



**DEPARTMENT OF THE NAVY**  
NAVAL FACILITIES ENGINEERING COMMAND NORTHWEST  
1101 TAUTOG CIRCLE  
SILVERDALE, WASHINGTON 98315-1101

J&A No. 11-01JA

**JUSTIFICATION AND APPROVAL**

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

1. Contracting Activity.

Naval Facilities Engineering Command (NAVFAC) Northwest,  
Silverdale, WA.

2. Description of the Action Being Approved.

Request approval to negotiate and award a task order to Bonneville Power Administration (BPA) under NAVFAC Northwest's Utility Energy Services Contract (UESC) Basic Ordering Agreement (BOA) N44255-08-G-3004, without providing full and open competition.

3. Description of Supplies/Services.

Several projects are combined together into one large project with the component projects listed as follows:

Parking/Street Lighting Retrofits (electric savings) - Naval Base Kitsap

Repair Compressed Air HVAC Utility System (electric savings) - Naval Base Kitsap - Bremerton

LED Street and Parking Lot Lighting Upgrades (electric), Interior Lighting Upgrades (electric), Chiller Compressor (gas) and Water Fixture Upgrades (water) - Naval Station Everett

Interior Lighting Upgrades (electric), HVAC Improvements (gas and electric), Retro-commissioning (electric, gas, water), Water Efficiency Upgrades (water) and Energy Management Control Upgrades (gas and electric) - Naval Air Station Whidbey Island

Lighting Control Upgrades (electric) - Naval Base Kitsap - Bremerton

Photocell Retrofit (electric) - Naval Base Kitsap - Bremerton

Replace Series Street Lights with LED Fixtures (electric) -  
Naval Base Kitsap-Bremerton

Implementation of this project will allow the Navy to improve these facilities and reduce each installation's electricity, natural gas, and water demand. The energy savings will reduce the installations energy costs and contribute to compliance with mandatory laws and regulations to reduce energy consumption. The total estimated cost of accomplishing the work is \$4,938,265 over an 18-month period. The project funding will be arranged by BPA using a competitively chosen financial partner listed on the Federal Energy Management Program website of third party financiers specializing in UESC's. The Task Order will be negotiated and awarded in May 2011.

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

The statutory authority that allows this acquisition is 10 U.S.C. 2304(c)(5), as implemented by FAR 6.302-5, Authorized or Required by Statute. Section 2801 of Public Law 102-484 amended 10 USC Section 2865, which was subsequently amended, renumbered and codified as 10 USC 2913, authorizes and encourages military installations to enter into agreements with gas or electric utilities to design and implement cost-effective energy demand and conservation incentive programs, including energy management services, facilities alterations, and the installation and maintenance of energy saving devices and technologies, in order to address the requirements and circumstances of the military installation. The main purpose of 10 USC 2913 is to authorize and encourage military installations to take advantage of programs offered to customers of gas or electric utilities for reducing energy consumption. Per FAR 6.302-5 and 10 USC section 2304(c)(5), this action satisfies an exemption to the Competition in Contracting Act as further explained in paragraph 5 below.

5. Rationale Justifying Use of Cited Statutory Authority.

This Justification and Approval is provided in accordance with guidance of NAVFAC Headquarters, Office of Counsel Memorandum dated 23 February 2010. The Memorandum recommends the following four (4) elements be present in order to enter into an UESC agreement under 10 USC 2913(d) without the use of full and open competition:

The Agreement must be entered into with a "Utility", BPA is a Federal Power Marketing Agency, as defined in FAR 41.101, and they provide utility service (electricity) to several installations in the Navy Region Northwest. BPA is subject to regulation by the Federal Energy Regulatory Commission. BPA operates pursuant to the Pacific Northwest Electric Power Planning and Conservation Act (16 USC 839). BPA meets the definition of "utility" established in Executive Order 13123. NAVFAC Northwest entered into an UESC with BPA under the authority of 10 U.S.C. 2913, *Energy Savings Contracts and Activities*, in 2008, to design and implement cost-effective demand and conservation incentive programs including facilities alterations and the installation of energy saving devices and technologies by the utilities, (10 USC 2913(d)(1)). The advantages of selecting the local regulated utility as a prime contractor via a UESC BOA instead of competing the project among traditional construction contractors are the tremendous partnering in which the regulated utility manages and administers construction efforts on behalf of the Navy with the added benefit of a long-term relationship with a long standing entity. The funding of this project via a third party financier cannot be provided by any other entity except a utility provider as provided in the authorizing legislation.

The agreement must include an incentive from the Utility, Pursuant to the Northwest Electric Power Planning and Conservation Act (16 USC 839) BPA will provide financing as well as rebate incentives for this project under an established energy conservation program for their federal customers as an incentive for the installations to conserve energy. Energy Independence and Security Act (EISA) of 2007 as well as the National Defense Authorization Act of 2007 (10 USC 2913), allows federal and military entities to obtain private financing under UESC; this is a unique incentive offered by the utility provider and enables the Navy to pursue an energy conservation program without an appropriation from congress. In addition to this incentive, BPA has agreed to provide approximately \$940,000 in rebate incentives earned as a result of the electricity this project will save. This amount is based upon the estimated amount of kilowatt savings the project will garner in the first year of implementation. Each element of the overall project will be measured by BPA for effectiveness in the first year of operation and an amount between .10 and .25 per kilowatt saved will be earned by the Navy. In addition to BPA incentives, Puget Sound Energy (PSE) has also agreed to provide additional rebates for the projects in their service territory performed by BPA on

their behalf, totaling \$509,248. Together these rebates are anticipated to total nearly \$1.45 million.

The Agreement must be for demand side management or conservation programs, The measures BPA will provide implement comprehensive energy conservation measures at the installations described in Section 3 above in accordance with 10 USC 2913. A Life Cycle Cost Analysis (LCCA) was performed for each of the components of the overall project which shows that this project is estimated to save 9,297 mega watt hours of electricity per year. Additionally as a result of these projects, 12,971 Mbtu of gas and 3,648 Kgal of water will be saved annually.

The agreement must be "cost effective", The LCCA summary of the projects shows a Savings to Investment Ratio (SIR) of 1.96. Any project with a SIR greater than 1.0 is considered cost effective and a good candidate for UESC. Furthermore this project is expected to save the Navy \$577,575 in annual energy savings as well as an additional \$113,374 in avoided annual maintenance costs. Additionally, the contract price will be fair and reasonable determined through competition. BPA solicits contractors using procedures outlined in the Bonneville Purchase Instruction (BPI) which requires that they obtain "meaningful competition". The work under this delivery order will be competed in accordance with the BPI and the Navy will pay a fair and reasonable price for the energy conservation measures BPA is to install.

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

The Navy has UESC BOA's with two electricity utility providers in the Northwest region, BPA and Puget Sound Energy (PSE). The remaining two options for a UESC BOA in the Northwest region are with Snohomish Public Utility District and Cascade Natural Gas, both of which have declined to participate in this type of contract because they refuse to provide financing for energy conservation measures. In a letter dated 23 Sep 10, PSE informed NAVFAC Northwest that they will exit the agreement and provide no further services under UESC. For this project, PSE has agreed to allow BPA to implement an ECM on one of the installations where they provide electrical service and still provide a rebate after installation (NAS Whidbey Island).

A "Notice of Intent" (NOI) was published on the NECO/Fedbizops on 16 Dec 2010 for 15 days. Two inquiries were submitted by non-

utility firms interested in the NOI. No other qualified firms expressed interest in the Notice.

This J&A will be publicized in Navy Electronic Commerce Opportunities and Federal Business Opportunities in accordance with the National Defense Authorization Act of 2008, Section 844, "Public Disclosure of Justification and Approval Documents for Noncompetitive Contracts," and Federal Acquisition Regulation 6.305, within fourteen (14) days after task order award.

7. Determination of Fair and Reasonable Cost.

The Contracting Officer has determined that the anticipated cost to the government for the services covered by this J & A will be fair and reasonable.

8. Actions to Remove Barriers to Future Competition.

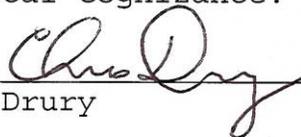
Actions in support of the energy program for which there is an appropriation available, meaning it is not financed by the utility company, or the utility company does not provide an incentive or rebate, will be solicited and awarded in accordance with competitive procedures outlined in the Federal Acquisition Regulation.

CERTIFICATIONS AND APPROVAL

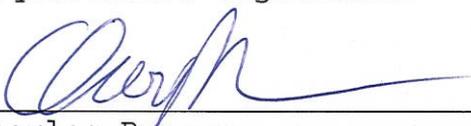
TECHNICAL/REQUIREMENTS CERTIFICATION

I certify that the facts and representations under my cognizance which are included in this Justification and its supporting acquisition planning documents, except as noted herein, are complete and accurate to the best of my knowledge and belief.

Technical Cognizance:

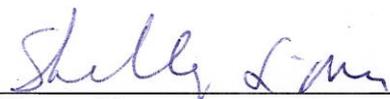
 (360) 396-5191 2 May 11  
Chris Drury Date

Requirements Cognizance:

 (360) 396-0052 2 May 11  
Charles Benson Date

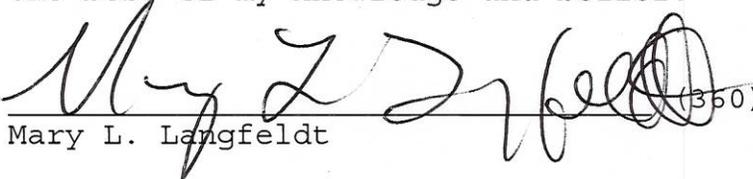
LEGAL SUFFICIENCY REVIEW

I have determined this Justification is legally sufficient.

 (360) 396-0039 6 May 11  
Shelley Simcox Date

CONTRACTING OFFICER CERTIFICATION

I certify that this Justification is accurate and complete to the best of my knowledge and belief.

 (360) 396-0055 9 May 2011  
Mary L. Langfeldt Date

APPROVING OFFICIAL (NFAS 6.304)

Upon the basis of the above justification, I hereby approve the award of a delivery order for Energy Conservation Services to the utility company described herein using other than full and open competition, pursuant to the authority of 10 U.S.C. 2304(c)(5) Authorized or Required by Statute.



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J.P. RIOS  
Captain, CEC, U.S. Navy  
Commanding Officer

(360) 396-0055

5/11/11

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Date