EXPORT-IMPORT BANK OF THE US

Sole Source Justification

Commercial Services Acquisition under FAR 13.106-1(b) and FAR 13.501

1. **Contracting Activity:**
   The requirement is being conducted by the Export Import Bank of the United States, Office of Contracting Services (OCS) at 811 Vermont Avenue, NW, Washington, D.C. 20571.

2. **Nature and/or Description of the Action Being Processed:**

The purpose of this Justification is to award a follow on Firm Fixed Price (FFP) Purchase order to Dr. Amadeo Julian law firm to provide legal recovery services to assist EXIM in its efforts to collect outstanding amounts owed to EXIM by the obligor/buyer [redacted] and all guarantors, if any. These efforts will include asset searches, site visits, negotiations, litigation, documentation of agreements, embargoing assets and executing upon assets.

3. **Description of Supplies/Services Required to Meet the Agency's Needs:**

The Contractor is required to provide all professional services, including all labor, materials, postage, tools, travel, supervision, and incur expenses necessary that entail the judicial process to undertake the asset recovery Scope of Work. The contractor shall perform non-personal services necessary to perform collection on EXIM Bank's defaulted loan of [redacted] Policy # FB-607074 / Claim I200678. The Contactor shall attempt recovery on behalf of EXIM Bank and, if provided EXIM Bank's express instruction to do so, institute legal proceedings and/or provide credit restructuring services to EXIM Bank's Recoveries Group, Asset Management Division ("AMD") related to the referenced claim, involving the referenced debtor and guarantor(s), located in Dominican Republic. The estimated value for this contract is [redacted], which represents recovery fees of [redacted] on actual cash recovery [redacted], plus non-admin. Legal expenses of [redacted], estimated at The Period of Performance for this contract will be five (5) years.

4. **Statutory Authority:**
   In accordance with Federal Acquisition Regulation (FAR) Part 13: Simplified Acquisition Procedures (SAP), the Export Import Bank of the United States (EXIM), intends to conduct a sole source/limited source procurement for commercial services of outside (private sector) legal counsel.

   (x) (1) Only One Responsible Source and No Other Supplies or Services Will Satisfy Agency Requirements
   ( ) (2) Unusual and Compelling Urgency
   ( ) (3) Industrial Mobilization, Engineering, Developmental or Research Capability or Expert Services
   ( ) (4) International Agreement
   ( ) (5) Authorized or Required by Statute
   ( ) (6) National Security
   ( ) (7) Public Interest

5. **Demonstration that the Contractor's Unique Qualifications or Nature of the Acquisition Requires the Use of the Authority Cited Above (applicability of authority):**

The contract involves collecting EXIM Bank's claim in a foreign country. It is imperative to hire local counsel in the Dominican Republic where the claim is to be litigated with experience in: locating assets, especially potential hidden assets, and embargoing and executing upon such assets; drafting and negotiating restructuring agreements appropriate for debtors of the type in this matter; and litigating the collection matter in all levels of courts throughout the debtor's country. It is also imperative that the local counsel have experience handling collection matters of this sort on behalf of foreign entities, and especially foreign government entities such as EXIM Bank, because such representation often raises issues and creates legal risks for the foreign government entity. These risks include the risk of countersuits, referrals for criminal prosecution, and withholding tax questions. Additionally, it is imperative to hire local counsel that is familiar with EXIM Bank's policies and procedures so as to avoid problems with payment procedures, handling of funds, facilitation of payments, and fraud.

The firm Dr. Amadeo Julian and its local office in Dominican Republic is uniquely qualified to pursue this case in Dominican Republic due to the seasoned recovery expertise, accompanied by commercial legal expertise, blended with a full understanding of EXIM Bank's activities, collection processes and rules and regulations that comply with the U.S. government guidelines. Dr. Amadeo Julian Law Firm will not require a familiarization period or training prior to immediately commencing performance of the Performance Work Statement. Accordingly, Dr. Amadeo Julian Law Firm is the only firm capable of providing the services described in Section 3 above without EXIM Bank experiencing duplication of cost for familiarization/training nor unacceptable delays in fulfilling its requirements.

The Dr. Amadeo Julian Law Firm is the local counsel that has managed the claim for EXIM Bank since its inception, and the firm is fully familiar with the case. The introduction of another party would require EXIM Bank to take risks of poor or inadequate execution that would be presented by an unfamiliar party, regardless of qualifications. The litigation is fully in process and Dr. Amadeo Julian was previously empowered under former purchase to undertake such legal action. Any changes in counsel at this juncture could completely disrupt a delicate case that is now entering into its tenth year. Dr. Amadeo Julian has been involved in litigations of this nature for several decades and is a fully registered as practicing attorney duly recognized and registered in the Dominican Republic judicial system.

6. **Description of Efforts Made to ensure that offers are solicited from as many potential sources as deemed practicable:**

In accordance with 41 U.S.C. 3304, the Bank has sought to identify as many potential sources as practicable under the circumstances. The specialized knowledge required to minimize the risks and maximize the chances of success in EXIM Bank's executing its rights under the Finance Documents and the need for confidentiality, limits the likelihood of identifying multiple firms possessing the requisite skill set.

7. **Determination by the Contracting Officer that the Anticipated Cost to the Government will be Fair and Reasonable:**

The Contracting Officer has determined that the anticipated cost to the Government for the supplies/services covered by the Justification will be fair and reasonable based upon prior experience with this contractor, comparison to rates and collection percentages assessed by similar firms in the same and similar jurisdictions, and by review of published rates publicly available.

8. **Description of the Market Research Conducted and the Results, or a Statement of the Reasons Market Research Was Not Conducted:**
AMD confirmed that the types of services to be undertaken by the Contractor are commercial in nature. These services are provided to private and public sector entities without distinction. EXIM Bank has worked with Dr. Amadeo Julian Law Firm on several heavily structured EXIM Bank transactions and demonstrated a high degree of competence in the advisory/documentary role. A review of legal support for EXIM indicated that Dr. Amadeo Julian Law Firm is uniquely positioned to provide the services required for this instance. No other firms were identified that possess similar knowledge of EXIM, its transactions and legal experience with project situated in Dominican Republic. EXIM Bank has been utilizing Dr. Amadeo Julian Law Firm since 2016 on this particular project and is satisfied with the services being provided.

9. **Any Other Facts Supporting the Use of Other than Full and Open Competition:**
Dr. Amadeo Julian provides seasoned collection specialist(s) who have been involved both in the private and public sectors of Dominican Republic. In addition, the firm is fully cognizant of the process of litigation within Dominican Republic courts.

10. **Listing of Sources that Expressed, in Writing, an Interest in the Acquisition:** NA

11. **A Statement of the Actions, if any, the Agency May Take to Remove or Overcome any Barriers to Competition before Making subsequent acquisitions for the supplies or services required**:
For the reasons set forth in Paragraph 5, EXIM Bank has no plan at this time to compete future contracts for the types of services covered by this document. If another potential source emerges, the Agency will assess whether competition exists.

12. **Requirements Certification:**
I certify that the requirement outlined in this justification is a Bona Fide Need of the Export-Import Bank of the US and that the supporting data under my cognizance, which are included in the justification, accurate and complete to the best of my knowledge and belief.

[redacted]

Name: [redacted] Date [redacted]
Title: [redacted]
Facility: [redacted]

13. Approvals

a. **Contracting Officer's Certification (required):** I certify that the foregoing justification is accurate and complete to the best of my knowledge and belief.

[redacted]

[redacted]

[redacted]

Date