FAR Subpart 13.5 Simplified Procedures for Certain Commercial Items – Sole Source Justification and Approval

1. Contracting Activity: U.S. Army Contracting Command – New Jersey, Joint Armaments Center (ACC-NJ-JA)

2. Description of Action: The Armament Research, Development and Engineering Center (ARDEC) requests a Firm Fixed Price (FFP) call order under Blanket Purchase Agreement (BPA) W15QKN-17-A-0079 with Siemens PLM Software Inc., 5800 Granite Parkway, Suite 600, Plano, TX, 75024. The Government projects award for December 2018 and this effort will utilize fiscal year 2018-2019 Research Development Test & Evaluation (RDT&E) funds.

    ▨ An acquisition plan is not required because this procurement does not meet the threshold at Defense Federal Acquisition Regulation Supplement 207.103(d)(i)(B).

3. Description of Supplies/Services: The purpose of this effort is to provide ARDEC and the assigned organizations, and engineering support groups within ARDEC with Siemens PLM commercial software perpetual licenses with maintenance which include Star-CCM+ utilized in engineering analyses in order to facilitate the execution of the ARDEC ammunition and weapon system acquisition mission.

- Star-CCM+ Power Session Multi-site (STAR1002M) perpetual purchase and first-year maintenance ▮▮▮▮

- ▮Star-CCM+ Additional Session Multi-site (STAR1004M) perpetual purchase and first-year maintenance ▮▮▮▮

Period of Performance: Twelve (12) months from award.

Total Value: ▮▮▮▮▮

4. Authority Cited: Simplified Procedures for Certain Commercial Items, 41 U.S.C. 1901 (or 41 U.S.C. 1903 for Special Emergency Procurement) as implemented by FAR Subpart 13.5:

    ☐ Unusual and compelling urgency
    ☐ Exclusive licensing agreements
    ☐ Industrial mobilization
    ▨ Other: FAR 13.501(a)(1)(ii) Sole-Source Acquisitions

5. Reason for Authority Cited:

Siemens PLM Software Inc. is the only contractor identified through market research that could provide the necessary software licenses and maintenance to meet the Government's requirements. Siemens PLM Software Inc., is the original software developer and distributer of the Star-CCM+ software suite. Only Siemens PLM Software Inc. has the specific capability to provide software release updates and the necessary software licenses for Star-CCM+. Currently, there is no other existing software that is technically capable. ███ ██ ██ ████████████████████████████ Therefore, only Siemens PLM Software Inc. has the specific capability to provide software released updates and the necessary software licenses with maintenance for Star-CCM+.

Any source other than Siemens PLM Software Inc. would have an estimated delay of at least ██████████████████, assuming that the source was actively working on the below requirements concurrently. Below reflects the summary of delays:

1. **Developing a New Software:** For a new potential supplier to develop a technical solution that mirrors Star-CCM+ software would have an estimated delay of at least ████████.

2. **Validating Existing Software Design:** To validate the existing software design and hardware with a new software program would result in a ██ ████████.

3. **Training for the End Users**: Once the software was deemed acceptable and validated, the Government would have to undergo a training program to educate the engineers and technicians in its use, and transition existing models to the new workflow. These training efforts would result in a ████████.

4. **Award of a New Contract:** In accordance with Army Contracting Command's Memorandum, "Baseline for Procurement Lead Time (PALT)" a new competitive action for this requirement with a dollar value ████████ ████████████████████████████████ from receipt of a complete requirements package to put a new contract in place.

Alternatives: There are no known possible alternatives available to the Government. It is not possible to utilize in-house personnel/expertise as ARDEC does not currently possess the expertise or capabilities on developing a new software. Obtaining additional competition for this requirement is not possible, because of the unacceptable delays that would be experienced to develop a new software.

6. Efforts to Obtain Competition: The Contracting Officer shall publish the notices required by FAR 5.201.

7. Actions to Increase Competition: Actions to increase competition are not possible, because only Siemens PLM Software Inc. has proprietary rights to STAR CCM+.

8. Market Research: Market Research was conducted through Computer Hardware, Enterprise Software and Solutions (CHESS) and via the Internet search in October 2018 with the following the results: Internet research found no other vendors capable of providing Star-CCM+ software support. CHESS market research also found no other vendors who were capable of providing Star-CCM+ software support and a CHESS Waiver was received.

9. Interested Sources: To date, no other sources have written to express interest in the acquisition.

10. Other Facts:

a. Procurement History:

Contract number: W15QKN-17-A-0079 Order
0002 Contractor: Siemens PLM
Award date: April 18, 2018
Period of Performance: May 30, 2018 – May 31, 2019 Contract Value: ███████████
Program: Siemens PLM Star-CCM+ License
Renewals Competitive Status: Sole Source
Authority: Simplified Procedures for Certain Commercial Items, 41 U.S.C 1901 as implemented by FAR Subpart 13.5.

Summary of Paragraph 7: Actions to increase competition are not possible, because only Siemens PLM Software Inc. owns the proprietary rights to Star CCM+ software. As of this date, Siemens PLM Software Inc. still owns these rights.

Contract number: W15QKN-17-A-0079 Order
0001 Contractor: Siemens PLM
Award date: May 26, 2017
Period of Performance: May 26, 2017 – May 26, 2018
Contract Value: ██████████
Program: Siemens PLM Star-CCM+ License
Renewals Competitive Status: Sole Source
Authority: Simplified Procedures for Certain Commercial Items, 41 U.S.C 1901 as implemented by FAR Subpart 13.5.

Summary of Paragraph 7: Actions to increase competition are not possible, because only Siemens PLM Software Inc. owns the proprietary rights to Star CCM+ software. As of this date, Siemens PLM Software Inc. still owns these rights.

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.

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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.

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13. Fair and Reasonable Cost Determination: I hereby determine that the anticipated cost or price to the Government for this contract action will be fair and reasonable. A price analysis between the proposed prices and Independent Government Cost Estimate (IGCE) shall be performed. Certified Cost and Pricing are not required for this effort since the effort is under the Certified Cost and Pricing Data threshold.

This determination will be made using the following: ☑ price analysis ☐ cost analysis ☑ IGCE ☐ audit: ☐ other:

As a part of this basis, certified cost or pricing data is not required because the item and/or services being acquired are considered commercial.

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14. Contracting Officer Certification: I certify that this justification is accurate and complete to the best of my knowledge and belief.

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Approval

Based on the foregoing justification, I hereby approve the procurement of Star CCM+ Software and Software Licenses and maintenance on a sole source basis pursuant to the authority of the Simplified Procedures for Certain Commercial Items, 41 U.S.C. 1901 as implemented by FAR Subpart 13.5, subject to availability of funds, and provided that the services or supplies herein described have otherwise been authorized for acquisition.