



DEPARTMENT OF THE NAVY  
NAVAL FACILITIES ENGINEERING COMMAND, MID-ATLANTIC  
9742 MARYLAND AVENUE  
NORFOLK, VA 23511-3095

J&A No. ML10-01 15 - 7  
12 December 2014

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

1. **Contracting Activity.** Naval Facilities Engineering Command Mid-Atlantic, Norfolk, VA; Public Works Department Maine (PWD), Portsmouth Naval Shipyard, Kittery, Maine.
2. **Description of Action Being Approved.** Request approval for the use of other than full and open competition to increase the contract capacity by \$650,000 from \$50,000,000 to \$50,650,000 to continue and complete the current active task orders under the PWD Maine MACC contract vehicle. There is no remaining capacity under the MACC vehicle. The increased capacity will not be used to award new task orders but only for modifications determined essential to completing existing task orders. Modifications will not be issued for customer requested changes or for previously unexercised options.
3. **Description of Services/Supplies.**

Under the MACC, PWD Maine awarded six contracts each with a base period of 6 December 2012 to 5 December 2013 and two additional one-year option periods. These MACC contracts are currently in the first option period with approximately \$49,656,000 of the \$50,000,000 maximum ceiling committed and another \$653,542 of additional work pending. Projects executed through the MACC were competed only to those six contractors holding a MACC contract. There are currently 10 active task orders at varying stages of completion. Several of these task orders are considered likely to require modifications before they are completed for the following reasons:

  - a. Renovations to Building 291 at the Portsmouth Naval Shipyard. B291 is a watertight, nuclear production facility which will remain operational while the renovations are completed. The high degree of coordination with the operational personnel, the complicated phasing and the degree of quality control oversight required make the chances of modifications to this task order during the four year period of performance very high.
  - b. Energy Improvement to Buildings 337 and 375 at the Portsmouth Naval Shipyard. The construction project has experienced significant delays due to differing site conditions discovered in these older buildings which have not previously been subject to major repairs. Chances of additional modifications are considered high.
  - c. Repairs and Energy Improvements to Building 184 at the Portsmouth Naval Shipyard. This building is a recognized historic property and is located within the shipyard's historic district. Contractor has experienced minor differing site conditions and although this project is approximately 50% complete, chances of additional modifications are considered moderate.

**4. Identification of the Statutory Authority permitting other than Full and Open Competition.**

The statutory authority for this acquisition permitting other than full and open competition is 10 USC 2304(c)(2), as implemented by FAR Part 6.302-2. The agency's need for the required construction services is of such unusual and compelling urgency that delay in award of required contract modifications would result in significant financial damages, in the form of extended overhead and delay claims.

**5. Rationale Justifying Use of Cited Statutory Authority.**

Use of the authority cited above requires the agency request offers from only as many sources as is practicable under the circumstances. The award of each task order, although considered competitive, was limited to only those contractors holding a MACC contract. Any other contractors are not eligible to be considered for award of any project awarded as a MACC task order or for modifications arising from a MACC task order.

Additionally, only the MACC contractor awarded a particular project would be able to prosecute the additional work requirements without a significant learning curve and additional costs needed for a new contractor to mobilize staff and equipment.

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

Due to the fact that there is only one practical source for the required services, no market survey has been conducted. An extension of the subject contract vehicle capacity is considered the only reasonable means to accomplish the work.

**7. Determination of Fair and Reasonable Costs.**

The Contracting Officer will determine that the price is fair and reasonable prior to issuing any task order modifications. The cost to the Government will be established through negotiations and by comparing the contractor's proposed costs to the Independent Government Estimate. If necessary to make a fair and reasonable determination, proposed costs will also be compared with historical data and/or published pricing.

**8. Description of the Market Research Conducted And the Results Or a Statement of the Reasons a Market Research Was Not Conducted.**

See rationale above.

**9. A Statement of the Actions Taken, If Any, The Agency May Take To Remove or Overcome Any Barriers To Competition Before Any Subsequent Acquisition For the Supplies or Services Required;**

A new MACC vehicle has been established for PWD Maine and new requirements for general construction services are being solicited through this vehicle.

*Signature page redacted for posting.*