

EXCEPTION TO FAIR OPPORTUNITY (EFO)

Program/Equipment: Engagement Skills Trainer (EST)

Authority: FAR 16.505(b)(2)(i)(B)

Amount: \$12,000,000.00

Prepared by:

Contract Specialist

Date: 1 Aug 2012

Contracting Officer:

Contracting Officer

Date: 1 Aug 2012

Technical Representative:

Systems Engineer

Date: 1 Aug 2012

Requirements Representative:

Assistant Product Manager

Date: 1 Aug 2012

I have reviewed this justification and find it adequate to support other than full and open competition.

Program Manager/Deputy/APEO

Product Manager, GCTT

Date: 1 Aug 2012

Legal Counsel

Attorney Advisor

Date: 9 Aug 2012

Special Competition Advocate

Special Competition Advocate

Date: 10 Aug 2012

**EXCEPTION TO FAIR OPPORTUNITY (EFO)
FOR OTHER THAN FULL AND OPEN COMPETITION**

1. **Contracting Activity:** U.S. Army Program Executive Office for Simulation, Training and Instrumentation (PEO STRI) Acquisition Center.
2. **Description of Action:** Pursuant to Federal Acquisition Regulation (FAR) 16.505(b)(2)(i)(B), the Government anticipates awarding a new Delivery Order (DO) under the PEO STRI Omnibus Contract II (STOC II) W900KK-09-D-0376 to Cubic Simulation Systems Inc. (Cubic), for the Engagement Skills Trainer (EST). The proposed bridge DO will be an interim procurement vehicle to satisfy a current requirement and support future Customer requirements until the award of the competitive EST II contract.

The estimated \$12,000,000 bridge DO will be priced on a Firm Fixed Price (FFP) basis with a base award of 17 ESTs with simulated weapons (heavy suite), and options for additional quantities of systems and simulated weapons that can be exercised incrementally. The base award will use Fiscal Year (FY) 2012, Other Procurement Army (OPA) funds from the United States Army Reserve (USAR). Additional EST systems and simulated weapons ordered will be awarded using OPA funds.

3. **Description of Supplies/Services:** The EST is a unit/institutional, indoor, multipurpose, multi-lane, small arms, crew-served and individual anti-tank training simulator. The EST provides the capability to build and sustain individual marksmanship; squad and team fire distribution and control; and judgmental use of force skills, using computer-generated imagery and video. It has also been used by deploying units to maintain skills when not able to conduct live-fire training. The Customer may order a light or heavy suite of simulated weapons for the EST system. In addition, the Customer may augment the heavy and light suite with a variety of different simulated weapons. A heavy and light suite consists of:

Simulated Weapons	Heavy Suite	Light Suite
M16A4	1	1
M4	4	4
M9	1	1
M249	1	1
M240B	1	1
M2	1	N/A
MK19	1	N/A
M16/M320	1	1
M320 with Butt stock	1	1
AT4	1	1

The Program Manager for Combined Arms Tactical Trainers, Ground Combat Tactical Trainers (PM CATT-GCTT) has a requirement to continue the acquisition of EST systems and simulated weapons, installation, and testing, currently provided under

DO W900KK-07-D-0720-0003. The ceiling on this order has been reached. Therefore, no further EST equipment can be procured under this existing DO.

The proposed bridge DO will be an interim procurement vehicle to satisfy a current USAR requirement and support future Customer requirements until the award of the competitive EST II contract, tentatively scheduled for the fourth quarter (4th QTR) of FY 2013. The bridge DO period of performance will be from contract award with option quantities for additional systems and simulated weapons that can be exercised up to 30 September 2013. Delivery of the option quantities is approximately one year after each option is exercised.

The USAR EST systems will include an Instructor Operator Station (IOS), compressor, screen and frame, HD projector, IR camera, simulated weapons with associated simulated weapon hardware (scopes, simulated 50 Cal, 5.56, 7.62, 40mm ammunition belts, simulated magazines, and associated cables and wires) included with the EST fielded systems. The manufacturing, delivery, installation, and testing of the 17 EST systems, with associated simulation software on the systems, will allow the execution of training scenarios for marksmanship, collective, and escalation of force training in USAR Government Furnished Facilities. The simulated weapons, associated weapon equipment, and simulation software will replicate the physical and visual characteristics of the existing EST 10-lane hybrid heavy simulated weapons suite. The EST IOS will capture student performance real time while tracking progress of the training scenario and the overall academic scoring.

The base award, with an estimated total value of \$██████████, will satisfy an immediate PM CATT-GCTT's requirement from the USAR to procure 17 EST heavy suites with delivery within one year. The option quantities, if exercised, have an estimated value of \$██████████. The total amount of this bridge DO will not exceed \$12,000,000. PM GCTT established the proposed DO ceiling based on the feedback received from the U.S. Army, National Guard, and USAR Customers regarding their immediate EST training requirements.

There are 15 options that include range pricing for varying quantities of systems and simulated weapons. The table below outlines the systems and the types of simulated weapons that may be exercised. The contractor will be asked to provide range pricing for the various option quantities.

Description	Range Quantities		
	1-10	11-25	26-Plus
5 Lane Subsystem	1-10	11-25	26-Plus
M16A4 Simulated Weapon	1-100	101-200	201-Plus
M4 W/Rails Simulated Weapon	1-100	101-200	201-Plus
M9 Simulated Weapon	1-100	101-150	151-Plus
M249 Simulated Weapon	1-50	51-100	101-Plus
M240B Simulated Weapon	1-100	101-150	151-Plus
M2 Simulated Weapon	1-25	26-50	51-Plus
MK19 Simulated Weapon	1-50	51-100	101-Plus
M136/AT4 Simulated Weapon	1-100	101-150	151-Plus

M1200 Simulated Weapon	1-50	51-100	101-Plus
M320 GLM Simulated Weapon	1-50	51-100	101-Plus
M320-M4 Simulated Weapon	1-50	51-100	101-Plus
M26-MASS Simulated Weapon	1-50	51-100	101-Plus
M4/M26 Simulated Weapon	1-50	51-100	101-Plus
M141BDM Simulated Weapon	1-50	51-100	101-Plus

4. **Authority Cited:** FAR 16.505(b)(2)(i)(B), “Only one awardee is capable of providing the supplies or services required at the level of quality needed because the supplies or services ordered are unique and highly specialized.”

5. **Reason for Authority Cited:**

a. Background: The Government determined in 1997 that there were a number of companies around the world that had existing commercial collective marksmanship trainers that could be modified to meet the U.S. Army requirements for an EST. Therefore, the Government's acquisition strategy was to pursue a full and open competition for the one-time procurement of all the collective marksmanship trainers needed by the U.S. Army under FAR Part 12. Cubic (formerly ECC International), the awardee, provided the Government the best value under this competitively awarded 1998 requirements contract. This contract was followed by subsequent sole source awards under STOC I, STOC II and FMS contracts. Cubic developed the initial EST systems, but the system has been in spiral development since the initial award.

The EST system manufactured by Cubic is, currently, the only system with unique capabilities that has passed Training System Requirements Document (TSRD) testing and can meet the U.S. Army's requirement for an individual and collective marksmanship trainer. The EST is the U.S. Army's program of record for individual marksmanship training. It is the only system fully validated for marksmanship training and qualification. The accuracy of the system's ballistics allows Soldiers to qualify on the EST rather than on an actual range. The use of any other system or manufacturer would result in the need to validate the ballistics of the new simulated weapons and system prior to training. Cubic is currently the only manufacturer that can produce all of the TSRD tested simulated weapons mix required for the EST system. The Government does not currently have a full Technical Data Package (TDP), to include source code, which would allow the Government to acquire a comparable EST system from another manufacturer. The use of another system satisfy the interim requirement would result in an estimated delay of approximately six months to one year for ballistics validation, dependent upon their systems and simulated weapons capabilities.

b. Alternatives: Suspending operations is not a feasible alternative as there is a current requirement for 17 ESTs to support USAR training needs. Failure to deliver ESTs to the USAR locations will deprive the USAR units of a required training capability. The USAR requires the systems during the 2013 timeframe to provide its USAR home station capability and meet its small arms weapons qualification requirements. In addition, it undermines the Chief Army Reserves (CAR's) number one

operational priority for his forces of simulated marksmanship training “to save time and efficiency.”

USAR has a Ready for Training (RFT) date of September 2013, which cannot currently be supported under the existing DO W900KK-07-D-0720-0003. In addition to the USAR immediate requirement, the U.S. Army may have additional requirements for additional EST systems or simulated weapons prior to the award of the EST II competitive contract. The projected delivery of the future competitive EST II systems will be approximately three years after contract award, taking in consideration the procurement acquisition lead-time, prototype production, testing, and production. To meet the U.S. Army’s existing need, the bridge DO includes options that may be exercised for additional quantities of systems and simulated weapons.

Procurement from an alternate source is not currently possible since other manufacturers’ configurations are different in design and architecture with the deployed EST systems. The technical data currently available is insufficient for a contractor to replicate the current design. Preliminary market research performed for the EST II acquisition shows that currently no other contractor can meet the delivery schedule required for the production of the EST training systems for the USAR’s immediate needs. A new awardee would need approximately one year after award for a prototype production and testing, followed by approximately one year for the system manufacturing and delivery.

c. Justification: Cubic is currently the only source capable of meeting the required delivery schedule needed to satisfy the current requirements for small arms marksmanship simulated training at the level of quality since the ESTs currently in use are unique and highly specialized. Currently, the U.S. Army Maneuver Center of Excellence (MCOE) and the USAR only recognize the U.S. Army’s EST system currently produced by Cubic as the only validated, program of record marksmanship trainer, until the follow-on competitively awarded EST II system is tested and validated. Therefore, any other system would not currently provide the validated training capability of the current EST, which would be detrimental to training and not meet the U.S. Army’s requirements.

d. Impact: If this proposed EFO is not approved, the USAR’s home stations capability to meet their small arms weapons qualification requirements will be jeopardized as the EST is a critical marksmanship-training asset. The EST is listed on the Mission Essential Requirements (MER) as critical requirements for U.S. Army and USAR training. An “EST like system” cannot be provided since the USAR and the U.S. Army Maneuver Center of Excellence (MCOE) only recognize the U.S. Army’s EST system currently produced by Cubic as the validated, program of record marksmanship trainer until the follow-on competitively awarded EST II system is tested and validated. Postponing the acquisition of these 17 systems until after the award of the competitive EST II effort is not a feasible alternative due to its negative impact on Soldiers planned training. Validation of a marksmanship trainer could take a year or longer. Loss of this training may result in Soldiers sent to combat without critical marksmanship training.

6. **Efforts to Obtain Competition:** A Notice of Intent to Award Sole Source to Cubic was posted on PEO STRI's Business Opportunities Portal (STRI BOP) 15 June 2012 to ensure that no other viable source is available and to maximize subcontract opportunities, as required by FAR 5.201(c). The posting informed Industry that this interim procurement vehicle will satisfy the Government's minimum EST requirements and support needs until the competitive award of the EST II, projected to be in 4th Qtr FY 2013. No responses were received.

██████████ requested clarification on 29 June 2012 on the USAR RFT need date, as well as if there would be any developmental efforts under the bridge DO. The Government sent ██████████ a response letter on 17 July 2012. In addition, the Government posted a revised STRI BOP notice on 11 July 2012 that provided additional details on the RFT dates that influence the immediate fulfillment of the USAR EST systems requirement. The revised notice reiterated that failure to provide the USAR with these additional systems during the 2013 timeframe would jeopardize the USAR's home stations capability to meet their small arms weapons qualification requirements. An additional STRI BOP notice revision was posted on 25 July 2012 to clarify that no developmental work will be excluded during the bridge DO period of performance, although the Government does not anticipate any Customer developmental work requests. ██████████ provided feedback indicating that they no longer take exception to the EFO. No responses were received from any other companies.

Based on the information in paragraph 5, above, competition for this proposed bridge DO is not feasible for the proposed brief interim period of performance.

7. **Actions to Increase Competition:** PEO STRI is currently developing a procurement package for the full and open competitive acquisition of EST II, the next generation simulator for marksmanship training to the U.S. Army. PEO STRI, utilizing best value source selection procedures, will competitively award a single award Indefinite Delivery/Indefinite Quantity (ID/IQ) contract vehicle to acquire more systems and simulated weapons; address U.S. Army weapons training concurrency issues (technical refresh of existing systems); and fulfill the remaining EST MER.

Formal Market Research has been ongoing since May 2011 in order to identify technologies and production capabilities of industry that could support the next generation EST II Program of Record (POR). PEO STRI has posted on STRI BOP and Federal Business Opportunities (FedBizOpps) several Requests for Information (RFI). The RFIs have led to site visits, demonstrations, and submitted white papers, to determine industry's capabilities to support EST II three modes of training (marksmanship, collective, shoot/don't shoot) with accurate ballistics. As a result of the opportunity for hands-on demonstration and physical inspection of the EST held between January and March 2012, industry partners provided the Government RFI feedback related to future EST acquisitions.

As part of the competitive EST II acquisition, PEO STRI will provide all potential offerors with Interface Control Documents for the existing EST simulated weapons produced by Cubic, as well as allowing a full examination of the simulated weapons. This approach is being pursued to maximize competition ensuring that these simulated

weapons could be used as part of any offeror's proposed EST II technical refresh approach.

8. **Market Research:** PEO STRI conducted market research with numerous perspective contractors, and posted several RFIs on STRI BOP and FedBizOpps. Prospective contractors have been assessed for their EST system production, design, development, test, and support capabilities or experience based on their RFI responses and on-site product demonstrations. Potential offerors have been invited to witness a demonstration of the EST.

The findings of the market research indicate that there are a number of companies that have EST comparable training experience, or are producing marksmanship trainers. However, market research also showed that, due to the lack of a complete, detailed TDP for the current EST hardware and software, a new company would need approximately two years to design a protocol interface that is transparent to the existing EST system. Therefore, no other contractor can meet the delivery schedule required for the production of the EST training systems in order to meet the U.S. Army's requirements prior to the award of the EST II contract.

9. **Interested Sources:** There are a number of companies that have comparable EST experience or which are producing marksmanship trainers. However, none of these companies are in a position to meet the timeline for the USAR RFT date nor have their system's been TSRD certified. The list below identifies the companies that formally expressed interest in the future competitive EST II acquisition.



Cubic is the only firm capable of providing the required level of support for this bridge DO. This requirement was not synopsisized in FedBizOpps pursuant to the exception in FAR 5.202(a)(2).

10. **Other Factors:** Although additional upgrades to the EST systems have been fielded, the TDP and other system documentation (SSS and IDD) for the EST contract have not been delivered. The EST acquisition has been in spiral development since its initial award due to the inclusion of Pre-Planned Product Improvements (P3I).

a. Procurement History: A requirements contract for the purchase of EST was awarded to Cubic (formerly ECC International) under Full & Open Competition in 1998. It consisted of a basic lot for development with options for five production lots, which was to fill all of the U.S. Army's Basis of Issue Plan (BOIP). It was awarded under FAR Part 12 (Commercial Item Contract), and was subsequently augmented by the award of Basic Ordering Agreement (BOA) N61339-00-G-0001 for development efforts.

The 1998 requirements contract was envisioned to be a one-time buy-out of all of the collective marksmanship trainers needed by the U.S. Army. However, soon after the award of the potential \$120,000,000 contract, the Department of Army (DA) pulled the projected funding. Despite losing direct DA funding from the Training Mission Area Program Element Group (PEG), congressional plus-ups kept the program alive. Strong Customer support, especially from the National Guard, was instrumental in keeping the program viable. Due to the increased training value that the EST was providing in sustaining and maintaining marksmanship skills, DA in FY2002 restored funding in the Program Objective Memorandum (POM) that began in FY2005. However, this projected full funding was never realized. Therefore, the EST production phase has stretched, exceeding the length of the 1998 requirements contract, as well as the period of performance of follow-on STOC I and II DOs.

PEO STRI issued numerous sole source follow-on STOC I and STOC II DOs to satisfy the U.S. Army's BOIP. The Government had considered a competitive acquisition for the remaining systems; however, at that time the new systems would have had to be integrated and interoperable with the existing systems. Due to the restricted rights and limited data rights that resulted from the commercial 1998 competitive award, it was then determined that this approach was not feasible as it would have required the Government to have two infrastructures in place for life cycle support.

The ceiling has been reached for the current W900KK-07-D-0720-0003 DO that fulfills the EST requirements for U.S. Customers. Due to funding constraints, the U.S. Army's BOIP is still not met. This proposed bridge DO, as well as the competitive EST II acquisition, should fulfill these requirements.

The EST has also been procured for numerous Foreign Military Sales (FMS) Customers under different contracts and DOs, i.e. [REDACTED].

b. Acquisition Data Availability: Cubic asserts that some of the data is proprietary since the system was originally provided as a commercial item, procured under FAR Part 12. As a result, a TDP was not procured. The Government does not have the source code for the current EST. Therefore, any other system would not currently provide the validated training capability of the current EST, which could be detrimental to the USAR training.

The Government is actively working on the requirements package for the upcoming competitive EST II acquisition vehicle to procure additional systems and simulated weapons; address U.S. Army weapons training concurrency issues (tech refresh); and buy out the remaining EST MER.

c. Unusual and compelling urgency: Not applicable.

d. Subcontracting Competition. FAR Clauses 52.219-8, entitled, "Utilization of Small Business Concerns," 52.219-9 entitled, "Small Business Subcontracting Plan" and 52.244-5 entitled, "Competition in Subcontracting" are included in the basic STOC II contract and will be utilized to ensure that the prime contractor obtains as much competition as possible in its subcontracting. The contractor under STOC II is required to submit and update their small business subcontracting plan. The contractor is also required to report the progress toward achieving those goals in the electronic subcontracting reporting system (ESRS) online. This information is reviewed and evaluated for compliance.

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.”

NAME: [REDACTED]

DATE: 1 Aug 2012

TITLE: EST Lead Engineer

SIGNATURE: _____

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.”

NAME: [REDACTED]

DATE: 1 Aug 2012

TITLE: EST Assistant Product Manager

SIGNATURE: _____

13. **Fair and Reasonable Cost Determination**: “I hereby determine that the anticipated cost to the Government for this contract action will be fair and reasonable.” In accordance with FAR 15.402, the Contracting Officer will ensure that all supplies and services ordered under this DO are procured at a fair and reasonable price. The contractor will submit a price proposal with certified cost and pricing data and sufficient information to support the accuracy and reliability of the estimate. Experienced technical analysts and a Contract Specialist will review the contractor’s proposed costs. Analyses will be based on historical cost information and rate data provided by the field pricing support agency. The Contracting Officer will utilize cost and price analysis as the basis for negotiating a fair and reasonable price.

NAME: [REDACTED]

DATE: 1 Aug 2012

TITLE: Contracting Officer

SIGNATURE: _____

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

NAME: [REDACTED]

DATE: 1 Aug 2012

TITLE: Contracting Officer

SIGNATURE: _____

APPROVAL

Based on the foregoing justification, I hereby approve the procurement of the Engagement Skill Trainer (EST) on other than full and open competition pursuant to the authority of Federal Acquisition Regulation (FAR) 16.505(b)(2)(i)(B), subject to availability of funds, and provided that the services and property herein described have otherwise been authorized for acquisition.

10 Aug 2012
DATE
