DEPARTMENT OF THE NAVY
NAVAL FACILITIES ENGINEERING COMMAND SOUTHWEST
NAVAL WEAPONS STATION SEAL BEACH
800 SEAL BEACH BLVD BLDG 230
SEAL BEACH, CA 90740-5000

IN REPLY REFER TO:
J&A 16-002

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

1. *Contracting Activity.* Department of the Navy, Naval Facilities Engineering Command Southwest (NAVFAC SW), Facilities Engineering and Acquisition Division (FEAD), Naval Weapons Station Seal Beach (NWSSB), Seal Beach, CA.

2. *Description of Action Being Approved.* Award of a contract on a sole source basis for refuse collection and recycling services at NWSSB Detachment Norco, Norco, CA. This proposed action will be negotiated under solicitation number N64273-15-R-4208 with contractor, USA Waste of California, Inc. (a Division of Waste Management of Alameda County, Inc.), 800 South Temescal Street, Corona, CA 92879-2058. This proposed action is estimated at approximately $536,975.25. The period of performance will be for one, twelve-month base period and four, twelve-month option periods. The requirement will be fully funded for the base period. Options will be funded prior to being exercised. Funding for this planned contract is provided by Operations & Maintenance, Navy (O&MN).

3. *Description of Supplies/Services.* The planned contract is a firm fixed price (FFP)/Indefinite Delivery-Indefinite Quantity (IDIQ) contract for facilities support services. Services will include all labor, supervision, transportation, materials, supplies and equipment necessary to collect and dispose of refuse, including garbage, ashes, debris, rubbish, and other discarded solid wastes resulting from residential, industrial, commercial, and community activities. Excluded from this function is collection and disposal of hazardous waste, solids or dissolved materials in domestic sewage and other pollutants. All work will be performed at NSWSB Detachment Norco, Norco, CA. This proposed action is a follow-on procurement to contract number N62473-11-D-1801, which was awarded without competition to the same contractor on November 5, 2010. Re-procurement is necessary to continue refuse collection and recycling services after the previous contract expires on December 31, 2015.

4. *Statutory Authority Permitting Other Than Full and Open Competition.* The proposed action will be conducted without providing for full and open competition pursuant to authority of 10 U.S.C. 2304 (c)(1) as implemented by the Federal Acquisition Regulation (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.* This proposed action will be conducted using other than full and open competition, because circumstances and local requirements dictate that only one supplier can furnish the services. The City of Norco, CA granted USA Waste of California, Inc. an exclusive franchise to collect all solid waste and recyclables collection services as required by the City Municipal Code, Chapters 6.42 Municipal Refuse Collection Service. The franchise agreement extends throughout all boundaries of the City of Norco.

Under the Resource Conservation and Recovery Act (RCRA), the United States Environmental Protection Agency (EPA) provides guidelines for the submission of State-specific solid-waste management plans that provide in part for local regulation of solid waste. Federal agencies in turn generally are required to comply with such local regulation. See Sec. 6001, 42 U.S.C. § 6961. Under the California plan, local (city and county) governments are responsible for aspects of solid-waste handling that are of a local concern. This includes such aspects as frequency and means of collection, level of services, charges and fees, and whether collection services are provided by means of an exclusive or non-exclusive franchise. See California Plan (Oct 1981), 47 Federal Register 6834 (1982); California Public Resources Code § 40000 et seq.

Compliance with local regulations is mandated by city ordinance, specifically Municipal Code publication – A Codification of the General Ordinances of the City of Norco, CA Municipal Code, Chapters 6.42 Municipal Refuse Collection Service, Subparagraph 6.42.020, which states that "it shall be unlawful for any person or entity other than the franchisee to collect, recycle or dispose or refuse, including recyclable materials generated within the city."

Therefore, in accordance with the City of Norco Municipal Code, procurement of refuse collection and recycling services at NWSSB Detachment Norco cannot be fulfilled by any other source, per the terms of the exclusive franchise agreement between the City of Norco and USA Waste of California, Inc.

6. *Description of Efforts Made to Solicit Offers from as Many Offerors as Practicable:* Market Research was not conducted for this procurement, and other sources were not considered, because there is only one source that can furnish the service, per Paragraph 5. The planned action covered by this Justification and Approval (J&A) meets an exception to the synopsis requirements per FAR Part 5.202 (a)(4). The approved J&A will be released in accordance with FAR 6.305.

7. *Determination of Fair and Reasonable Cost*. The Contracting Officer has determined the anticipated cost to the Government of the supplies/services covered by this J&A will be fair and reasonable.

8. *Actions Taken to Remove Barriers to Competition*. For the reasons set forth in Paragraph 5, NAVFAC has no plans to compete future contracts for the types of supplies/services covered by this document. If another potential source emerges, NAVFAC will assess whether competition for the future requirement is feasible.

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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

VOS.STEVEN.C.1255787108 Digitally signed by VOS.STEVEN.C.1255787108
DN: c=US, o=U.S. Government, ou=DoD, ou=PKI, ou=USN, cn=VOS.STEVEN.C.1255787108
Date: 2015.11.02 15:11:27 -08'00'

STEVE VOS (562) 626-7155 Date
Facilities Support Contract Manager, FEAD Seal Beach

LEGAL SUFFICIENCY REVIEW

I have determined this Justification is legally sufficient.

11/2/15

MICHELE MUSANTE (619) 532-1662 Date
Associate Counsel, NAVFAC SW

CONTRACTING OFFICER CERTIFICATION

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

KOWALSKI.JULIANNE.M.1164675757 Digitally signed by KOWALSKI.JULIANNE.M.1164675757
DN: c=US, o=U.S. Government, ou=DoD, ou=PKI, ou=USN, cn=KOWALSKI.JULIANNE.M.1164675757
Date: 2015.11.02 15:17:31 -08'00'

JULIANNE M. KOWALSKI (562) 626-6038 Date
Contracting Officer, FEAD Seal Beach

SENIOR PROCUREMENT EXECUTIVE APPROVAL

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

YOUNG.LISA.MARIE.1092851008 Digitally signed by YOUNG.LISA.MARIE.1092851008
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LISA YOUNG (619) 532-2077 Date
Director, Public Works Acquisition Core, NAVFAC SW