

REQUEST FOR COMPETITIVE PROPOSALS

A. BACKGROUND

Subtitle D of the Maritime Security Act of 2003(Act) provides for the Secretary of Transportation (Secretary) acting through the Maritime Administrator to establish a program for the provision of financial assistance (Assistance) for the construction in the United States of a fleet of up to five privately owned product tank vessels. These vessels must be operated in commercial service in foreign commerce. The vessels must also be capable of carrying militarily useful petroleum products and be available for national defense purposes pursuant to an Emergency Preparedness Plan approved by the Secretary of Defense pursuant to section 3543(e) of the Act.

The amount of Assistance that shall be paid by the Secretary for an approved vessel construction, subject to the availability of appropriations, is up to 75 percent of the actual construction cost of the vessel but in no case more than \$50 million per vessel.

The purpose of this Request for Competitive Proposals (RFP) is to select a party or parties to receive Assistance in order to construct product tank vessels. Any party selected will be required to enter into a Cooperative Agreement (CA) with the Maritime Administration (MARAD). Among other provisions, the CA will require the awardee to enter into a contract with the shipyard identified in their proposal and MARAD. Section B of this RFP sets forth the legal justification for using a CA and contract.

This RFP will consist of two phases. First phase proposals, as detailed in Section C hereof will be evaluated to determine whether the requirements of the Act and other requirements established by MARAD have been met. If so, parties submitting those proposals may participate in the second phase, detailed in Section D. Proposals in the second phase will be evaluated to determine which ones provide the best value to the Government as determined by MARAD in its sole discretion.

Note that the words “offeror” and “applicant” are used interchangeably herein.

B. TYPE OF AGREEMENT TO BE ENTERED INTO

Although MARAD may employ procedures borrowed from the Federal Acquisition Regulation System to administer the National Defense Tank Vessel Construction Program (NDTVC), it is intended instead that MARAD would enter into a cooperative agreement with the shipyard and ship operator.

The Federal Grant and Cooperative Agreement Act, 31 U.S.C. § 6301-8, established the criteria which agencies must follow in deciding which legal instrument to use when entering into a funding relationship with a state, locality or other recipient for an authorized purpose. Under these criteria, an acquisitions contract is the proper funding

vehicle when the services being acquired are for "the direct benefit or use of the United States." 31 U.S.C. § 6303.

On the other hand, a grant or cooperative agreement reflects a relationship between the United States Government and a state, a local government, or other recipient when--

"(1) the principal purpose of the relationship is to transfer a thing of value to the state, local government, or other recipient to carry out a public purpose of support or stimulation authorized by a law of the United States instead of acquiring (by purchase, lease, or barter) property or services for the direct benefit or use of the United States Government." 31 U.S.C. §§ 6304(91) and 6305(1). If there is no substantial agency involvement, a grant is the proper form of assistance arrangement. If substantial involvement is expected, a cooperative agreement is to be used. 31 U.S.C. §§ 6304(2) and 6305(2).

See B-227084, 67 Comp. Gen. 13 (1987).

Here, the services being "acquired" are not for the "direct benefit or use of the United States." The vessels would be built for the order of the private owner/operator. The intended result of the construction assistance would be privately owned U.S.-flag vessels. The United States would have no ownership in the vessels. The vessels would be operated in commercial service in the U.S. foreign trade for the benefit of the vessel owner/operator. The only benefits accruing to the United States Government are indirect ones incident to other privately owned, U.S. built, U.S. documented vessels. That is, the resulting vessels would be available to serve as a naval and military auxiliary in time of war or national emergency pursuant to government requisition authority extending to every U.S.-flag vessel, or by contracting with the United States Government under an emergency preparedness agreement or under a voluntary charter. The vessels would also employ trained U.S. citizen crews and provide work for the nation's shipyards.

Accordingly, an acquisitions contract is not the appropriate funding vehicle because the United States government is not procuring either property or services. Instead, we intend to use a cooperative agreement, because the award of tank vessel construction assistance serves the public purpose of fostering a modern and necessary U.S. merchant marine supported by efficient facilities for shipbuilding and ship repair.

C. PHASE I PROPOSALS

Phase I proposals will be evaluated to determine which comply with the requirements of the program as established by the Act and MARAD. These requirements are as follows:

- 1) The offeror must be a citizen of the United States or any shipyard in the United States (see Section E. on Citizenship below for further details)
- 2) The vessel to be constructed must be a new product tank vessel with the following characteristics:

- a) Size - Total deadweight between 35,000 and 60,000 long tons
 - b) Cargo segregations – capable of a minimum of three cargo segregations
 - c) Cargo tank coatings – epoxy coated cargo tanks
 - d) Certification - U.S. Flag, certified for USCG Grade A and lower cargoes
 - e) The proposed shipyard must have necessary capacity and expertise to successfully construct the proposed number and type of product tank vessels in a reasonable period of time as determined by MARAD, taking into consideration the recent prior commercial shipbuilding history of the proposed shipyard in delivering a vessel or series of vessels on time and in accordance with the contract price and specifications.
- 3) The proposed operator must have the ability, experience and financial resources necessary for the operation and maintenance of the vessel.
- 4) The applicant’s proposal must not contain any provisions which would make the vessel ineligible for the Maritime Security Program (MSP) or Title XI loan guarantee program if the vessel operation or construction financing is based on approval under those programs. If the applicant intends to apply under the MSP for the new tanker, the applicant must indicate if it proposes to operate a foreign-built tanker under the MSP in the interim.

D. PHASE II PROPOSALS

Phase II proposals will be evaluated to determine which provide the best value to the Government as determined by MARAD. The best value evaluation will take into consideration the following factors:

- (1) The costs of vessel construction for the vessel proposed to receive Assistance
- (2) The commercial needs of the United States. For the purpose of determining best value for this RFP, desirable features that contribute to the commercial needs of the United States are the following:
 - a) Potential for series construction beyond those ships built with Assistance, particularly for the Jones Act product tanker trade
 - b) Potential for use of innovative ship production techniques
 - c) Technical completeness and accuracy of the submitted design
 - d) Delivery schedule
 - e) Potential for the operator to be successful in the foreign trades relative to other applicants under the RFP
- 3) The national security needs of the United States. For the purpose of determining best value for this RFP, desirable features that contribute to the national security needs of the United States are the following:
 - a) Size – minimum cargo capacity of 250,000 bbls.
 - b) Draft – 28 ft light draft, 38 ft maximum draft
 - c) Maximum length-700 ft, overall

- d) Accommodations for two U.S. Merchant Marine Academy cadets in addition to crew

E. CITIZENSHIP

Applicants for construction assistance must either be a shipyard located in the United States, which is defined as including the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands, or the applicant must be a U.S. citizen. A U.S. citizen for purposes of applying for assistance to construct a product tank vessel is an entity that is eligible to document a vessel under chapter 121 of title 46, United States Code.

A priority in granting applications for construction assistance will be given to a proposal submitted by a person that is a citizen of the United States under section 2 of the Shipping Act, 1916, provided such proposal ensures that all subsequent purchasers of the construction contract shall be United States citizens under section 2 of the Shipping Act, 1916, as approved by the Maritime Administration, until delivery of the vessel. Following delivery of the vessel, the vessel must be documented under chapter 121 of title 46, United States Code, with a registry endorsement only.

Note that, in order to be eligible for inclusion in the Maritime Security Fleet, tank vessels constructed under this program, among other things, must meet the requirements regarding citizenship of owners, charterers, and operators contained in section 53102(c) of the Maritime Security Act of 2003, i.e.: (1) owned and operated by section 2 citizens; (2) owned by section 2 citizen or United States citizen trust, and chartered to documentation citizen; (3) owned and operated by defense contractor; or (4) owned by documentation citizen and chartered to section 2 citizen.

Under Section 53103 (c) of the Maritime Security Act of 2003, a priority for award of an operating agreement under the Maritime Security Program will be given to tank vessels constructed under this construction assistance program that are, during the period of the operating agreement that applies to the vessel, owned and operated by one or more persons that are United States citizens under section 2 of the Shipping Act, 1916.

F. SPECIAL REQUIREMENTS

Construction in the United States

The Act provides for financial assistance for "the construction in the United States of a fleet of up to 5 privately owned product tank vessels." For purposes of this RFP, "construction in the United States" means assembled in a shipyard geographically located in the United States. However, the Assistance may only be used for U.S. components and services unless a waiver is granted. The basis and scope of a waiver shall be as allowed under the Title XI program in 46 CFR 298.13(b)(2).

Financial and Operational Capability of Shipyard

The requirements for insurance, bonding and shipyard capability will be the same as set forth for the Title XI program at 46 CFR 298.32(a)(1), regardless of whether or not Title XI financing is utilized.

Progress Payments

Progress payments, if any, must be based on physical progress. The Assistance may be paid on a pro rata basis with other vessel financing. The Assistance shall be paid to the shipyard. If the vessel is financed with Title XI, withdrawals from the Escrow Fund shall be subject to the requirements set forth in 46 CFR 298.33(b).

Government Oversight

MARAD will exercise contract oversight during construction. This will include approval of key plans, a representative at the shipyard, and approval of key events. MARAD's oversight role will be defined in the contract.

Financing

Proposals may be made contingent on obtaining financing for the vessel construction, which may be Title XI or other, and the award of an MSP contract. The Assistance contract may be awarded subject to these contingencies as well as the availability of appropriated funds for Assistance.

Cargo Preference

If the Assistance is the only Government financial assistance used for the project, the requirement for U.S.-flag transportation shall only apply to those components or services for which the Assistance is utilized.

G. TECHNICAL PROPOSAL INSTRUCTIONS

Phase I Technical Proposal Instructions

- 1) In order to evaluate the offers received in accordance with the evaluation criteria contained in Section H, offerors are required to submit the following as their technical proposal:
 - a) Business Plan
 - b) Concept Design
 - c) Background and Experience

Business Plan

The proposal must include a business plan detailing the business approach to the acquisition and operation of the NDTVCP vessels. The business plan must include the following sections:

- a) Discussion - approximately one page narrative describing the proposal
- b) Participants - the participants must be identified, including:
 - i) The offeror with citizenship (or location if offeror is a shipyard). If the offeror is claiming citizenship under section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802) substantiation, in the form of a citizenship affidavit as described in 46 CFR 355, should be included here.
 - ii) Any partners
 - iii) Major contractors
- c) Describe relationship between participants
- d) Notional shipyard contract
 - i) Letter of intent
- e) Source of funds
 - i) Owner
 - ii) Financed
 - iii) NDTVCP assistance - Proposed schedule of payments
- f) Number of ships
 - i) To be built with NCTVCP funds
 - ii) Other ships to be built in same series, if any
- g) Commercial Viability
 - i) Market review to demonstrate the need and potential market for the vessel
 - ii) Analysis of market indicators including traffic patterns, supply, demand, market rates and utilization
- h) Pro-forma financial calculations
 - i) Projected revenue, including all assumptions and underlying projections. A justification for the utilization rate should also be included.
 - ii) Operating costs, including wages, insurance, fuel, maintenance and repair, etc.
 - iii) Other expenses, including sales, general and administrative, port fees, harbor assist, and all other related expenses
 - iv) Capital costs, based on preliminary vessel cost estimate, with a breakdown of all repayment terms (debt and equity)
 - v) Forecast of Operations for the first five years after vessel delivery (projected income statement and cash flow analysis for the project). Support for any assumptions will need to be provided in detail.

Concept Design

The proposal must include a concept design with the following sections:

- a) Outline specification - An outline specification of 3 - 5 pages must be provided. The outline specification shall include at a minimum principal characteristics,

regulatory standards to be met, main propulsion type, coatings description, and cargo system description. The outline specification must address each of the vessel requirements identified in Section C.

- b) General Arrangement Drawings: Drawings shall include the inboard profile and plan view of the decks. The drawing must be to scale and must identify all major cargo and ballast tanks, main and auxiliary machinery locations, and frame spacings. A table of principal characteristics must be included on the drawing.
- c) Tank capacity table giving the volume of each cargo and ballast tank.
- d) Hydrostatic properties at design draft (i.e. volume, S.W. displacement, LCB)
- e) Lightship weight estimate to a concept design level. (The estimate should contain from 15 - 30 weight categories).
- f) Speed/power estimate

Although information may be submitted in either English or metric units, metric units are preferred.

Background and Experience

As detailed below, the proposal must contain information on the background and experience of the proposed vessel operator, proposed shipyard, naval architect (if different from the shipyard) and offeror (if not either the operator or shipyard).

The background and experience of the operator must not exceed five pages and must include the following:

- a) Type of organization, address of principal offices, a list of all companies or persons that directly or indirectly control, are controlled by, or are under common control with the applicant.
- b) Brief description of principal business activities of the company and its principal officers over the past five years
- c) Detailed statement which shows the ability of the applicant to successfully operate the vessel
- d) General description of vessels currently owned or operated, including areas of operation.
- e) The most recent financial statements of the applicant, its parent and other significant participants, as applicable, and the three most recent audited financial statements.

The background and experience of the shipyard must not exceed five pages and must include the following:

- a) Description of facilities and capabilities
- b) Experience in vessel construction, including experience in tank vessel construction (if any)
- c) Past performance history including that of delivering a vessel or series of vessels on time and in accordance with the contract price and specifications.

- d) If the shipyard is to be the vessel designer, experience in designing product tank vessels. If the designer is not the shipyard, the qualifications and experience of the proposed designer, not exceeding two pages must be provided.

If the offeror is neither the proposed vessel operator nor the proposed shipyard, a description of the background and experience of the offeror, not exceeding five pages, must be provided.

Phase II Technical Proposal Instructions

In order to evaluate the offers received in accordance with the evaluation criteria contained in Section H, offerors are requested to submit the following as their technical proposal:

- 1) Shipyard Contract - may be contingent on financing, MSP and/or Assistance. MARAD may require changes.
- 2) Contract Design Package
 - a) Specifications: Specifications shall cover all shipyard contract work to be accomplished. They shall identify classification society rules to be used, national and international regulations to be applied and primary vessel certifications to be obtained. They shall also address pollution considerations such as engine emission, sewage processing, refrigerants and fire fighting systems.
 - b) General Arrangement Drawings: Drawings shall include the inboard profile and plan view of the decks with a table of principal vessel characteristics.
 - c) Midship Section Structural Drawing: Drawing shall be consistent with classification society and/or regulatory body requirements.
 - d) Major Longitudinal and Transverse Structural Drawings: Drawing shall be consistent with classification society and/or regulatory body requirements.
 - e) Longitudinal Hull Girder Strength Analysis: Analysis shall be consistent with classification society and/or regulatory body requirements.
 - f) Machinery Arrangement Drawings: Drawings shall have sufficient plan view(s), elevation(s) and section view(s) to show the location of all major machinery components. A list of main machinery components shall also be included.
 - g) Lightship Weight Estimate: Estimate shall include a weight breakdown in the three main weight groups: hull structure (including deckhouse), hull outfitting (including joiner work), and machinery, with a center of gravity for each main group.
 - h) Lightship Longitudinal Weight Distribution Curve: Curve should be consistent with classification society and/or regulatory body requirements.
 - i) Lines Drawing: Drawings shall show the body plan, profile plan, and waterline plan with a table of hull form characteristics. Tabular offsets in hard copy and in computer format shall also be provided.
 - j) Speed Power Characteristics: Include curves of speed versus power and rpm with details of calculation.

- k) Hydrostatics Characteristics: Hydrostatic data may be presented as curves and/or tables.
 - l) Loading Condition Calculations: Calculations should be consistent with classification society and/or regulatory body requirements and shall represent the safe loading of the ship throughout its range of operating drafts.
 - m) Intact and Damage Stability Calculations: Analyses shall be consistent with classification society and/or regulatory body requirements.
 - n) Capacity Plan: Plan shall include volume, weight, and center of gravity for each cargo and ballast tank. Free surface effects for all tanks shall also be included.
 - o) Electric Load Analysis: Analyses shall be consistent with classification society and/or regulatory body requirements.
 - p) Key Event Production Schedule: Production schedule which clearly demonstrates the integration of each vessel with the shipyard's existing workload shall be provided.
- 3) Final Business Plan - The phase I business plan must be resubmitted with the Phase II proposal, updated as appropriate.
- 4) Cost - The cost shall be submitted under a separate cover than the technical portion of the proposal. The cost proposal must contain the following:
- a) Shipyard contract price
 - b) Total cost to owner, consisting of shipyard contract price, owner furnished items, owner furnished design and engineering costs (including construction oversight).
 - c) Amount of Assistance being requested.

Addresses

Applications must be mailed, delivered in person or faxed (in which case an original must be subsequently received) to the Secretary, Maritime Administration, Room 7218, 400 Seventh Street, SW, Washington, DC 20590; Fax: (202) 366-7901.

H. EVALUATION FACTORS FOR AWARD

The evaluation of proposals will be done in two phases. Phase I submissions will be evaluated to determine compliance with requirements. Phase II submissions will be evaluated to determine best value to the Government.

Phase I Evaluation

Phase I submissions will be evaluated to determine if the requirements in Section C have been met. If so, the offeror may make a submission under Phase II.

Phase II Evaluation

Phase II submissions will be evaluated to determine which ones provide the best value to the Government. The determination of best value will take into account the following:

- 1) Commercial needs of the United States as defined in Section C
- 2) Costs of vessel construction
- 3) National security needs of the United States as defined in Section C

In determining best value, the commercial needs of the United States will be the most important factor, followed next by the costs of vessel construction and, last, the national security needs of the United States.

As noted in Section E., priority in granting applications for Assistance will be given to a proposal submitted by a person who is a citizen of the United States under section 2 of the Shipping Act, 1916.

In comparing costs of vessel construction between vessels of different sizes costs will be compared on a dollars per deadweight, dollars per lightship weight, and dollars per cargo volume basis.

Assistance awards may be made to one or more offerors for one or more vessels.

I. SCHEDULE

Issue RFP	Friday, February 20, 2004
Phase I Proposals Due	Tuesday, May 4, 2004 (75 calendar days)
Phase I Evaluation Complete	Monday, July 19, 2004 (76 calendar days)
Phase II Offerors Notified	Friday, July 23, 2004 (4 calendar days)
Phase II Proposals Due	Wednesday, October 6, 2004 (75 calendar days)
Phase II Evaluation Complete	Monday, December 20, 2004 (75 calendar days)

J. COMMENTS, QUESTIONS AND ANSWERS

Comments and questions should be submitted electronically to <http://www.marad.dot.gov>. Answers will be posted electronically.

I. FURTHER INFORMATION

For further information, contact Gregory V. Sparkman, Office of Insurance and Shipping Analysis, Maritime Administration, Room 8117, 400 Seventh Street, SW, Washington, DC 20590; Telephone: (202) 366-2400; Fax: (202) 366-7901.