



DEPARTMENT OF THE NAVY
SPACE AND NAVAL WARFARE SYSTEMS COMMAND
4301 PACIFIC HIGHWAY
SAN DIEGO, CA 92110-3127

IN REPLY REFER TO:
LSJ No. 18-0304
Originator's Code: 55250

CLASS LIMITED SOURCES JUSTIFICATION (CLSJ)
FOR SAP FOR PUBLIC SECTOR COMMERCIAL OFF-THE-SHELF (COTS) SOFTWARE,
SOFTWARE MAINTENANCE SUPPORT AND INFORMATION TECHNOLOGY PROFESSIONAL
SERVICES

1. Identification of the Agency and Contracting Activity.

Department of the Navy (DON)
SPAWAR SYSTEMS CENTER PACIFIC (SSC PAC)
2.0 Contracts, Code 22550
53560 Hull Street
San Diego, CA 92152-5001

2. Nature and/or Description of the Action Being Approved.

This acquisition is conducted under the authority of the Multiple Award Schedule Program under Title III of the Federal Property and Administrative Services Act of 1949. This justification seeks approval for the use of limited sources under Federal Acquisition Regulation (FAR) Part 8.405-6 Limiting Sources to resellers on the Federal Supply Schedule (FSS) who are authorized to sell brand name SAP software licenses, software maintenance support, cloud services, and information technology professional services on behalf of the Department of Defense (DoD) Enterprise Software Initiative (ESI). This justification also supports the use of limited sources for SAP's Commercial Off the Shelf (COTS) software maintenance.

The proposed contractual action is to award multiple Blanket Purchase Agreements (BPAs) in support of the Office of Management and Budget's (OMB) Category Management initiatives and the DoD ESI. This OMB Category Management, DoD ESI BPA will be open to the entire DoD, Intelligence Community¹, and all Federal Government agencies in accordance with DFARS 208.74. The overall value of the proposed BPAs is [REDACTED] of which is for SAP software maintenance and support. This CLSJ will expire in accordance with the expiration date of the BPAs awarded against it.

Following the competitive award of the BPAs, orders will be further competed between BPA holders by warranted contracting officers and purchase card holders. This approach will assist the Federal Government and DoD agencies in further reducing the Total Cost of Ownership for all Federal and DoD programs and organizations that have SAP COTS requirements. The proposed strategy also secures licensing at discounts below GSA preset prices and incorporates Terms and Conditions in compliance with DoD ESI best practices. Although this brand-name CLSJ supports the use of limited sources for SAP's COTS software maintenance, separate limited sources justifications will be required at the

¹ The Intelligence Community is a federation of executive branch intelligence agencies and organizations that are comprised of 17 member organizations (<https://www.dni.gov/index.php/intelligence-community/members-of-the-ic/>). Office of the Director of National Intelligence

Ordering Activity level for the procurement of any new SAP licenses, cloud services, and information technology professional services.

3. Description of Supplies/Services.

The proposed action is to compete the award of multiple Federal Government-wide BPAs for SAP software licenses, software maintenance support and information technology professional services. The period of performance will be from date of award through 10 years thereafter (with one base year and nine one-year options).

The SAP BPAs will provide a catalog of product offerings that meet the requirements of the Federal government and DoD customers/stakeholders. The Federal government and DoD commonly utilized SAP COTS software, software maintenance and services in several areas of Business Intelligence and Enterprise Resource Planning (ERP) – with a special focus on Financial – software, maintenance, support and related to help customers meet their agency’s financial system needs. Products include mobile, cloud, Internet of Things and apps; In-demand services such as Financial Reporting, Financial Management, and Maintenance, Support and Services.

SAP products fall within the following categories:

- Software license purchases are subject to the terms and conditions of the Contract Special Item Number (SIN) 132-33.
- Software maintenance purchases are subject to the terms and conditions of Contract SIN 132-34.
- Professional services are subject to the terms and conditions of Contract SIN 132-51.

The SAP product catalog offers products such as SAP HANA, SAP Business Suite, ERP, SAP Professional Services, Xcelsius Enterprise Interactive Viewing, Financial Management, SAP Leonardo, Cloud Computing, Enterprise Mobility and Analytics.

The estimated value of the proposed [REDACTED]. Of this amount, the DoD is estimating [REDACTED] will be spent on new licenses and [REDACTED] is for maintenance and support, which is the subject of this class justification and discussed below. The remaining [REDACTED] is expected to be spent on Professional Information Technology (IT) services. The Independent Government Cost Estimate was developed using FPDS-NG report data verified against SAP historical sales data. FY18-27 sales projections were developed using a six-year average of fiscal years 2012-2017 using the calculation for Year One plus inflation.

The table 3.1 below contains the projected future costs for software, maintenance/support and professional services spend for fiscal years 2018 thru 2027.

Table 3.1 (In \$ Millions)

	<i>FY18</i>	<i>FY19</i>	<i>FY20</i>	<i>FY21</i>	<i>FY22</i>	<i>FY23</i>	<i>FY24</i>	<i>FY25</i>	<i>FY26</i>	<i>FY27</i>	<i>TOTAL</i>
<i>Software</i>	[REDACTED]										[REDACTED]
<i>Maintenance / Services</i>	[REDACTED]			[REDACTED]							[REDACTED]

<i>Incidental Services</i>	■	■	■	■	■	■	■	■	■	■	■	■
<i>Total Estimated</i>	■											

*Subject of this CLSJ

4. Identification of Justification Rationale.

The authority is FAR Subpart 8.405-6(b) - “Items peculiar to one manufacturer.”

SAP was approved by the ESI Working Group as a candidate to be added to the competitive ESI portfolio of software OEMs based on the historic actual and future potential savings BPAs with this OEM would garner. This CLSJ does not determine SAP as the only solution for the functional requirements for the federal government or DoD, as that justification, if not competed, will be performed at the order level IAW FAR 8.405-(6)(b)(2)(iii). This CLSJ covers only software maintenance as it cannot be provided by any other source than the OEM.

Software maintenance can only be provided by SAP as they are the sole owner of its Intellectual Property (IP) inclusive of its software source code. This makes SAP the only company who can provide software maintenance support to its software. Software maintenance is necessary to provide the patches, updates, and hotfixes necessary to sustain SAP products running on Federal and DoD networks.

SAP is also the sole author/owner of its computer software documentation, End User License Agreement(s), and associated IP terms and conditions. In order to establish an OMB Category Management, DoD ESI Enterprise Software Agreement, the government must ensure the commercial terms and conditions that govern the sale and use of its products do not include provisions that violate federal law or compromise the IP rights of the federal government.

In order to review, edit, and finalize the terms and conditions that will govern a OMB Category Management and DoD ESI Enterprise Software Agreement, the government must have privity of contract with either the IP owner (i.e. SAP) or vendors authorized to enter into contracts on its behalf. Resellers that do not have a current “Letter of Supply” from SAP cannot legally modify its End User License Agreement(s), Terms of Service, or related IP terms and conditions in support of this requirement. Therefore, in order to create this privity of contract, it is necessary to compete this requirement on a brand-name basis among authorized resellers.

5. Determination of Best Value.

This multiple-award Government-wide, DOD ESI BPA will be established using the competitive procedures outlined in FAR 8.405-3(b). Best value will be determined on the basis of low price and assent to the BPA Terms and Conditions per FAR 8.405-3(a)(2). Best value at the order level will be determined as a result of a competition between BPA GSA Schedule 70 holders in accordance with FAR 8.405-3(c)(2). When determining best value at the order level, all Contracting Officers will be required to comply with DPAP Class Deviation 2014-00011, entitled “Determination of Fair and Reasonable Prices When Using Federal Supply Schedule Contracts.”

Based on the information provided herein, the Contracting Officer has determined that the proposed action is in the best interest of the Government and will allow the BPAs to be established on the basis of best value consistent with the principles described in FAR 8.404(d).

6. Description of Market Research Conducted.

Market research was conducted by requesting a complete list of SAP's "Letter of Supply" ESI contract holders that are authorized to sell the full range of their COTS software, software maintenance support and information technology professional services. Currently, these companies include Advantaged Solutions, Inc., Carahsoft Technology Inc., and Oakland Consulting Group. Additionally, per the GSA e-Library website, only Advantaged Solutions, Inc., Carahsoft Technology Inc., and Oakland Consulting Group have a current Multiple Award Schedule (MAS) contract for SAP on GSA Schedule 70.

Based on this research, there is a reasonable expectation of competition from at least three vendors per FAR 8.405-3(b)(1)(ii)(B)(2). This requirement will be solicited via the GSA e-Buy tool in accordance with FAR 8.405-3(b)(1)(ii)(B)(1) to "...afford all schedule contractors offering the required supplies or services under the appropriate multiple award schedule(s) an opportunity to submit a quote."

7. Other Facts Supporting the Justification.

- By utilizing the buying power of the Federal Government, ESAs have historically secured discounts below FSS prices. The ten year estimated valued of this agreement, as outlined in Table 2.1, is based on capture and migration of all future DoD SAP spend from all alternative vehicles. Estimated cost avoidance is based on calculations from the current DoD ESI SAP BPA. The estimated cost avoidance numbers will be further analyzed in the Business Clearance Memorandum (BCM) in support of this acquisition.
- The DoD Chief Information Officer has identified ESAs as a key tool in achieving compliance with the Federal Information Technology Acquisition Reform Act (FITARA) as outlined in OMB Memorandum M-15-14: Management and Oversight of Federal Information Technology.
- In accordance with OMB Memorandum "Category Management Policy 16-1: Improving the Acquisition and Management of Common Information Technology: Software Licensing" dated 2 June 2016, DOD ESI ESAs are a tool in achieving the goals of the federal-wide Enterprise Software Category Team (ESCT).

8. Actions to Remove Barriers to Future Competition.

SSC Pacific anticipates that there will be a continued need to establish future DoD ESI ESAs for SAP COTS products and services on a brand name basis for the reasons outlined in Section 4.

Individual orders for new licenses, cloud and Information Technology Professional Services executed against the resulting BPA must be supported by a limited source justification in accordance with FAR 8.405-6(b)(2)(iii), which states "... the justification for a brand-name item is required at the order level when a justification for the brand-name item was not completed for the BPA or does not adequately cover the requirements in the order." Furthermore, DFARS 208.7402(1) states "[DoD] ESI does not dictate the products or services to be acquired." Therefore, it is the responsibility of the end-users utilizing SAP products to promote competition for their specific requirements.

The DoD ESI program is continually engaged in identifying original equipment manufacturers that provide significant volumes of COTS IT solutions to DoD systems and networks in order to identify additional candidates for future ESAs. The goal of these ESAs is to provide further discounting, improved terms & conditions, simplified ordering processes, and ELAs at the command and component levels.

CERTIFICATIONS AND APPROVAL

TECHNICAL/REQUIREMENTS CERTIFICATION:

I certify the facts and representation under my cognizance, which are included in this justification and its supporting acquisition planning documents, except as noted herein, are complete and accurate.

Clark R. Hendrickson

6/29/18

Clark R. Hendrickson

Date

Enterprise Communications & Networks Division Head, Code 55300

Phone (619) 553-6715

REQUIREMENTS COGNIZANCE:

Susie Hartzog

7/9/18

Susie Hartzog

Date

Communications and Networks Department Head, Code 55000

Phone (619) 553-3800

REVIEW FOR LEGAL SUFFICIENCY:

I have determined this justification is legally sufficient.

Tracey Ferguson

7/10/18

Tracey Ferguson

Date

Associate Counsel, Code 35100

Phone 619-553-4703

CONTRACTING OFFICER CERTIFICATION:

I certify that this justification is accurate and complete to the best of my knowledge and belief.

JENKINS.DAVID.W.123177

Digitally signed by JENKINS.DAVID.W.1231778744

DN: c=US, o=U.S. Government, ou=DoD, ou=PKI,

ou=USN, cn=JENKINS.DAVID.W.1231778744

Date: 2018.07.12 11:59:07 -04'00'

8744

David W Jenkins

Date

Contracting Officer

SPAWAR Systems Center Pacific, Code 22550

Phone: (619) 553-6588

SENIOR PROCUREMENT EXECUTIVE APPROVAL:

Upon the basis of the above justifications, I hereby approve, as Senior Procurement Executive of the Navy, the solicitation of the proposed procurement described herein using Multiple-Award Blanket Purchase Agreements and Limiting Sources, pursuant to the authority of Federal Acquisition Regulation (FAR) 8.401 Multiple Award Schedule (MAS) Program, pursuant to the authority of Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. § 251, et seq) and 40 USC § 501, Services for Executive Agencies.


Mr. James F. Geurts
ASN (RDA) USN
703-695-6315



Date

*ALL QUESTIONS REGARDING THIS LSJ ARE TO BE REFERRED TO DENNIS FELLIN,
CONTRACT SPECIALIST, SPAWAR SYSTEMS CENTER PACIFIC,
PHONE: 717-329-6588 EMAIL: DENNIS.FELLIN@NAVY.MIL