

United States Special Operations Command (USSOCOM)



Justification and Approval (J&A)

22-3434

Binocular Night Vision Device (BNVD) Kits

March 2022

CUI//CTI/PROPIN//NOFORN/FEDCON

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Controlled by: U.S. Navy,
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Justification for Other Than Full and Open Competition (J&A)

Preparation of this document is the responsibility of the Requiring Activity Official (RAO) via close coordination with the supporting contracting organization.

ALL AREAS ARE MANDATORY AND MUST BE COMPLETED

Authority: (10 U.S.C. 2304(c)(1), as implemented by FAR 6.302-(1))

Program Name: Binocular Night Vision Device (BNVD) Kits	J&A No.
Component/PEO/Other: PEO-SW Lethality Visual Augmentation	22-3434
Estimated Contract Cost (including options) : \$4,995,200.00	
Type J&A: (Individual ☒ or Class ☐)	

1. Agency and Contracting Activity: (FAR 6.303-2(b)(1))

SOF AT&L – PEO Special Operations Forces (SOF) Warrior (SW) Systems, MacDill AFB, FL 33621

2. Description of Action: (FAR 6.303-2(b)(2)) Bridge Action (Yes ☐ or No ☒)

This J&A is for the award of an Indefinite Delivery, Indefinite Quantity (IDIQ) contract for the AN/PVS-31A (Part Number: BNG-001-A53) Binocular Night Vision Device (BNVD) kits to L3Harris Technologies, Inc., [REDACTED] on a sole source basis. The total number of BNVDs for this IDIQ is [REDACTED] units.

PEO SW – PM SOF Lethality requests approval for a new sole source IDIQ contract to be completed using procurement funding.

Procurement funds shall be used for each year of this procurement action, starting in [REDACTED], the total value for this procurement will be \$4,995,200.00

3. Description of Supplies/Services: (FAR 6.303-2(b)(3))

The scope of the contract is for the procurement of the AN/PVS-31A BNVD (Part Number: BNG-001-A53) kit. The BNVD is a night vision binocular that allows for improved situational awareness in low light and night conditions. The system is helmet-mountable and can be stowed against the helmet when not in use. BNVD is compatible with clip-on imagers allowing for fused imaging capability with thermal [REDACTED] BNVDs are employed by SOF for low light and night operation.

The BNG-001-A53 kit includes: one BNVD binocular, two filter cover assemblies, one operator manual, five lithium AA batteries, one soft case, two eyecups, one pack of lens tissue, and one neck cord.

4. Authority Cited: (FAR 6.303-2(b)(4))

☒ 10 U.S.C 2304(c)(1), Only One Responsible Source and No Other Supplies or Services Will Satisfy Agency Requirements, as implemented by FAR 6.302-1

L3Harris is the Original Equipment Manufacturer (OEM) for the AN/PVS-31A BNVD and the data associated with this equipment is proprietary. There are no authorized suppliers, dealers, or distributors. These items are only produced and maintained by the manufacturer, L3Harris.

5. Reason for Authority Cited: (FAR 6.303-2(b)(5))

L3Harris is the sole manufacturer and OEM of the AN/PVS-31(BNG-001-A53) night vision binoculars and was awarded the previous three competed production contracts for those BNVDs and spare parts: N0016412DJQ01, N0016415DJQ22, and N0016417DJQ21. All of these previous contracts have expired. Additional units are required to support full operational capability (FOC). The process involved in manufacturing the AN/PVS-31 series binoculars and parts is highly technical and requires specialized facilities, equipment, personnel, and expertise. The OEM is not willing to sell data rights to the technical data package for these systems to the Government. The BNG-001-A53 model is SOF peculiar. Only USSOCOM components use this particular BNVD. No Service (Army, Navy, Air Force, Marine Corps) buys the BNG-001-A53 as part of their program of record.

If the Government were to attempt to solicit other sources for these binoculars and associated parts, it would require the development of a technical data package consisting of mechanical drawings, electrical diagrams, optical prescriptions, and system-level interactions of these components. Upon receiving proposals, the Government would have to verify that there was no change to form, fit, and function for each part when assembled into the system.

Finally, the Government would have to perform compliance testing of every combination of parts between OEM and non-OEM to verify performance in accordance with the specification. This verification of performance would also include environmental survivability testing. Each monocular assembly that mounts to the bridge is made up of 11 parts, of which seven (7) are custom and four (4) are simple orings. When considering a scenario where seven (7) of those parts are non-OEM, the resulting number of combinations of OEM and non-OEM parts is 117. This does not take into account all the parts of the BNVD; however, all potential configurations would need to be verified for performance and environmental survivability. The total cost of performance and environmental testing is estimated to be [REDACTED], and the duration of that testing is estimated to exceed [REDACTED].

These estimates do not include the burden of tracking 117 different configurations of BNVD through the testing process. Furthermore, these estimates assume all testing is successful. If there is a failure during testing, it would require additional parts and testing and evaluation. In addition to the burden this would place on the taxpayer

(cost) and end user (duration), there would be a burden placed on the environmental test facility to manage this effort. This burden would be passed to all DoD programs which utilize that environmental facility.

6. Efforts/Actions to Increase Competition: (FAR 6.303-2(b)(6) & (11))

A Sources Sought Notice was posted on 4 February 2022 in which various vendors submitted white papers. The Government reviewed each white paper and determined that except for L3 Harris, all of the BNVD systems did not meet the Government's needs. The hardware differences between the various BNVD systems and the AN/PVS-31A BNVD of the BNG-001-A53 BNVD Kit would require additional expense to establish the procedures, equipment, and repair infrastructure for the Government to test and maintain the devices. Additional logistic concern would be created by having a quantity of different goggles that require separate testing, repair, and equipment amongst the existing pool of AN/PVS-31A assets.

A pre-solicitation notice (Notice of Intent) was posted on 31 May 2022 announcing the Government's intent to award a sole source contract to L3 Harris for this effort. In response to the Notice of Intent, [REDACTED] submitted a request for information. As a result, the Program Office re-reviewed all of the white papers submitted in response to Sources Sought Notice posted on 4 February 2022. It was determined that our acquisition strategy remains unchanged. With this acknowledged, the Contracting Officer sent notices to [REDACTED] as well as all other vendors who submitted white papers explaining why each vendor did not meet the Government's needs. The Government did not receive any negative responses.

As previously stated, L3Harris is the OEM for the AN/PVS-31A BNVD and the data rights associated with this equipment is proprietary. There are no authorized suppliers, dealers, or distributors. These items are only produced and maintained by the manufacturer, L3Harris. By selecting a different vendor, we can expect a substantial duplication of cost to the Government that will not be recovered through competition. Also, we can expect unacceptable delays in fulfilling the agency's requirements.

7. Market Research: (FAR 6.303-2(b)(8)).

As previously mentioned in section 6, a Sources Sought Notice was posted 4 February 2022. The notice was issued seeking sources for the BNG-001-A53 BNVD kit, the primary system of which is the AN/PVS-31A BNVD. White Papers on BNVD systems were received from the vendors listed in section 9. It was determined that L3 Harris is the only vendor able to provide the BNG-001-A53 kit. The hardware differences between the BNG-001-A53 kit and the various BNVD systems would require additional expenses to establish the procedures, equipment, and repair infrastructure for the Government to test and maintain the devices. The market research related to Sources Sought Notice BNGA53 is summarized in "(CUI) Sources Sought Notice BNGA53

Market Research (Rev 1)” dated 29 June 2022. As noted in section 6, the Notice of Intent posting did not yield any alternatives.

Lastly, eSOF and the Vulcan database were reviewed as part of this Market Research. Two entries were found from 2017. The two BNVDs from Night Vision Devices did not meet the Government’s need for BNG-001-A53 BNVD kit.

8. Other Authorities/Factors: (FAR 6.303-2(b)(9))

None

9. Interested Sources: (FAR 6.303-2(b)(10))

L3Harris Technologies, Inc.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Elbit America – Night Vision (Elbit Systems of America)

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Knight's Armament Company

[REDACTED]
[REDACTED]
[REDACTED])

Potomac River Group LLC

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

ACTinBlack US LLC

[REDACTED]
[REDACTED]

Carson Industries Incorporated

[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

NOTICE 1

Prior to approval, J&As will be screened to identify proprietary data and information exempted from disclosure by 5 U.S.C. 552, Freedom of Information Act, so that the final J&A may be prepared for required posting to FedBizOpps IAW Section 844 of NDAA 2009 as implemented via DPAP Memo, Public Disclosure of Justification and Approval Documents for Noncompetitive Contracts, dated 13 February 2009. J&As shall be posted to FedBizOpps within 14 days unless 10 U.S.C 2304(c)(2), Unusual and Compelling Urgency is cited. In that particular case the J&A will be posted within 30 days

10. Technical and Requirements Certification: (FAR 6.303-2(c))

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:

NAME: [REDACTED]

SIGNATURE: [REDACTED]

11. Fair and Reasonable Cost Determination: (FAR 6.303-2(b)(7))

I hereby determine that the anticipated cost or price to the Government for this contract action will be fair and reasonable based on adequate cost/price analysis

CONTRACTING OFFICER SIGNATURE IN SECTION 12 BELOW ALSO SERVES AS THE PRICE FAIR AND REASONABLENESS DETERMINATION IN THIS SECTION.

12. Contracting Officer Certification: (FAR 6.303-2(b)(12))

I hereby certify that this J&A is complete and accurate to the best of my knowledge and belief.

NAME: Marvin Marcia TITLE: Contracting Officer

SIGNATURE:

[REDACTED]

13. Legal: SOFARS 5601-1

I have reviewed this document and find the J&A legally sufficient to support other than full and open competition:

[REDACTED]

SIGNATURE:

[REDACTED]

14. Procuring Activity Advocate for Competition (PAAC). [see SOFARS 5601-1 for your component's approval authorities], up to \$6.5M.

I have reviewed this document and find the J&A adequate to support other than full and open competition:

NAME: _____

SIGNATURE: _____