



DEPARTMENT OF THE NAVY
FLEET LOGISTICS CENTER NORFOLK
CONTRACTING DEPARTMENT, PHILADELPHIA OFFICE
700 ROBBINS AVENUE, BUILDING 2B
PHILADELPHIA, PA 19111-5083

REFER REPLY TO:
J&A # 15-022

**JUSTIFICATION AND APPROVAL
FOR USE OF OTHER THAN FULL AND OPEN COMPETITION**

1. Contracting Activity.

Fleet Logistics Center (FLC) Norfolk, Contracting Department, Philadelphia Office.

2. Description of the Action Being Approved.

Exercise additional two-week options under Contract N00189-15-C-Z024 to Watson Services, Inc. of Newburgh, NY, which was issued as an extension of contract number N00189-13-C-Z013 for Mess Attendant Services at the United States Naval Academy, Annapolis, MD. Two options will be initially exercised for Services that are required through 28 March 2015 and additional options may be exercised if additional injunctive relief is granted by the Bankruptcy Court of the Southern District of New York or another court of competent jurisdiction.

3. Description of Supplies/Services.

Midshipmen Food Service Division serves over 12,000 meals daily on average. Most meals are mandatory and normally served family style. Optional meals are served buffet or rolling tray style. Weekends and holidays are normally served through the Servery (a food court type operation) with a few exceptions that are served buffet or rolling tray. MFSD's Cycle Menu is designed to provide each midshipman 3,600 well balanced calories daily. On average, over 1,100 gallons of milk and juice, two tons of meat, one ton of green vegetables, two tons of potatoes, 1,200 loaves of bread, and 720 pies or 300 gallons of ice cream are consumed daily. Food is stored in 12 refrigerators and 5 freezers. Twelve combi-ovens can bake ½ ton of French fries in an hour. The cook/chill plant can cook, bag, and chill in less than 45 minutes 400 gallons of soups, sauces, gravies, mashed potatoes and other food items that contain liquid that can be held under proper refrigeration for 14 days. Four steam-jacketed kettles can cook 320 gallons of soup at one time. After every meal, the scullery washes over 30,000 pieces of silverware, dishes, and glassware. Those services are required without interruption to maintain the vital missions of MFSD and the Naval Academy.

4. Statutory Authority Permitting Other Than Full and Open Competition.

The statutory authority permitting other than full and open competition is 10 U.S.C. 2304(c)(1), as implemented by FAR 6.302-1, "Only One Responsible Source and No Other Supplies or Services Will Satisfy Agency Requirements".

5. Rationale Justifying Use of Cited Statutory Authority.

On 28 January 2015, NAVSUP Fleet Logistics Center, Norfolk, Philadelphia Detachment awarded Contract N00189-13-C-Z021 to Rice Services, Inc. for the services detailed in Section 4. On 30 January 2015, Watson Services filed GAO protest B-411086. The protest argued, in part, that Watson had a right to continue performance under contract N00189-13-C-Z013. Accordingly, its protest argues that the award of Contract N00189-13-C-Z021, as a follow-on contract to N00189-13-C-Z013, was improper. The timely filing of the GAO protest put in place an automatic CICA stay that required the Navy to issue a stop work order on the Rice contract. The purpose of the CICA stay was to maintain the status quo pending resolution of the GAO protest. Accordingly, it was determined that permitting Watson to continue performance pending resolution of its GAO Protest best serves that statutory purpose. Moreover, Watson was, and remains, the only contractor with the personnel in place to perform the required services within the required timeframe as Rice Services plans to staff its impending follow-on contract largely through the hiring of the incumbent Watson's current Service Contract Act workforce in accordance with Executive Order 13495. Accordingly, to provide the mission-essential continuity of services to USNA and to comply with the statutory stay of performance, a bridge modification to the incumbent Watson contract was necessary. Based on the foregoing, it was determined that the services were required in support of USNA for the interim period until a decision was rendered by GAO, and only the services of Watson Services, Inc. will satisfy agency requirements in accordance with the CICA stay. Moreover, the uninterrupted delivery of those vital food services is essential to the mission of Naval Academy. Accordingly, under J&A #15-022, a sole source bridge contract of two weeks with six two-week options was issued to provide the Government uninterrupted services as it awaited GAO's decision. The period of performance of Contract N00189-15-C-Z024 was from 01 February 2015 through 14 February 2015, with six two-week option periods. That contract was awarded on a firm fixed price contract basis funded with FY15 O&MN funds, subject to the availability of funds. As that contract was approved in accordance with J&A # 15-022 pending a decision on GAO Protest B-411086 filed by Watson Services, that J&A only authorized exercise of options under that contract until a GAO decision was rendered. One option was issued under that contract extending performance through 28 February 2015.

After the exercise of that first option, GAO dismissed the protest on 23 February 2015. However, prior to the dismissal by GAO, Watson sought and obtained a temporary restraining order TRO from the Bankruptcy Court of the Eastern District of New York. That TRO effectively enjoined the Navy from commencing services under the Rice Services contract at least until after a hearing on Watson's request for a preliminary injunction scheduled for 17 March 2015. To preserve the status quo, that court order requires the Navy to execute two additional two-week options under the Watson bridge contract, i.e., Contract N00189-15-C-Z024. . Five unexercised options remain in the total amount of \$860,703.40. The exercise of two options will extend performance under that bridge contract through 28 March 2015 at a cost of cost of \$344,281.36. Only the sole source exercise of those two options under the Watson bridge contract will meet the requirements of the existing TRO. Additional options will not be exercised unless additional injunctive relief is granted to Watson by that court or another court of competent jurisdiction. However, in the event that additional injunctive relief is granted, the contracting officer may exercise additional options to the extent necessary to comply with such court order(s).

6. Description of Efforts Made to Solicit Offers from as Many Offerors as Practicable.

A one-year competitive contract is already in place and under protest, It is not possible for any other contractor, other than the incumbent, to perform these requirements in compliance with the court order.

7. Determination of Fair and Reasonable Price.

The Contracting Officer at the FLC Norfolk, Contracting Department, Philadelphia Office will determine that the cost/price negotiated for this acquisition is fair and reasonable pursuant to FAR Part 15.

8. Actions to Remove Barriers to Future Competition.

The instant action will result in exercise of at least two (2) and as many as all of the five (5) two-week options remaining under Contract N00189-15-C-Z024 to provide continuity of support until the injunctive relief that has been granted Watson Services ends. Contract N00189-15-C-Z024 was awarded on an urgent sole-source basis to Watson Services, and Contract N00189-13-C-Z021, the one-year contract awarded to Rice Services that is being challenged by Watson Services, was awarded through a limited competition; however, it's duration was limited to one year with no options to allow time for a subsequent competitive, small business set-aside solicitation to be issued. That follow-on solicitation will be issued later this year.

9. Contracting Point of Contact.

The point of contact at FLC Norfolk, Contracting Department, Philadelphia Office is Mr. Nicholas Milillo, Code 290.1C, at DSN 442-0321, commercial (215) 697-0321 or by e-mail at nicholas.milillo@navy.mil.