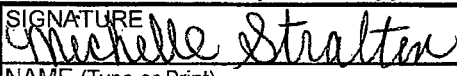
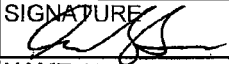
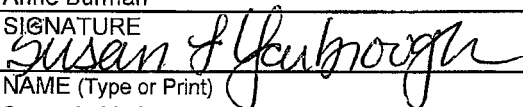
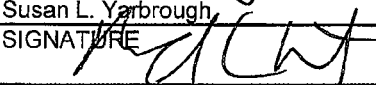


JUSTIFICATION REVIEW DOCUMENT FOR OTHER THAN FULL AND OPEN COMPETITION

CONTROL NO. SPK-12-12(1)

PROJECT/EQUIPMENT: (2)	New service contract to include operations, maintenance, and services for completed buildings at the Utah Data Center (UDC)	
AUTHORITY: (3) FAR 6.302-1 (a)(2)(iii)	AMOUNT: (4) \$8,500,000	
Prepared By:	NAME (Type or Print) Patricia Benson	TELEPHONE NO 916-557-5208
	TITLE Contract Specialist	DATE 12-Jun-12
Contracting Officer Same as 13 & 14 in J&A (5)	NAME (Type or Print) Robert R. Mecklenburg	TELEPHONE NO
	TITLE Contracting Officer	DATE 801-3302-5061
Technical (6)	NAME (Type or Print) Brian D. Szydluk	TELEPHONE NO 801-302-5004
	TITLE Office Engineer Supervisor	DATE
Requirements (6)	NAME (Type or Print) Mathew B. Boren	TELEPHONE NO 240-373-8971
	TITLE	DATE

SIGNATURES ARE REQUIRED BELOW:

<i>I have reviewed this J&A and find the justification adequate to support other than full and open competition</i>		
Deputy for Small Business (7)	SIGNATURE 	DATE 15 Jun 12
	NAME (Type or Print) Michelle D. Stratton	TELEPHONE NO 916-557-7641
Project Manager* (8) If no PM, use N/A	SIGNATURE Brian Szydluk	DATE 13 Jun 2012
	NAME (Type or Print) Brian Szydluk <small>SYZDLIK.BRIAN.DOUGLAS.1155703276</small>	TELEPHONE NO 801-302-5004
Office of Counsel	SIGNATURE 	DATE 13 June 2012
	NAME (Type or Print) Anne Burman	TELEPHONE NO 916-557-7004
DCC/CCC Contracting Chf	SIGNATURE 	DATE 18 June 12
	NAME (Type or Print) Susan L. Yarbrough	TELEPHONE NO 916-557-5244
Field Competition Advocate	SIGNATURE 	DATE
	NAME (Type or Print) Braden B. LeMaster, LTC	TELEPHONE NO 916-557-7490

FOR PARC-(WIN/ATL/DAL):

Concurrence: PARC Counsel	SIGNATURE	DATE
	NAME (Type or Print)	TELEPHONE NO
Concurrence: PARC Small Business Representative	SIGNATURE	DATE
	NAME (Type or Print)	TELEPHONE NO
Approval: Special Competition Advocate	SIGNATURE	DATE
	NAME (Type or Print)	TELEPHONE NO

**JUSTIFICATION AND APPROVAL
FOR OTHER THAN FULL AND OPEN COMPETITION**

1. **Contracting Activity:** U.S. Army Corps of Engineers, Sacramento District, Contracting Division (CECT-SPK) , 1325 J Street, Sacramento, CA 95814.
2. **Description of Action:** This action is a firm-fixed-price, performance-based service contract to include operations, maintenance, and services for completed buildings at the Utah Data Center (UDC) from the Beneficial Occupancy Date (BOD) until all facilities are complete and a Facility Support Contract (FSC) is in place. The new contract will serve as temporary bridge from the time the construction contractor starts delivering buildings under the project until all buildings have been delivered, at which time a fully performing FCS, awarded by the National Security Agency (NSA), will be in place. FY 2012 Operations & Maintenance (O&M) funds are available and to be used for the proposed sole-source contract. The estimated value of the 12 month base contract is \$8.5M and includes an option to extend services for two months in FY13 that is valued at \$1.2M for a total estimated value of \$9.7M.

The period of performance for the contract will begin when the first facilities are turned over to the Government at the BOD and will end on turnover of the last facilities. Deliverable 1B is scheduled to be turned over in August 2012, Deliverable 2 in December 2012, and Deliverable 3 on 24 September 2013. The period of performance for the base will be for 12 months and the option will be for two months that may be exercised one month at time.

3. **Description of Supplies/Services:**
 - (a) This action is a contract in support of an existing construction contract with national security implications to provide critical facility operations, warranty management, and maintenance services at an interim completion date for completed buildings at the UDC, located on Camp Williams, Utah. The services are required from the BOD until all facilities are complete and an FSC is in place. See the attached draft Performance Work Statement for a more detailed description of the services to be procured.
 - (b) The current construction contract included minimal maintenance requirements that end at the BOD. Because of the two separate BOD interim turnover dates and the non-existence of O&M manuals for specialized equipment, a pre-planned services contract is not feasible and not a reasonable option for the Government. Thus, this sole source contract will serve as a stop gap measure until the entire facility is complete and a permanent FSC

can be completed since Operations, Maintenance, and Services for interim milestones was not and could not reasonably be covered by the construction contract.

(c) The requiring activity is the National Security Agency (NSA).

(d) An option performance period is included in the contract due to the period of performance being longer than 12 months and crossing fiscal years. The total estimated value of the 12 month base is \$8.2M. There is a need for an option for two months of additional services in FY13 that will be funded with FY13 funds.

4. **Authority Cited:** 10 U.S.C. 2304(c)(1) as implemented by FAR 6.302-1 and DFARS 206.302-1 -- Only One Responsible Source.

5. **Reason for Authority Cited:**

(a) **Background:** The UDC will be a highly secure 65 Mega Watt, Tier III National Security Agency datacenter facility to be located near Camp Williams, Utah. The fast-track program will consist of approximately 1 million square feet of new facilities, of which 100,000 ft² will be mission-critical space with raised flooring, and the other 900,000 ft² will be devoted to technical support and administrative space. Ancillary support facilities include water treatment facilities, electrical substations, a vehicle inspection facility and visitor control center, perimeter site security measures, fuel storage, chiller plants and fire suppression systems. The UDC will incorporate green building strategies and will be required to be a LEED certified facility, with the goal of obtaining a LEED Silver rating.

Portions of the UDC, located on Camp Williams, Utah, will be completed and turned over to the Government prior to the Government obtaining the services of a facility support contractor. The USACE obtained and is currently managing the Design/Build (D/B) Contractor, 'Balfour Beatty/DPR/Big D a Joint Venture' (BDB). The Contractor will stop maintaining the facility at BOD. Once the Contractor turns over the facility to the Government for interim BOD dates, the requirement is to have the current contractor, (with all its knowledge of the O&M requirements, as developed in the preparation of the O&M manuals to be delivered under the construction contract) continue to operate, maintain, and service equipment and facilities. The Facilities O&M requirement was not included in the original solicitation as the need for facility services was not recognized because usually all buildings of a project are turned over at the BOD. A decision was made to turn over the facilities in a staggered manner so that the customer could begin equipping the buildings as each was completed. In addition, the construction contract required the contractor to fully develop O&M manuals after the design was fully

developed. The FSC aspect of the requirement that is required to define the FSC requirement was not available and will not be available until delivered by BDB under the construction contract. Until the O&M manuals are delivered under the construction contract, only BDB has knowledge of how the equipment is to be operated and maintained.

The intent of the Government has always been to have a separate contract for facilities maintenance. The Government has made efforts, in parallel with the construction contract in order to solicit for a full FSC, but has been unable to gather all of the required documentation due to the current deliverable requirements of the construction contract not delivering O&M manuals until a few days prior to deliverable turnover. The data in the O&M manuals is required for any contractor, other than BDB, to prepare a reasonable pricing proposal. In addition, due to the multiple interim completion dates, and turnover, having another contractor (other than BDB) to manage Operations and Maintenance while the rest of the project is completed will add significant and unnecessary risk to the Government. Government oversight of a separate contractor to manage the warranty issues will add risk to the government in the form of inefficiencies, potentially an unawareness of how the systems are to be operated and maintained while data is still being gathered for the permanent competitively priced FSC contract to be awarded at completion of the entire site. The prime contractor and its partners who created the O&M manuals are better positioned to initially manage the warranty issues until final BOD, Deliverable 3 in August 2013.

Since there is approximately a one year gap between anticipated BOD of the first facilities and when the Government will have a FSC in place, an interim FSC is needed to provide Operations, Maintenance and Services.

The national significance of this site and of the functions it supports requires a unique and significantly high degree of expertise. This is not a typical O&M services requirement of a routine facility. This is a one of the federal government's largest data centers upon which there are probably only a handful of companies across the nation who do currently do this type of work, and the scope will be an all-encompassing FSC to include everything from operating and maintaining the high voltage primary and secondary substations and the extensive mechanical infrastructure all the way down to plant custodial services. Although the scope of work detailed in the PWS is not classified, there will be classified equipment being installed by NSA during the period of performance in this contract. Thus, any new FSC contractor would have to meet certain requirements already obtained by the current contractor. These contractors and sub-contractors, despite being vetted, will need escorts that are provided by the Government to execute its work in specific locations. The current design builder has unique

knowledge of the facility through intimate knowledge of how several thousand pieces of equipment operate, how they were to be maintained, and how they were commissioned. Further, the current design/builder has contractual access and established relationships to the designer and manufacturers of critical pieces of equipment on site that are important during the first few months of operation. In addition, there is a very high likelihood that BDB will be involved to conduct warranty work that would be difficult and inefficient to manage with a separate prime contractor which would also include significant duplication costs explained (c)(1) below.

- (b) Justification: Lack of Technical Data Available for full & Open Competition.** The UDC will be a highly secure 65 Mega Watt, Tier III National Security Agency datacenter facility. Preparing an awardable scope of work and performance work statement for facilities operations, warranty management, and maintenance services for completed buildings at the UDC requires significant detailed technical specification and data on the facilities, their components and installed equipment. That detailed technical information is not currently available at this stage in construction and will not be available in usable form until a few days before facility turnover, leaving insufficient time for inclusion of this information in a FSC solicitation that must be in place no later than beneficial occupancy of the all of the buildings. Under the construction contract, we are just now beginning to see drafts excerpts of the O&M manuals and so we still haven't finished gathering all of the required technical data that could reasonably facilitate a timely competitive procurement in time for the interim milestones in August of 2012.

As each building approaches commissioning and facility turnover, BDB's knowledge and expertise regarding each building is required to perform the required services and to provide USACE with the detailed technical information that will be required for the FSC. BDB, as the designer and construction contractor for the facilities, already has much of the technical information on the facilities needed to provide a sound responsive fixed price proposal for the negotiation and award of the services on an interim basis until all of the UDC buildings are complete. They are also responsible for all construction warranty issues that may arise after beneficial occupancy in accordance with the current base contract. Government oversight of a separate contractor to manage the warranty issues will add risk to the government in the form of inefficiencies, potentially an unawareness of how the systems are to be operated and maintained while data is still being gathered for the permanent competitively priced FSC contract to be awarded at completion of the entire site. The prime contractor and its partners who created the O&M manuals are better positioned to initially manage the warranty issues until final BOD, Deliverable 3 in August 2013.

Given the scope breadth of these facilities, (a multi building complex complete with utilities, security, and other infrastructure to support 20 buildings totally over 1 million square feet) and the duration of construction, BDB is already operating/ commissioning and maintaining the partially complete facilities during the final phases of construction within the scope of the original design and construction contract. The interim FSC will be solely for the required services from the BOD of Deliverable 1A until all facilities are complete and an FSC is in place on or about August 2013. During the interim contract's performance period, the permanent FSC contract will be competitively bid and awarded by NSA with enough technical data to support a price and contract vehicle that will be more beneficial to the government and of significantly less risk.

Operation and Maintenance manuals that include the technical information to operate and maintain the equipment and systems of equipment are being released now but have not been delivered, as this sole source solicitation is being prepared. Thus, competition is not an acceptable alternative as BDB is the best source since it designed and is constructing all of the facilities on the UDC campus. They are the only contractor who has knowledge of the information required to compete an FSC prior to it being submitted as deliverables under the construction contract. This makes them the only source that can provide a responsive proposal and begin performance without resulting either in substantial duplication of costs (costly post award modifications and adjustments resulting from a contract awarded without sufficient technical data to a contractor unfamiliar with the unique facility) and/or unacceptable delays (six months or more with no responsive facilities maintenance due to the timeline required to prepare, advertise and award a contract through competitive processes after receiving the necessary technical data from BDB before beneficial occupancy).

Accordingly, BDB is the only source postured to provide a responsive proposal to satisfy this requirement, considering the immature state of the facilities' technical specifications and data necessary to accurately quantify the operations and maintenance requirements for a scope of work in a full and open competition.

- (c) **Impact and Alternatives.** The facilities will be a highly secure 65 Mega Watt, Tier III National Security Agency Data Center. Operating and maintaining this campus requires a work force that is intimately familiar with the design and components and with the unique requirements behind the facilities. By virtue of the fact that the construction contractor designed, is constructing the facilities and currently is developing the O&M manuals that will be required for the O&M service contract that will be in effect at construction completion, along with the fact that there is no existing government capacity (in-sourced or out-sourced) in place to absorb this requirement, the construction contractor is the only responsible source that can provide the highly specialized services

to maintain these facilities effectively during the time from the BOD until all facilities are complete and a FSC is in place on or about September of 2013. The impact of not having the bridge O&M service contract is that equipment would fail and warranties will be voided. This likely scenario, if not properly addressed by this O&M sole source contract, will result in unacceptable risk in terms of cost increases to replace or repair equipment and systems and will ultimately lead to the failure of the facility's mission which poses serious implications to national security which is the purpose for this billion dollar program and facility. In addition, attempting to procure this requirement through a competitive process, either earlier (at beneficial occupancy) with significantly incomplete technical information or later (six-months after beneficial occupancy) would result in substantial duplication of costs or unacceptable risk of impact and potential disruption as follows:

- (1) Substantial Duplication of Costs. If the Government had attempted to solicit and award this requirement without the O&M manuals necessary for a contractor to prepare a responsive proposal for performance to begin at beneficial occupancy, the Government would be at significant risk in terms of costly modifications after the fact when the O&M manuals became available for the government and contractor to more accurately determine costs.

Additionally, since all of the facilities will not be complete at the same time, the duplication of costs would flow down to each facility as it reached beneficial occupancy. For example, once the FSC was awarded based upon incomplete O&M manuals for the first facility, the next facility would be approaching beneficial occupancy, and its FSC would have to be solicited using the same type of incomplete/inaccurate data that was used to award the FSC. As modifications were being issued to change the first FSC based on more accurate technical data, a modification to add the almost complete facility to the FSC would have to be initiated or possibly, a second FSC competed that would duplicate some of the services being provided by the first FSC.

Having a single FSC in place that is competed based upon accurate, current, and complete O&M manuals for the entire UDC campus is the only methodology that makes sense to avoid duplication of cost due to incomplete/inaccurate information and duplication of contract administration due to not having a clearly defined requirement prior to solicitation.

Additionally (reference Unacceptable Delays and impacts paragraph below), there would be a significant duplication of costs if the UDC were to pay for highly specialized equipment items that included warranties that were voided due to delays

in the warranty maintenance services that are included in the scope of work for this sole-source contract. The UDC would either incur duplicate costs for repairs that should have been covered by the voided warranties or by having to purchase extended warranties, if available after having the original warranty voided by neglect.

The duplication of costs is estimated (as a rough order of magnitude) of \$1.5M to \$2M (20% of existing O&M budget) for a full facility's conditions assessment in addition to developing a plan from existing contractor operations and maintenance manuals. This estimate was derived based on RS Means condition assessment data along with an estimation of manpower required for the transition from existing data known to the government from current modification information. Based on results from individual equipment maintenance to system maintenance/operation to integrated system maintenance/ operation, this learning curve would take time (currently not available) and knowledge in order to effectively manage without risk of failure. This duplication of costs, in addition to those mentioned above, would also include resource and labor spent by the current design/ builder to educate and handoff highly technical and complex information to execute a successful handover. In addition, asking the current design builder to hand off data during an interim completion would strain its resources that have been carefully managed in order to deliver the remaining portion of the UDC during peak productivity. Placing or mixing contractors in the same space would put the government at risk for impact or disruption type claims.

As stated above, the intent of the Government has always been to have a separate contract for facilities maintenance. However, the Government has made efforts, in parallel with the construction contract in order to solicit for full FSC, but has been unable to gather all of the required documentation needed to define the FSC requirement due to the current deliverable requirements of the construction contract not delivering O&M manuals until a few days prior to deliverable turnover. The data in the O&M manuals is required for any contractor, other than BDB, to prepare a reasonable pricing proposal.

- (2) Unacceptable Delays and Impacts. If the government were to attempt to solicit and award a contract for this requirement starting with technical data and specifications that would not be available until days prior to beneficial occupancy, it is unlikely that such a requirement could be awarded and performance could begin any earlier than six months or more after government the BOD, given a six to nine month acquisition timeline. Since there is no existing Government capacity to fulfill this requirement in the interim, waiting to start the FSC procurement until the availability of technical data and specifications would result in each facility having no facilities sustainment

support until approximately SEP 2013 or until a competitive FSC can be awarded (which would be of additional cost and unacceptable risk to the government as stated above. This would be the period from the BOD until all the buildings are delivered to the government and could lead to warranties being voided due to lack of maintenance.

The impact if this J&A is not approved would be :

- (i) the Government would be forced to solicit and award through full and open competition a cost type contract, due to the lack of sufficient facilities technical data and specifications and an inadequately defined scope of work
- (ii) the government's requirement for an FSC by the beneficial occupancy date would not be met;
- (iii) significantly increased cost to the Government due to not being able to solicit a firm-fixed-price contract.

Due to BDB's detailed knowledge and understanding of the technical aspects of all of the facilities on the UDC campus and their partnership with USACE since award of the contract, they are uniquely qualified to meet the requirements of the interim FSC without undue risk on their part or the Government's.

(d) Future Acquisition Strategy. Prior to the end of the performance period for the interim FSC, the NSA intends to solicit and award a new contract for full FSC services using with the O&M manuals that will be delivered under the construction contract and additional data obtained during the interim FSC's period of performance. The competition strategy will be based upon market research. The Government anticipates a lead time of six months from advertisement to award. Additionally, there will be time required for security clearances, training of the FSC contractor by BDB, and other start up coordination given the unique security requirements associated with working on such a complex project. It is the Government's intent to advertise and award this contract during the first quarter of 2013 with full performance to begin in September of 2013.

6. Efforts to Obtain Competition:

- a. This proposed contract action was synopsisized as required by FAR 5.201(b)(1)(ii) and FAR 6.302-1(d)(2). The synopsis was published in the FEDBIZOPPS on 19 April 2012 with a 15 day response period for interested contractors.
- b. No responses were received as a result of the synopsis. However, any responses received will be considered.
- c. The original contract was competed and BDB was the successful offeror.

d. Based on information in Paragraph 5 above, competition for this action was not feasible.

7. **Actions to Increase Competition and Remove or Overcome Barriers to Competition:**
Competing the current requirement is not possible for the reasons stated above. The basic contract was competed under full and open conditions, and service requirements subsequent to this contract will likewise be procured under full and open circumstances. Once the construction contract is complete, all data that is necessary for future O&M contracts will be in the possession of the Government so full and open competition will be possible. The requiring activity is currently preparing a scope of work that will be adequate for full and open competition on a follow-on requirement anticipated for execution in August 2013. Market research will be performed for the follow-on requirement to identify all potential sources
8. **Market Research:** A Special Notice of the Government's intent to sole source the action to BDB was synopsized on FEDBIZOPPS.GOV on 19 April 2012. The notice indicated that all information received prior to May 5, 2012 will be considered and the decision whether to sole source will be within the discretion of the Government. See Paragraph 9 below. Without the O&M manuals that will be delivered under the construction contract, only BDB is capable of performing the O&M services. Once construction is complete and the final O&M manuals delivered, FAR Part 10 will be followed to identify all qualified sources, and the degree of competition will be determined based on the market research.
9. **Interested Sources:** As state in paragraph six above, no responses have been received with regard to challenging the issuance of a sole-source action include operations, maintenance, and services for completed buildings at the UDC from the BOD until all facilities are complete and a Facility Support Contract is in place.
10. **Other Facts:** The contracting officer will negotiate a fair and reasonable cost for the interim FSC based upon the Independent Government Cost Estimate and cost/price analysis of the proposal which will include certified cost/pricing data.
 - (a) **Procurement history.**
 - (1) Contract numbers and dates of the last several awards: There have been no past awards. This action is relevant to services required for a new construction project.
 - (2) Competitive status of these actions. Not applicable
 - (3) Authority previously used for less than full and open competition. Not applicable
 - (4) If a justification was prepared to support the procurement made before this one, a summary of the contents of Paragraph 7 of the justification for that procurement and an explanation of the results. Not applicable

- (5) If any prior award was accomplished by full and open competition, a detailed explanation of the changed circumstances. Not applicable
- (6) An explanation of any unusual patterns which may be revealed by the history, e.g., several consecutive, urgent buys. Not applicable
- (7) If a justification was prepared to support the procurement made before this one, briefly describe the circumstances justifying the buy and whether there have been any significant changes. Not applicable

(b) Acquisition data availability. That detailed technical information is not currently available at this stage in construction and will not be available in usable form until a few days to facility turnover leaving insufficient time for inclusion of this information in a FSC solicitation that must be in place no later than beneficial occupancy of the all of the buildings.

(c) Unusual and compelling urgency. Not applicable.

(d) Subcontracting competition. BDB has a subcontracting plan in place and is current in their reporting.


11. Technical Certification:

I certify that the supporting data under my cognizance which are included in the justification are accurate and complete to the best of my knowledge and belief.

NAME: BRIAN SZYDLIK

Date: 6/13/2012

TITLE: Office Engineer Supervisor

Signature: 

12. Requirements Certification:

I certify that the supporting data under my cognizance which are included in the justification are accurate and complete to the best of my knowledge and belief.

NAME: MATHEW B. BOREN

Date: 6/13/12

TITLE: NSA Operations and Facility
Manager

Signature: 

13. Fair and Reasonable Cost Determination:

I hereby determine that the anticipated cost to the Government for this contract action will be fair and reasonable. This determination will be based on certified cost or pricing data.

NAME: ROBERT R. MECKLENBURG

Date: 6/13/2012

TITLE: Contracting Officer

Signature: 

14. Contracting Officer Certification:

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

NAME: ROBERT R. MECKLENBURG

Date: 6/13/2012

TITLE: Contracting Officer

Signature: 

Concur:

SKIERSKI.WALTER
J.JR.1038536865

Digitally signed by
SKIERSKI.WALTER.JR.1038536865
DN: cn=US, o=U.S. Government,
ou=DoD, ou=PEI, ou=USA,
cn=SKIERSKI.WALTER.JR.1038536865
Date: 2012.06.18 12:59:26 -0500

WALTER J. SKIERSKI, JR.
Deputy Southwestern Division
Counsel/PARC-Dallas Counsel

Date

CROUSE.MELEA.DARLI
NE FORT.1231941700

Digitally signed by CROUSE.MELEA.DARLI
DN: cn=US, o=U.S. Government, ou=DoD, ou=PEI, ou=USA,
ou=CROUSE.MELEA.DARLI.FORT.1231941700
Date: 2012.06.21 11:45:08 -0500

MELEA CROUSE
Assistant Associate Director SB
South Pacific Division (SPD)/
Southwestern Division (SWD)

Date

APPROVAL

Based on the foregoing justification, I hereby approve the procurement of the sole-source service contract to include operations, maintenance, and services for completed buildings at the UDC from the BOD until all facilities are complete and a Facility Support Contract is in place on an other than full and open competition basis pursuant to the authority of 10 U.S.C. 2304(c)(1) Only One Responsible Source and No Other Supplies or Services Will Satisfy Agency Requirements, subject to the availability of funds, and provided that the services and property herein described have otherwise been authorized for acquisition.

Patricia Brown Trainer

Patricia Brown Trainer
Special Competition Advocate
PARC-Dallas

21 June 2012

Date

JUSTIFICATION REVIEW DOCUMENT FOR OTHER THAN FULL AND OPEN COMPETITION

Control No SPK 12-12-01

PROJECT/EQUIPMENT: (2) Utah Data Center Facility Support Contract		
AUTHORITY: (3) FAR 6.302-7(a)(2)(ii) AMOUNT: (4) \$20,000,000		
Prepared By:	NAME (Type or Print) Susan Yarbrough	TELEPHONE NO (916) 557-5244
	TITLE District Contracting Chief	DATE 28-Aug-12
Contracting Officer <small>Same as 13 & 14 in J&A (5)</small>	NAME (Type or Print) Susan Yarbrough	TELEPHONE NO (916) 557-5244
	TITLE Contracting Officer	DATE 28-Aug-12
Technical (6)	NAME (Type or Print) Brian D. Szydik	TELEPHONE NO (801) 302-5004
	TITLE Office Engineer Supervisor	DATE 28-Aug-12
Requirements (6)	NAME (Type or Print) Mathew B. Boren	TELEPHONE NO (240) 373-8971
	TITLE	DATE 28-Aug-12

SIGNATURES ARE REQUIRED BELOW:

<i>I have reviewed this J&A and find the justification adequate to support other than full and open competition</i>		
Deputy for Small Business (7)	SIGNATURE STRATTON MICHELLE D.1231918856	DATE 28-Aug-12
	NAME (Type or Print) Michelle D. Stratton	TELEPHONE NO (916) 557-7341
Project Manager* (8) <small>If no PM use N/A</small>	SIGNATURE	DATE 28-Aug-12
	NAME (Type or Print) Brian Szydik	TELEPHONE NO (801) 302-5004
Office of Counsel	SIGNATURE BRIDMAN ANNE L 10 01409557	DATE 28-Aug-12
	NAME (Type or Print) Anne Bridman	TELEPHONE NO (916) 557-7004
DCC/CCC Contracting Chf	SIGNATURE YARBROUGH SUSAN WELLS 1481510	DATE 28-Aug-12
	NAME (Type or Print) Susan L. Yarbrough	TELEPHONE NO (916) 557-5244
Field Competition Advocate	SIGNATURE LEMASTER BRADEN.GRAHAM.1 079188928	DATE 28-Aug-12
	NAME (Type or Print) LTC Braden LeMaster	TELEPHONE NO (916) 557-7490

**AMENDMENT TO JUSTIFICATION AND APPROVAL
FOR OTHER THAN FULL AND OPEN COMPETITION
SOLICITATION W91238-12-R-0039
FACILITY SUPPORT CONTRACT FOR THE UTAH DATA CENTER**

1. Contracting Activity: U.S. Army Corps of Engineers (USACE), Sacramento District, Contracting Division (CECT-SPK), 1325 J Street, Sacramento, CA 95814.

2. Description of Action: This action intends to award a firm-fixed-price, performance-based service contract to Balfour Beatty/DPR/Big D Joint Venture (herein referred to as "BDB"), to provide construction facilities support to include operations, maintenance and facilities services in connection with the current construction effort at the Utah Data Center (UDC) located at Camp Williams, Utah. The facilities support service task was not included under the UDC Construction Contract W912DR-10-C-0094. This new contract under solicitation number W91238-12-R-0039 will provide National Security Agency (NSA) with the essential facilities services from the Beneficial Occupancy Date (BOD) until all facilities are complete and NSA's Facility Support Contract (FSC) is in place. This contract will provide streamlined support for facilities operations and maintenance services as the facilities are complete. NSA's competitive FSC solicitation for the comprehensive service contract is scheduled to be issued by early 2013. Fiscal Year (FY) 2012 and 2013 Operations & Maintenance (O&M) funds are available and will be used for this sole source effort. This action will result in an increase of the total contract value from \$9.7M to \$20M.

The period of performance for this action will be 14 months. The period of the performance is built upon the deliverables within the UDC's construction contract. In the construction contract there are three deliverables: 1) Deliverable 1B scheduled 15 October 2012 includes Data Center Module (DCM) 1, Administration Building, Data Center Loading and Storage, Chiller Plant 1 and Storage Tanks, Generator Plant 1 with Fuel System Storage, Visitor Control Center, Vehicle Cargo Inspection Facility, Kennel, Perimeter Warehouse and Fire Pump Building; 2) Deliverable 2 scheduled 3 December 2012 includes DCM 2 and Generator Plant 2 with Fuel System Storage; and 3) Deliverable 3 scheduled on 24 September 2013 includes (DCM 3, Generator Plant 3 with Fuel System Storage, DCM 4, Generator Plant 4 with Fuel System Storage, and Chiller Plant 2 and Storage Tanks. The period of performance will begin approximately two weeks prior to the date the first facilities are turned over to the Government at Deliverable 1B. Deliverable 1B will end 2 months after the turnover of the last facilities under Deliverable 3. The period of performance for the base period is revised from the original Justification and Approval dated 21 June 2012 from 12 months to 6 months (FY12 funding) and the option period is revised from 2 months to 8 months (FY13 funding).

3. Description of Supplies/Services:

(a) This action is a contract in support of an existing construction contract with national

security implications to provide critical facility operations, warranty management, and maintenance services at an interim completion date for completed buildings at the UDC, located on Camp Williams, Utah. The services are required from the Beneficial Occupancy Date (BOD) until all facilities are complete and an FSC is in place.

(b) The current construction contract includes minimal maintenance requirements that end at the BOD. The contract includes two interim facility BOD/turnover dates (for Deliverables 1B and 2), to allow the customer to begin outfitting and installation of classified/sensitive equipment in DCM 1 and 2 prior to the complete turnover of all the facilities. BDB is no longer responsible for these facilities after they are turned over to the customer. The O&M manuals needed to define the requirements for O&M of contract facilities and specialized equipment are in various stages of completion by BDB and will be provided at the interim BOD date for those specific facilities. The remainder of the O&M manuals for the remaining facilities will be completed as those facilities are turned over. The NSA will need all of the O&M manuals for solicitation of the permanent FSC in 2013. It is not possible to competitively solicit and award one pre-planned services contract until all of the O&M manuals for all facilities (1B, 2 and 3) are completed and can form the basis of the competitive solicitation. Thus, this sole source contract will serve as a stop gap measure to maintain the interim deliverables (1B, 2 and 3) until the entire complex is complete and a permanent FSC can be awarded. Operations, Maintenance, and Services for interim milestones were not and could not reasonably be covered by the construction contract. Including the FSC services in the initial construction contract would have resulted in a higher cost and performance risk since the majority of the facilities were not fully designed.

(c) An option performance period is included in the contract due to FY 12 funding limitations, the total period of performance being longer than 12 months, and crossing fiscal years. The total estimated value of the 6 month base is \$7.7M. The 8 month option period has an estimated value of \$12.3M, to be funded with FY13 funds.

4. **Authority Cited:** No Change.

5. **Reason for Authority Cited:**

(a) **Background:** No Change.

(b) **Justification: Lack of Technical Data Available for full & Open Competition.** No Change.

(c) **Impact and Alternatives.** No Change.

(d) **Future Acquisition Strategy.** The follow-on contract to be issued by NSA is still scheduled for award in September 2013. The end of the period of performance for the interim FSC was changed from September 2013 to November 2013 to cover any delay in award by the NSA and to ensure an orderly transition from the interim FSC to the follow-on/permanent FSC.

6. **Efforts to Obtain Competition:** See below paragraph 8, Market Research.

7. **Actions to Increase Competition and Remove or Overcome Barriers to Competition:**
No Change.

8. **Market Research:** A revised Notice of Intent (NOI) was issued on 14 September 2012 in support of this amendment. There was no response to the initial NOI, however, any responses that are received from the revised NOI will be considered prior to award of this contract.

9. **Interested Sources:** No Change.

10. **Other Facts:** After approval of the original J&A on 21 June 2012, an RFP was issued to BDB on 17 July 2012. The contracting officer received the contractor's proposal on 9 August 2012. The proposal was much higher in cost than originally anticipated. The Government undertook scoping/fact finding discussions with the contractor on 13 August 2012 to ascertain mutual understanding of the work. During the course of discussion the Government noted that there were several assumptions in the Independent Government Estimate (IGE) that were different from what was proposed by the contractor. The Government's assumption was that annual service and maintenance would be executed by the follow-on FSC (to be procured by NSA and in place by the time full turnover of the facility is achieved). On 15 August 2012, the Government revised the IGE to include annual service and maintenance for electrical, fire alarm, mechanical and generator systems (labor, materials and equipment) based on the client's need for service and maintenance above and beyond the daily, weekly, monthly, quarterly routine inspection and preventative maintenance already included. The difference in assumptions occurred because the Performance of Work Statement is primarily performance based, as opposed to prescriptive. The stated objective of this contract is to perform operations, maintenance and services in order to ensure facilities and equipment remain in good working order and to prevent the loss of manufacturer's warranties. The contractor's proposal assumed the annual maintenance was required as part of that general scope and after consideration the Government agrees. Discussion of the classification of workers under the proposal as compared to the IGE resulted in a revision to the workers classification from journeyman to technicians at a higher rate, to better reflect the technical skill that would be required to perform the required work. Lastly, the original IGE included direct cost markups for the prime contractor. As part of this discussion, the IGE was revised from percentage markup to include specific management efforts that better reflects construction services to facilities maintenance services. As a result of those discussions and with client input, the Government determined that several elements of the contractor's proposal appeared higher than necessary (and will be negotiated); however, other elements were appropriate and either underestimated or not included in the original IGE. The IGE was revised, and increased to approximately \$20M for the base and option periods.

The original justification for this contract action was approved by the Principal Assistant Responsible for Contracting (PARC) Dallas Special Competition Advocate on 21 June 2012 for a total estimated value of \$9.7M. IAW AFARS 5106.303-2-90(b)(3)(ii), the increase in the revised total estimated value of this justification necessitates HCA approval. The Government's intent remains to negotiate a fair and reasonable price for this interim FSC based upon comparison with the revised IGE and a cost/price analysis of BDB proposal which will include certified cost/pricing data. In the evaluation of the proposal, in addition to comparison with the

revised IGE, the Contracting Officer will also discuss the tasks with NSA specialists who have historical information from previous projects that may be used for comparison.

- (a) **Procurement history.** No changes.
- (b) **Acquisition data availability.** No changes.
- (c) **Unusual and compelling urgency.** Not applicable.

(e) **Subcontracting competition.** BDB has submitted a subcontracting plan which is under review. The contractor has submitted cost or pricing data, including subcontractor's data, as required. Some subcontracts will be placed non-competitively with the firms who manufactured/installed the equipment or system in the facility to ensure all manufacturers' warranties are maintained. Subcontracts for services not related to specific equipment or systems will be competed (janitorial, facility management consultant, mechanical/plumbing consultants, some electrical work).

11. **Technical Certification:**

I certify that the supporting data under my cognizance which are included in the justification are accurate and complete to the best of my knowledge and belief.

NAME: BRIAN SZYDLIK

Date: 12 September 2012

TITLE: Office Engineer Supervisor

Signature: SZYDLIK.BRIAN.DOU
GLAS.1155703276

12. **Requirements Certification:**

I certify that the supporting data under my cognizance which are included in the justification are accurate and complete to the best of my knowledge and belief.

NAME: MATTHEW B. BOREN

Date: 12 September 2012

TITLE: NSA Operations and Facility
Manager

Signature: 

13. **Fair and Reasonable Cost Determination:**

I hereby determine that the anticipated cost to the Government for this contract action will be fair and reasonable. This determination will be based on certified cost or pricing data, comparison to the ICE, comparison to historical pricing information, technical and cost/price analysis of the contractor's proposal.

NAME: SUSAN L. YARBROUGH

Date: 12 September 2012

TITLE: Contracting Officer

Signature: YARBROUGH.SUSAN
.LYNN.1231943150

14. **Contracting Officer Certification:**

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

NAME: SUSAN L. YARBROUGH

Date: 12 September 2012

TITLE: Contracting Officer

Signature: YARBROUGH.SUSAN
.LYNN.1231943150

Concur:

SKIERSKI,WALTER, Digitally signed by
SKIERSKI,WALTER,JR.1038536865
DN: cn=US, o=U.S. Government, ou=DoD, ou=PKI,
email=S.A.CROUSE@DHS.WALTER.JR.1038536865
Date: 2012.09.13 14:05:11 -0500
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WALTER J. SKIERSKI, JR.
Deputy Southwestern Division
Counsel/PARC-Dallas Counsel

Date

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MELEA CROUSE
Assistant Associate Director SB
South Pacific Division (SPD)/
Southwestern Division (SWD)

Date

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Date: 2012.09.18 12:45:35 -0500
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PATRICIA BROWN TRAINER
Special Competition Advocate
PARC Dallas

Date

APPROVAL

Based on the foregoing justification amendment, I hereby approve the procurement of the sole-source Facility Support service contract to include operations, maintenance, and services for the completion buildings at the UDC from the BOD until all facilities are complete and NSA's support contract is in place on an other than full and open competition basis to the authority of 10 U.S.C. 2304(c)(1) as implemented by FAR 6.302-1 and DFARS 206.302-1, Only One Responsible Source, subject to the availability of funds and provided that the services herein described have otherwise been authorized for acquisition.

21 Sep 2012
Date

Stuart A. Hazlett
STUART A. HAZLETT
Director, National Contracting Organization
U.S. Army Corps of Engineers