

Extension Program for its F/A-18C/D aircraft to include up to fifty (50) Multifunctional Information Distribution System Joint Tactical Radio System (MIDS JTRS) with Concurrent Multi-Net 4 (CMN-4) capability; fifty (50) ARC-210 GEN 5 RT-1900A(C) radios w/ Second Generation Anti-Jam Tactical UHF Radio for NATO (SATURN) frequency hopping; twenty (20) Joint Helmet Mounted Cueing System (JHMCS) Night Vision Cueing Display (NVCD); CIT Automated Dependence Surveillance-Broadcast (ADS-B) Out; software enhancements to the APG-73 radar; improvements to the F/A-18 Software Configuration Set (SCS) 29C; and sustainment for the ALQ-165 Airborne Self Protection Jammer (ASPJ) system. Operational support for these modifications will be provided through upgrades to the purchaser's unique Mission Data System. Also included are: system integration and testing; software development and integration; support equipment; spare and repair parts; maintenance personnel and pilot familiarization training; software support; publications and technical documents; U.S. Government and contractor technical assistance; and other related elements of logistics and program support. The estimated total case value is \$115 million.

(U) This proposed sale will contribute to the foreign policy and national security objectives of the United States by helping to improve the security of Switzerland which has been, and continues to be an important force for political stability and economic progress in Europe. Switzerland is also a member of the NATO Partnership for Peace (PfP) program.

(U) The proposed sale will allow the Swiss Air Force to extend the useful life of its F/A-18 fighter aircraft and enhance their survivability. Further, the proposed sale will increase Switzerland's tactical aviation operational capabilities. Switzerland will have no difficulty absorbing this equipment and support into its armed forces.

(U) The proposed sale of this equipment and support will not alter the basic military balance in the region.

(U) The principal contractors will be the Boeing Company, McDonnell Douglas Corporation, St. Louis, MO; Data Link Solutions LLC, Wayne, NJ; Rockwell Collins, Cedar Rapids, IA; Rockwell Collins ESA Vision System LLC, Fort Worth, TX. There are no known offset agreements associated with this potential sale.

(U) Implementation of this proposed sale will not require the assignment of any additional U.S. Government personnel or contractor representatives to Switzerland. However, multiple trips to Switzerland involving U.S. Government and contractor representatives will be required for technical reviews/support, and program management.

(U) There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

TRANSMITTAL NO. 17-30

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex Item No. vii

(vii) (U) Sensitivity of Technology:

1. (U) The hardware and software being purchased is being used to upgrade Switzerland's existing F/A-18C/D Hornet aircraft. Description and classification of the hardware and software being purchased are detailed in the following paragraphs.

a. (U) The MIDS/JTRS with CMN-4 is a secure, scalable, modular, wireless, and jam-resistant digital information system currently providing Tactical Air Navigation (TACAN), Link-16, and J-Voice to airborne, ground, and maritime joint and coalition warfighting platforms. MIDS provides real-time and low-

cost information and situational awareness via digital and voice, communications within the JTRS Enterprise. The MIDS/JTRS hardware is UNCLASSIFIED. The MIDS/JTRS software requires a crypto key be loaded in order to function. The crypto key required for operation is a Controlled Cryptographic Item (CCI).

b. (U) The ARC-210 GEN 5 RT-1900A(C) is a digital radio capable of transmit and receipt of Digital Communication System, Variable Message Format (DCS/VMF) encrypted data messages. The RT-1900 hardware is UNCLASSIFIED. The RT 1900 software requires a crypto key be loaded in order to function. The crypto key required for operation is a Controlled Cryptographic Item (CCI).

c. (U) The AN/AVS-11 Night Vision Cueing Device (NVCD) is UNCLASSIFIED but is capable of high resolution imaging. This capability allows reduced visibility weapon delivery using Switzerland's F/A-18C/D aircraft. While the NVCD hardware is UNCLASSIFIED, this item requires Enhanced End Use Monitoring (EEUM).

2. (U) If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures which might reduce weapons systems effectiveness or be used in the development of a system with similar or advanced capabilities.

3. (U) A determination has been made that the Government of Switzerland can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This proposed sale is necessary to the furtherance of the U.S. foreign policy and national security objectives outlined in the policy justification.

4. All defense articles and services listed in this transmittal are authorized for release and export to the Government of Switzerland.

NOMINATION OF KEVIN NEWSOM

Mrs. FEINSTEIN. Mr. President, today I want to speak briefly about the nomination of Kevin Newsom to the Eleventh Circuit Court of Appeals from Alabama.

I intend to support Mr. Newsom's nomination. Mr. Newsom is currently in private practice in Birmingham. He previously served as the solicitor general of Alabama. He also clerked for Justice Souter on the U.S. Supreme Court and graduated from Harvard Law School and Samford University. The American Bar Association has unanimously rated him "well qualified."

My support for Mr. Newsom's nomination does not mean that this is a judicial nominee that I would have necessarily chosen. There are aspects of Mr. Newsom's record that concern me.

For example, in private practice, Mr. Newsom published an article in which he was extremely critical of the doctrine known as substantive due process. This is the doctrine the Supreme Court invoked in protecting the right to use contraception, a women's right to choose, and the right to same-sex marriage.

Additionally, as solicitor general of Alabama, Mr. Newsom filed an amicus brief in the Supreme Court in the case *Rasul v. Bush*, arguing that Federal courts did not have jurisdiction to hear habeas claims from foreign nationals

who were captured overseas and detained at Guantanamo Bay. The Supreme Court ruled against Mr. Newsom's position in a 6-3 decision.

Lastly, while Mr. Newsom was in private practice, he filed an amicus brief in the Supreme Court case *Roper v. Simmons*, where he urged the Court to reject a brightline rule prohibiting capital punishment for children under the age of 18. His work on this case followed several other cases where, as solicitor general of Alabama, he had argued against procedural rights for individuals on death row.

As I consider this nominee, I have to balance these positions—which do concern me—with other aspects of Mr. Newsom's nomination. Here, we have a nominee unanimously rated "well qualified" by the American Bar Association. His home-State Senators have returned blue slips and support his nomination. Although some outside groups have expressed concerns, no outside group has officially opposed his confirmation.

As a result, I voted to invoke cloture on Mr. Newsom's nomination today. My decision on every nominee will be based on that nominee's individual record.

I also want to briefly remind my colleagues why we are even considering Mr. Newsom's nomination in the first place.

In February 2016, President Obama nominated Alabama U.S. District Court Judge Abdul Kallon for this very same vacancy on the Eleventh Circuit.

Today Mr. Newsom was voted on because Senators SHELBY and STRANGE returned blue slips for his nomination.

I would like the Senate to also know that we held a hearing just last week that included Judge Ralph Erickson to be a judge on the Eighth Circuit Court of Appeals because Senators HOEVEN and HETKAMP returned their blue slips. This shows the importance of the blue slip helping move nominations through the process.

Democratic Senators are conducting their due diligence on these nominees before returning their blue slips, and in the Erickson nomination, the return of the blue slip is bipartisan. Many of the current nominees have voluminous records, and we need to allow home-State Senators to do their work.

Thank you.

TRIBUTE TO PETER JOHN CAMINO

Mr. ENZI. Mr. President, I wish to speak on behalf of Peter John Camino, who is being inducted into the Wyoming Agriculture Hall of Fame. Every year since 1992, Wyoming has recognized individuals who have made substantial contributions to agriculture in our State. As a third-generation rancher dedicating much of his life to Wyoming's agriculture industry, Peter John is well deserving of this honor.

Peter John grew up on his ranch that his grandfather founded near Buffalo, WY. After attending college, he joined