defined construction tasks included in the internal database of RS Means program. The program can be used by the Government Resident Offices' personnel in the field with minimal training. The program has been in use by other USACE Districts for years, so there is a precedent that this software provides value to the Government, otherwise it would not still be in use today. Other similar estimating programs would require extensive training to all personnel who would be using them to prepare cost estimates. Therefore, use of RS Means eliminates the additional resources (time and money) that would be required to bring USACE staff up to speed on a new program and takes advantage of the fact that the contractors are also already adept at using RS Means.

(c) Impact: If RS Means software is not used, the impact is that there will continue to be delays in processing small construction projects and/or contract changes due to discrepancies between the Government estimates and the Contractors' proposals. Additional time will be spent agreeing

not only on scope, but also on pricing, which inevitably leads to delays and additional impact costs to the projects. The use of the software by the Contractor and the Government allows both sides to agree on scope items using predefined items, which saves time upfront on the scope, and when it comes time for negotiations. Additionally, the use of RS Means by the field offices eliminates the need to involve Cost Engineering in the preparation of estimates, which leads to even more time and expense for the estimate to be prepared by them. In essence, the software streamlines the process to allow work to get completed faster and for less money than if other systems were used. While the use of other programs besides RS Means would likely not lead to mission failure, it unnecessarily leads to wasted time and effort on the Government's part for these types of contracts, which is more of a burden on taxpayers than should be placed.

(d) Alternatives: There is no other viable software that is structured to allow the simplicity of allowing 2 separate entities to prepare independent cost estimates that can be compared with minimal discussion to ascertain fair and reasonableness to the Government. Any other software program would be more difficult, time-consuming, and expensive to implement, and would still lead to complicated scope discussions and contract negotiations.

6. Efforts to Obtain Competition: No other cost estimating software is currently available that contains both the ease of use and the database of construction tasks that are common for these types of facility renovation projects. No other company/provider would be willing to change their entire product to satisfy the needs of this one particular subset of construction, so it is unlikely that any competition would be found that satisfy the requirements of this situation.

7. Actions to Increase Competition: None, for the reasons stated above.

8. Market Research: The type of contract contemplated that will utilize the RS Means software has previously been advertised and awarded through the USACE, Savannah District. The Savannah District contracts that incorporate the RS Means requirement have successfully completed projects of similar size and scope as those anticipated under the Louisville District's planned SATOC IDIQ. Additionally, RS Means software is commercially available and is not limited in availability, per an internet search for licensing and maintenance support of the RS Means software.

9. Interested Sources: RS Means is the sole provider of cost estimating software that is capable of providing a uniform basis for facility renovation projects in a format that allows for consistent comparison to Government cost estimates.

10. Other Facts: N/A

11. Technical Certification:

I certify that the supporting data under my cognizance which are included in the justification are accurate and complete to the best of my knowledge and belief.



Title: Project Engineer

12. Requirements Certification:

I certify that the supporting data under my cognizance which are included in the justification are accurate and complete to the best of my knowledge and belief.



Date

13. Legal Sufficiency Review:

I hereby determine that the information herein is legally sufficient, and I concur with the sole source procurement.



Date

Title: Assistant District Counsel

14. Fair and Reasonable Cost Determination/Contracting Officer Certification

I hereby determine that the anticipated cost to the Government for this contract action will be fair and reasonable. The determination for fair and reasonable will be made by comparing the contractor's price to the Independent Government Estimate. I further certify that this J&A is accurate and complete to the best of my knowledge and belief.



Date

Title: Contracting Officer