



U.S. Small Business  
Administration

## DETERMINATION AND FINDINGS

**IDIQ Sole Source Award over \$112M FAR 16.504(c)(1)(ii)(D)(1)**

**The Small Business Administration (SBA) Office of Disaster Assistance (ODA)**

**Data Analysis and Loan Recommendation Services**

**RFP: 73351019D0001**

In accordance with the following Determination and Findings (D&F) and FAR 16.504(c)(1)(ii)(D)(1), the maximum ordering amount on the above referenced indefinite delivery, indefinite quantity (IDIQ) contract shall be changed from \$100 million to \$600 million without further competition. In accordance with FAR 16.506(b), the maximum order limitations will be raised from \$50 million to \$500 million for any individual task and/or delivery order against the IDIQ contract.

### Findings

**(a) Identification of the agency and of the contracting activity:**

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**(b) Nature and/or description of the action being approved:**

Approval of this Determinations and Findings is requested to increase the scope of contract 73351019D0001 from \$100 million to \$600 million in response to the National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak. ODA requests a contract modification to Indefinite Delivery Indefinite Quantity (IDIQ) contract 73351019D0001 (Contract) with RER Solutions, Inc. (RER) to increase the contract ceiling from \$100 million to \$600 million (to include the base and all option years) and to raise the maximum order limitations from \$50 million to \$500 million for any individual task and/or delivery order against the IDIQ contract. The Government intends to modify the IDIQ Contract immediately and issue task orders with COVID-19 disaster funds that exceed the \$112 million limit under FAR 16.504(c)(1)(ii)(D). The increase is expected to cover the surge in loan/grant requests as a result of the COVID-19 pandemic. Separate task orders will be issued for requirements that will be funded out of the COVID-19 appropriation. While other task orders will be issued to provide disaster loan analysis and recommendation support for disasters that may also occur under the original terms and conditions of the IDIQ contract using non-COVID appropriated funding. Per the terms and conditions of the IDIQ contract and task orders against it, SBA has established a per loan price for each application that is processed and recommendation that is sent to SBA.

This action is necessary to facilitate the recovery efforts to address the 2019 Novel Coronavirus (COVID-19). Because COVID-19 is an emerging disease, it is prudent to have adequate flexibility to address this public health emergency. The U.S. Secretary of Health and Human Services (HHS)

declared a public health emergency on January 31, 2020. On March 11, 2020, the World Health Organization (WHO) declared the COVID-19 outbreak a global pandemic. On March 13, 2020, the President declared a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak. Additionally, all fifty states and the District of Columbia have declared emergencies due to COVID-19.

This modification is essential to respond to urgent requests by ODA for support with loan intake, analysis, and loan decision recommendations, in response to the increase in Economic Injury Disaster Loan (EIDL) applications received as a result of the COVID-19 outbreak and its effect on small businesses.

**(c) Citation of the appropriate statute and/or regulation upon which the D&F is based:**

The Competition in Contracting Act generally requires “full and open competition” in government procurements as obtained through the use of competitive procedures. 41 U.S.C. § 3301. When an agency issues a modification that is considered outside the scope of the contract it requires a valid determination that the work is appropriate for procurement on a sole source basis. *MCI Telecomms. Corp.*, B-411841, B-276659.2, Sept. 29, 1997, 97-2 CPD ¶ 90 at 7.

FAR 16.504(c)(1)(ii)(D)(1)(i) states that an agency may not award a sole source task or delivery order contract to exceed \$112 million unless the head of the agency determines in writing:

- (i) The task or delivery orders expected under the contract are so integrally related that only a single source can reasonably perform the work;
- (ii) The contract provides only for firm-fixed price (see [16.202](#)) task or delivery orders for-
  - (A) Products for which unit prices are established in the contract; or
  - (B) Services for which prices are established in the contract for the specific tasks to be performed;
- (iii) Only one source is qualified and capable of performing the work at a reasonable price to the Government; or
- (iv) It is necessary in the public interest to award the contract to a single source due to exceptional circumstances.

This Determination and Finding (D&F) document is for approval of a modification to the IDIQ Contract to allow the award of task orders for a total estimated amount up to \$600 million, which exceeds \$112 million (including all options). This modification is considered outside the scope of the current Contract given the increase in volume of loan recommendations and the anticipated increase in task order funds that will be obligated, and therefore requires a Justification and Approval pursuant to FAR part 6.302 and this D&F pursuant to FAR 16.504(c)(1)(ii)(D)(1). In accordance with FAR 16.504(c)(1)(ii)(D)(1)(i), the task orders to be awarded pursuant to this modification of the Contract are so integrally related to work already performed under the Contract that only one source can reasonably perform the work.

**(d) Findings that detail the particular circumstances, facts, or reasoning essential to support the determination:**

In December 2019, a novel coronavirus was detected, causing outbreaks of the coronavirus disease COVID-19 that has now spread globally. As the virus spread across the United States, the Federal Government and individual states issued guidance requiring social distancing, quarantines, and school and non-essential business closures. Small businesses were immediately affected. To minimize economic disruption to the nation's 30 million small businesses, the SBA will provide Disaster Assistance Loans to small businesses impacted by the Coronavirus (COVID-19) and other declared emergencies. On March 27, 2020 the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) was passed providing much needed relief to the American people and businesses in response to the coronavirus outbreak. Section 1110 of the CARES Act injects \$10 billion into the SBA's existing Economic Injury Disaster Loan (EIDL) program and expanded eligibility for EIDL loans. Eligible businesses who apply for an economic injury disaster loan may receive up to \$10,000 as an advance against an EIDL loan.

As of April 10, 2020, the EIDL program has received over 4.5 million loan applications, which is well over the average of 65,000 received per year prior to the pandemic. On March 31, 2020, SBA received 680,310 EIDL applications, which, as of April 10, 2020, is the most received on any one day, throughout the history of this program. The number of loan requests is expected to continue to rise over the foreseeable future as the extent and length of the effects of the COVID-19 virus are not fully known at this time. Each of these loan requests require a loan decision based on industry standard loan making practices. The cost of intaking application materials, gathering documents, and recommending a loan decision is expected to rise from \$10 million per year to \$500 million or more in one year. The volume of loans is expected to continue to increase for the foreseeable future until the COVID-19 outbreak is contained, people go back to work, and the economy improves. The loan recommendation services provided by this contract are essential to processing loans in a timely manner. This modification is urgently needed to immediately address the surge in loan requests.

As the impact of the disaster continues, it is expected that more applications will be received. Modeling the disaster is difficult because of the nationwide/worldwide impact. Current rough estimates are that SBA may receive between 5 million to 10 million EIDL program loan applications.

Receiving a timely loan can make the difference between the survival of a small business and the business being unable to recover from the COVID-19 disaster. Small businesses are the lifeblood of the U.S. economy: they create two-thirds of net new jobs and drive U.S. innovation and competitiveness. A new report shows that they account for 44 percent of U.S. economic activity<sup>1</sup>. Small businesses affect local, state and national economies by providing jobs, income for residents, and tax revenues. Many small businesses have minimal cash reserves and will not be able to survive if the SBA is not able to process and approve economic injury disaster loans in a very short period of time, causing serious injury to not only the business itself but also to local, state and national economies.

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<sup>1</sup> <https://advocacy.sba.gov/2019/01/30/small-businesses-generate-44-percent-of-u-s-economic-activity/>.

The service to be procured through this modification is so integrally related to the existing services provided by RER that only RER can reasonably perform the work in the time necessary. RER was awarded this contract through a competitive process and is successfully performing the contract. RER has all the infrastructure, IT systems, processes, quality control measures and trained staff in place to continue performing the requirement. Other contractors would not be able to perform these services immediately for several reasons. Even with an expedited procurement process, it would take time to solicit, evaluate, negotiate, select and award a contract to another vendor. After award, the contractor would require start-up time to integrate with the SBA's systems and processes and would also need to hire and train additional staff. The time needed for award and start-up would adversely affect the SBA's ability to provide disaster loans in a timely manner.

**(e) The contract provides for only fixed-price task orders for services for which prices are established in the IDIQ for specific tasks to be performed.**

The IDIQ contact is for services for which the fixed prices are established in the contract for the specific tasks to be performed. The prices in the IDIQ contract award will not be changed and task orders will be issued for the services using either the approved or discounted prices for the specific tasks outlined in the IDIQ.

**(f) These services are necessary in the public interest to award the contract to a single source due to exceptional circumstances.**

In accordance with FAR 16.504(c)(1)(ii)(D)(1)(i), RER is the only contractor at this time that can provide the required loan recommendations to SBA. They have a system in place to transfer information back and forth with SBA. It would take another contractor significant time to be able to perform these services with the SBA. It is necessary to increase the award ceiling of this IDIQ to facilitate the recovery efforts to address the 2019 Novel Coronavirus (COVID-19). Because COVID-19 is an emerging disease, and there are no vaccines, it is prudent to have adequate flexibility to address the ongoing economic impact of this public health emergency. The U.S. Secretary of Health and Human Services (HHS) declared a public health emergency on January 31, 2020. On March 11, 2020, the World Health Organization (WHO) declared the COVID-19 outbreak a global pandemic. On March 13, 2020, the President declared a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak.

Additionally, all fifty states, the District of Columbia, American Samoa, Guam, Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands have declared emergencies due to COVID-19. Failure to obtain the loan analysis and recommendation services immediately will result in serious injury to small businesses and local, regional, and the national economy; therefore, it is in the public interest to obtain these services as quickly as possible, given the exceptional circumstances created by this pandemic.

**(g) Congressional notification in accordance with FAR 16.504 (c)(1)(ii)(D)(1)(iv) is not required.**

FAR 16.504(c)(1)(ii)(D)(1)(iv) requires that the procuring agency notify Congress if the

justification for the award is that it is necessary in the public interest to issue the award to one source due to exceptional circumstances. In this case, the justification for this modification is pursuant to FAR 16.504(c)(1)(ii)(D)(1)(i): the service to be procured through this modification is so integrally related to the existing services provided by RER that only RER can reasonably perform the work in the time necessary.

**(h) A Justification and Approval for this modification has been prepared and submitted with this D&F pursuant to 41 U.S.C. 3304(a)(2), Unusual and Compelling Urgency (FAR 6.302-2).**

### Determination

**(i) A determination, based on the findings, that the proposed action is justified under the applicable statute or regulation.**

Based on the above findings, I hereby determine that a modification to increase the ceiling of the IDIQ from \$100 million to \$600 million (to include the base and all option years) and to raise the maximum order limitations from \$50 million to \$500 million for any individual task order against the IDIQ contract which will create a single source award over \$112 million, is necessary, as justified at FAR 6.302-2 and at FAR 16.504(c)(1)(ii)(D)(1)(i), because of the unusual and compelling urgency to process the loan application and because the task orders to be issued are so integrally related that only one source can reasonably perform this work given the exceptional circumstances caused by the pandemic.

Contracting Officer Approval:

**TRACY LAMBERT** Digitally signed by TRACY LAMBERT

Date: 2020.04.17 15:20:23 -04'00'

Tracy Lambert  
Contracting Officer

Date

Recommend Approval:

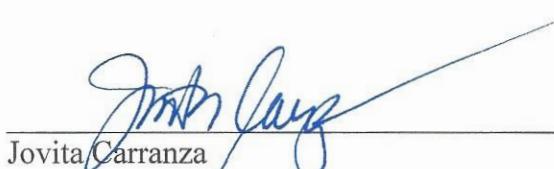
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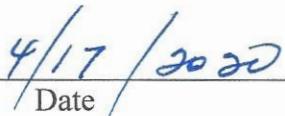
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Brendon Johnson  
Senior Procurement Executive (SPE) and Head of Contracting Agency (HCA)

Date

Approved:

  
Jovita Carranza  
Administrator, Small Business Administration

  
4/17/2020  
Date