



DEPARTMENT OF THE NAVY
NAVAL FACILITIES ENGINEERING COMMAND SOUTHWEST
1220 PACIFIC HIGHWAY
SAN DIEGO, CA 92132-5190

J&A 15-21

JUSTIFICATION AND APPROVAL (J&A)
FOR USE OF OTHER THAN FULL AND OPEN COMPETITION

1. Contracting Activity. Department of the Navy, Naval Facilities Engineering Command Southwest (NAVFAC SW), San Diego, California

2. Description of the Action Being Approved. Approval is sought to modify the existing Commercial and Institutional (C&I) Building Construction Group 0053 contracts, collectively the unrestricted Multiple Award Construction Contract (MACC), without competition to extend the ordering period. This action will not increase the maximum value of the contract or allow for the solicitation of new projects. As such, it does not constitute a “bridge contract action.” Rather, it would extend the ordering period from October 1, 2015 until March 31, 2016 for the award of a project currently solicited under the MACC.

The contracts are:

- | | |
|---------------------|---|
| a) N62473-10-D-5405 | Hensel Phelps Construction Co. |
| b) N62473-10-D-5406 | Harper Construction Co, Inc. |
| c) N62473-10-D-5407 | Balfour Beatty Construction, LLC |
| d) N62473-10-D-5408 | Sundt Construction, Inc. |
| e) N62473-10-D-5409 | RQ Construction, LLC |
| f) N62473-10-D-5410 | R. A. Burch Construction Co., Inc. |
| g) N62473-10-D-5411 | Solpac Construction dba Soltek Pacific Construction Co. |
| h) N62473-10-D-5412 | TB Penick & Sons, Inc. |
| i) N62473-10-D-5413 | Clark Construction Group – California LP |

3. Description of Supplies/Services. NAVFAC SW through the use of the C&I MACC provides design, construction, supervision, equipment, materials, labor, and all means necessary to provide complete and usable facilities at various locations within Southern California, Arizona, and New Mexico. The preponderance of the work is in San Diego County, California. Types of projects may include but are not limited to: industrial buildings, commercial type buildings, and institutional buildings, and are either design-build or design-bid-build. The intent of the extension is to allow sufficient time to award the following project: Proposed Task Order (PTO) X036, P-970 Ammunition Supply Point Upgrade in Las Pulgas (43 Area) at Marine Corps Base (MCB) Camp Pendleton CA. The total estimated value of the project is approximately \$ [REDACTED].

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)(2), as implemented by FAR 6.302-2. FAR 6.302-2 permits other than full and open competition when there is an unusual and compelling urgency.

5. Rationale Justifying Use of Cited Statutory Authority.

- a. The C&I MACC’s ordering period was previously extended from March 18, 2015 to September 30, 2015 to allow sufficient time for award of six (6) critical actions that were in progress under the C&I MACC but that could not be awarded prior to the original C&I MACC expiration. Four (4) of those actions have been awarded, and one (1) of the actions (Q-915 SOF Mobile Communications Detachment Support Facility, Imperial Beach, CA) is scheduled for award before the current expiration of the C&I MACC. However, the one (1) remaining action in progress is in danger of not being awarded prior to the current C&I MACC expiration.
- b. This J&A seeks an extension to the ordering period of the C&I MACC until March 31, 2016 in order to allow time for the award of the project identified below. Operations are currently impacted by not having this requirement in place ([REDACTED]).

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[REDACTED], and continued delay will only exacerbate the situation. Further delays (if re-solicitation is required) would impact mission, with continued risk to life, assets, and facilities until this project is completed. Re-solicitation or a stand-alone contract would likely take up to one year and over 18 months for the design and construction schedule. Without the extension of the contract action, the customer's operations and mission readiness will be adversely impacted. [REDACTED]

[REDACTED]. Extending the C&I MACC ordering period from October 1, 2015 to March 31, 2016 would allow time to award the last planned action, avoiding delays in project execution and/or the necessity to restart the procurement. The planned action in danger of not being awarded before the MACC expires is as follows:

PTO # X036: FY14 P-970 - Ammunition Supply Point (ASP) Upgrade in Las Pulgas (43 Area) at MCB Camp Pendleton, CA. NAVFAC SW Central Integrated Products Team (IPT) utilized the C&I MACC to procure the P-970 ASP Upgrade project. Proposals submitted on August 7, 2014 [REDACTED]

[REDACTED]. Reprogramming is a complex process and requires extensive organizational endorsements. This request for extension will allow for the completion of the reprogramming process. The Military Construction (MILCON) Program Manager submitted a Reprogramming Notification Memo for the P-970 project to obtain additional funds through the MILCON program reprogramming process in September 2014. The reprogramming process typically takes 9 – 12 months, so the project was fully expected to be awarded by September 30, 2015, within the timeframe of the original contract extension. However, during the previous 6-month extension period, the reprogramming package did not proceed as originally anticipated. The project received approval in October 2014 in which a formal reprogramming package was prepared and approved through the NAVFAC SW CI Core in December 2014 and NAVFAC LANT in January 2015. Since that time, several unanticipated questions were required to be answered and additional cost data was required to be provided to NAVFAC LANT, NAVFAC Headquarters, Headquarters Marine Corps, Financial Management and Budget (FMB), and Office of Secretary of Defense (OSD)/OSD Comptroller to justify the reprogramming, all of which caused significant, unexpected delays. The reprogramming package was forwarded to NAVFAC Headquarters in February 2015, has been endorsed by The Marine Corps Installations Command (MCICOM), and is currently being reviewed by FMB and the Deputy Assistant Secretary of the Navy (DASN) and coordinated with OSD Comptroller staff. After their endorsement, the package will be routed for Congressional House and Senate Appropriations Committees for approval. The length of time to obtain approval is dependent on the amount of questions received and the timing of when the packages are routed. The MILCON Program Manager advised that the reprogramming and funding request approval process is expected to take another approximately six (6) months, for a planned award in March 2016, which is after the C&I MACC currently expires on September 30, 2015. Extension of the C&I MACC until March 31, 2016 will save a considerable amount of time and effort expended on this project. The project is already delayed because of reprogramming. The current situation is compounded by the increase in training tempo and associated ammunition and explosives training allocations as a result of Grow-the-Force initiatives and the War on Terror. The ASP will continue to operate under a Chief of Naval Operations (CNO) waiver with an expiration date of March 31, 2017 for explosive safety standards with continued risk to life, assets, and facilities until this project is completed. These facilities are required for compliance with Ordnance Instructions to allow ASP to properly store and maintain material.

6. Description of Efforts Made to Solicit Offers from as Many Offerors as Practicable. The MACC vehicle ensures sufficient competition with nine (9) MACC contractors, so this extension does not create a sole source environment. A follow-on C&I MACC with an aggregate total of \$240M was competitively procured by NAVFAC SW and was awarded May 13, 2015. While this and other MACC vehicles are available for requirements, re-solicitation would result in unacceptable delays.

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7. Determination of Fair and Reasonable Cost. The Contracting Officer will determine fair and reasonable proposed cost to the Government for services covered by this J&A on an individual task order basis using FAR Part 15 procedures. PTO X036 is being competed amongst the current MACC holders so as to ensure adequate price competition and fair and reasonable pricing. It is not anticipated that this extension will result in additional cost.

8. Actions to Remove Barriers to Future Competition. As stated in item 6 above, the follow-on MACC was competitively procured by NAVFAC SW. Additional extensions to this MACC are not expected.

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CERTIFICATIONS AND APPROVAL

TECHNICAL and 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.

[Redacted Signature]

JOHN COON
CI Business Lead
NAVFAC SW

(619) 532-2649
Phone No.

9/18/2015
Date

LEGAL SUFFICIENCY REVIEW

I have determined this Justification is legally sufficient.

[Redacted Signature]

FOR

V. PAUL CLAY
Assistant Counsel
NAVFAC SW

(619) 532-3134
Phone No.

9/23/2015
Date

CONTRACTING OFFICER

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

[Redacted Signature]

DEOGRACIAS C. SOLIS, JR.
Contracting Officer
NAVFAC SW

(619) 532-3779
Phone No.

9/24/2015
Date

APPROVING OFFICIAL (NFAS 6.304) Upon the basis of the above Justification, I hereby approve the contract modifications described herein using other than full and open competition, pursuant to the authority of 10 U.S.C. 2304 (c) (2).

[Redacted Signature]

RENAE A. KVENDRU
Contracting Officer
NAVFAC SW

(619) 532-2339
Phone No.

9/23/15
Date