JUSTIFICATION AND APPROVAL FOR OTHER THAN FULL AND OPEN COMPETITION

1. CONTRACTING ACTIVITY.

United States Transportation Command, DPO Support Division, USTRANSCOM/TCAQ-D, 508 Scott Drive, Building 1900W, Scott AFB IL 62225-5357

2. NATURE AND/OR DESCRIPTION OF ACTION BEING APPROVED.

USTRANSCOM Joint Program Management Office (JPMO) requires other than full and open competition for the acquisition of Oracle Solaris Premier Subscription license support annual renewal from Oracle America, Inc., 1910 Oracle Way, Reston, VA 20190-4733. The Government requires continued use of the subscription support software. Award of a firm-fixed price contract is anticipated.

3. DESCRIPTION OF THE SUPPLIES/SERVICES REQUIRED TO MEET THE AGENCY'S NEEDS.

The purpose of this requirement is to provide annual renewal of software subscription support and is needed to obtain the latest updates and security patches.

The period of performance is from the date of award through 12 months. The estimated value is

4. STATUTORY AUTHORITY PERMITTING OTHER THAN FULL AND OPEN COMPETITION.

FAR 13.106-1(b)(1)–Soliciting from a single source. (Exclusive Licensing Agreement)

5. DEMONSTRATION THAT THE PROPOSED CONTRACTOR'S UNIQUE QUALIFICATIONS OR NATURE OF THE ACQUISITION REQUIRES THE USE OF THE AUTHORITY "ONLY ONE RESPONSIBLE SOURCE".

Oracle America, Inc., is currently the only source that can meet the Government's needs and is the exclusive software of Oracle America, Inc., and cannot be obtained from another manufacturer/source at this time.

6. DESCRIPTION OF EFFORTS MADE TO ENSURE THAT OFFERS ARE SOLICITED FROM AS MANY POTENTIAL SOURCES AS IS PRACTICABLE.

This action will be synopsized in accordance with FAR 5.201(b)(1)(iii) to determine whether there are other sources interested in this requirement.

7. **DETERMINATION BY THE CONTRACTING OFFICER THAT THE ANTICIPATED COST TO THE GOVERNMENT WILL BE FAIR AND REASONABLE.**

The Contracting Officer is unable to make this determination until after receipt of the quote for this requirement; however, commercial pricing, competition, and previous prices paid for these and similar services will be reviewed in order to determine a fair and reasonable cost.

8. **DESCRIPTION OF THE MARKET RESEARCH CONDUCTED AND THE RESULTS OR A STATEMENT OF THE REASONS MARKET RESEARCH WAS NOT CONDUCTED.**

Market research was conducted for this requirement. It was determined that this service is commercial in nature. Market research determined that Oracle America, Inc. is the only source that can provide the exclusive licensing support that meets the customers' current and future needs.

In accordance with DFARS 208-7403 a search was conducted on the Enterprise Software Initiative (ESI) website and found that Oracle Solaris Premier Subscription was not offered via ESI.

9. **ANY OTHER FACTS SUPPORTING THE USE OF OTHER THAN FULL AND OPEN COMPETITION.**

A letter from Oracle America, Inc., dated 18 November 2011, stated that the only standard distribution of this Oracle product is via the "Oracle Store". (Atch 1)

10. **A LISTING OF SOURCES, IF ANY, THAT EXPRESSED, IN WRITING, AN INTEREST IN THE ACQUISITION.**

DLT Solutions, ImmixGroup and Mythics all expressed interest in this requirement. However, due to proprietary restrictions, they could not provide the product.

11. **A STATEMENT OF THE ACTIONS, IF ANY, THE AGENCY MAY TAKE TO REMOVE OR OVERCOME ANY BARRIERS TO COMPETITION BEFORE MAKING ANY SUBSEQUENT ACQUISITION FOR THE SUPPLIES OR SERVICES REQUIRED.**

Based on market research no other companies have been identified that are able to provide Oracle Solaris Premier Subscription software support that can meet the Government's needs at this time. USTRANSCOM in conjunction the Joint Program Management Office (JPMO) will continue to conduct market research to determine if other companies are in the marketplace that have similar software that could meet the needs of the Government, so that the software can be tested and if found technically acceptable, be purchased in open competition when future needs arise.

12. CONTRACTING OFFICER'S CERTIFICATION.

I certify that the data supporting the recommended use of other than full and open competition is accurate and complete to the best of my knowledge and belief.

Lisa A. Gross

LISA A. GROSS
Contracting Officer

5 Jan 2012
Date

13. TECHNICAL/REQUIREMENTS PERSONNEL CERTIFICATION.

I certify that the data supporting the recommended use of other than full and open competition is accurate and complete to the best of my knowledge and belief.

RATERMANN.STEPHEN.A.1230346131

Digitally signed by RATERMANN.STEPHEN.A.1230346131
DN: c=US, o=U.S. Government, ou=DoD, ou=PKI, ou=USA, cn=RATERMANN.STEPHEN.A.1230346131
Date: 2012.01.06 09:56:21 -06'00'

STEPHEN A. RATERMANN
Program Manager

Date

1 Attachment:
Oracle letter, dated 18 November 2011