

Justification for Other than Full and Open Competition
U.S. Department of Energy Portsmouth/Paducah Project Office
Contract DE-EM0003733 Swift & Staley Inc.
Period of Performance Extension:
August 01, 2022 through March 31, 2023

1. Identification of the agency and the contracting activity, and specific identification of the document as a – Justification for Other than Full and Open Competition.

The Portsmouth/Paducah Project Office (PPPO), within the Office of Environmental Management (EM) in the Department of Energy (DOE), plans to issue an extension modification to Swift & Staley Inc., (SSI) Contract DE-EM0003733 by means other than the use of full and open competition. This document sets forth the justification and approval for the use of one of the exceptions to full and open competition allowed under the Competition in Contracting Act of 1984.

2. The nature and/or description of the action being approved.

This Justification is for Other than Full and Open Competition (JOFOC) in accordance with Federal Acquisition Regulation (FAR) 6.302-1 Only One Responsible Source and No Other Supplies or Services Will Satisfy Agency Requirements and 41 U.S.C. §3304(a)(1). The award of the follow-on Paducah Infrastructure Support Services contract was issued to SSI on December 10, 2020; however, a size standard protest was filed with the Small Business Administration (SBA) on December 17, 2020, and a subsequent complaint was filed in the Court of Federal Claims (COFC). Currently, DOE is enjoined by the COFC, by a court order dated April 26, 2022, from terminating the follow-on Infrastructure Support Services (ISS) contract award issued to SSI on December 10, 2020 and from identifying a new awardee under that same solicitation. Consequently, this extension is necessary because current ongoing litigation issues related to the size standard protest remain unresolved, DOE is enjoined from awarding the follow-on contract, and issuing the Notice to Proceed for the follow-on contract which has been further delayed.

The forthcoming modification will extend the period of performance from August 01, 2022 to March 31, 2023 with SSI to provide infrastructure support services at the Paducah Gaseous Diffusion Plant located in Paducah, Kentucky. These services include maintaining the Environment, Safety, Health and Quality (ESH&Q) program, safeguards and security; cyber security; surveillance; maintenance and repair of facilities; janitorial services; grounds maintenance; roadway/parking lot maintenance; pest control; computing; telecommunications; fleet management; real and personal property management; records management and document control; and training services at a former uranium enrichment plant, and the incumbent contractor is the only responsible source that can reasonably satisfy these requirements pending the resolution of a size standard protest of the award of the follow-on contract.

3. A description of the supplies or services required to meet the agency's needs:

The incumbent contractor provides infrastructure support services, at a former uranium enrichment plant, which include (but are not limited to): surveillance; maintenance and repair of facilities; janitorial services; grounds maintenance; roadway/parking lot maintenance; pest control; computing; telecommunication; and cyber security; fleet management; real and personal property management; records management and document control; safeguards and security; ESH&Q program; and training services. The Paducah Infrastructure Support Services contractor will have the primary responsibility for performing infrastructure support services as discussed in Section 5 below and these services must continue until the ongoing litigation issues related to the size protest are resolved.

4. The statutory authority permitting other than full and open competition.

The statutory authority permitting other than full and open competition is 41 U.S.C. §3304(a)(1), as implemented by FAR 6.302-1, *Only one responsible source and no other supplies or services will satisfy agency requirements.*

5. A statement demonstrating the unique qualifications of the proposed contractor or the nature of the action requiring the use of the authority.

The Paducah Infrastructure Support Services contract was awarded to SSI (effective October 2, 2015) following a small-business set-aside competition. SSI is the incumbent contractor and provides fully trained and qualified personnel to provide infrastructure support services including: maintaining the ESH&Q program; safeguards and security; cyber security; surveillance; maintenance and repair of facilities; janitorial services; grounds maintenance; roadway/parking lot maintenance; pest control; computing; telecommunication; fleet management; real and personal property management; records management and document control; and training services, and the incumbent contractor is the only responsible source that can reasonably satisfy these requirements pending award of the follow-on contract.

The Paducah Gaseous Diffusion Plant is a former Cold War uranium enrichment facility, with complex and stringent safeguards and security needs. The incumbent contractor is uniquely qualified to continue providing mission critical infrastructure support services, described as follows: (1) by maintaining specific safeguards and security programs as well as supporting all computing networks for the Deactivation and Environmental Remediation site contractors to fulfill contractual and regulatory commitments, which are critical in avoiding potential notices of violation and failures to meet regulatory milestones defined in the site's Federal Facilities Agreement; (2) as the cognizant site security authority for the Paducah site, the incumbent contractor maintains a Site Security Plan for all DOE operations at the Paducah site, which includes clearance processing, personnel security program support, visitor control and badging; (3) by performing physical security for DOE programs and assets at the site, which includes the lock and key program, logical access control and physical access control systems, and facility registration; (4) is uniquely qualified in Operations Security, security awareness, training and development, policies and procedures (including self-assessment), program plans (including the DOE portion of the site security plans and Vulnerability Assessments, with associated threat statement or Design Basis Threat), the Foreign Ownership, Control, and Influence program, and tracking assessment, audit, and survey findings; (5) surveillance, maintenance and repair of facilities; and (6) performing records management activities for the entire site, including bringing pre-existing federal records managed by USEC into compliance.

An attempt to contract with another entity to perform temporary infrastructure support services is impracticable, would likely adversely affect DOE's (EM) mission, and would be particularly disruptive in the area of Safeguards and Security, a complex area of expertise difficult to adequately address with a short term contract. Given the short amount of time of continued performance (resolution of the ongoing litigation issues.), it is neither practicable nor beneficial to the government to procure another contractor competitively. Further, DOE is enjoined by the COFC from taking action on the current competitive solicitation for an ISS contract, until litigation is resolved. Transitioning to a new contractor within a short time frame will also have a negative effect on ongoing work activities, such as: changes to contractor management and staff would result in the loss of expertise and historical/institutional knowledge; lead to poor decision-making and costly mistakes; adversely affect safety and security impacts; and would potentially jeopardize Paducah Site Operations. Further, a contractor that would be brought in during the interim period between the

expiration of the incumbent contract and the award of the follow-on contract would not allow sufficient time to gain the necessary expertise nor would it ensure the reliability and safety of the workforce for the services required. As SSI past performance reflects, SSI is uniquely qualified and situated to continue performing the ISS without an interruption in service and, without duplicative costs to the Government.

6. A description of efforts to ensure that offers were solicited from as many potential sources as is practicable. Include whether or not a SAM.Gov announcement was made and what response, if any, was received, and include the exception under FAR 5.202 when not synopsisizing. Describe whether any additional or similar requirements are anticipated in the future. (This may not be included as an addendum. It must be in the body of the JOFOC.)

In accordance with FAR Subpart 5.2, the Government synopsisized a “Special Notice” of Intent to award a contract modification using other than full and open competition on February 07, 2022. There were no sources that expressed interest in this acquisition, following the synopsis.

7. Cite the anticipated dollar value of the proposed acquisition including options if applicable and a determination by the Contracting Officer that the anticipated cost to the Government will be fair and reasonable. When exceptional circumstances exist that require the period of performance to exceed one year, the JOFOC shall state priced option period(s) which will be included and a determination and findings is prepared for the Senior Procurement Executive’s approval.

Based on the current contract’s invoiced costs, the estimated value of this eight-month contract extension is approximately \$38M. The estimated value is within range of the Independent Government Cost Estimate.

8. A description of the market research conducted and the results or a statement of the reason market research was not conducted. Do not simply refer to the sources sought synopsis.

A “Notice of Intent” was synopsisized on February 07, 2022, giving potential sources an opportunity to comment on the Government’s intentions. There were no sources that expressed interest in this contract extension. For the reasons stated above, only one responsible source can complete this work while DOE awaits the COFC size standard protest decision.

9. Any other facts supporting the use of other than full and open competition:

No other facts supporting use of other than full and open competition have been identified beyond those found in this justification.

10. A listing of sources, if any, that expressed a written interest in the acquisition.

There were no sources that expressed interest in this acquisition, following the synopsis.

11. A statement of actions the agency may take to remove or overcome any barriers to competition if subsequent acquisitions are anticipated.

There will not be barriers that will lead to restricted competition on future acquisitions for this requirement. DOE conducted a competitive follow-on procurement with full and open competition, 100% Small Business set aside, and is currently awaiting resolution of legal proceedings.

Certification

The information contained in this Justification for Other than Full and Open Competition is certified accurate and complete to the best of my knowledge and belief.

Acquisition Initiator/Administrative Contracting Officer:

Jennifer Stokes

Date

REVIEWS

PPPO Procurement Director:

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Date

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Approvals

EM HCA:

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Date