

**Justification and Approval for
Other than Full and Open Competition**

PROJECT: COVID-19

CONTROL NO: MVN-20-0016

AUTHORITY CITED: 10 U.S.C.2304(c)(2), or 41 U.S.C.3304(a)(2) as implemented by FAR 6.302-2(a)(2), Unusual and Compelling Urgency.

CLASS AMOUNT: \$700,000.00

PREPARED BY: CONTRACT SPECIALIST	NAME: Mr. Anthony Maiore PHONE: 504.862.1604	DATE: 28 March 2020
CONTRACTING OFFICER	NAME: Ms. Cynthia M. Hall PHONE:504.862.2874	DATE: 28 March 2020
Assistant Chief, Engineering Division	NAME: Dr. Christopher Dunn PHONE:504.862.1799	DATE: 28 March 2020

I have reviewed this CLASS J&A and find the justification adequate to support other than full and open competition.

CONTRACTING OFFICER	NAME: Ms. Cynthia M. Hall PHONE:504.862.2874	DATE: 28 March 2020
Assistant Chief, Engineering Division	NAME: Dr. Christopher Dunn PHONE:504.862.1799	DATE: 28 March 2020

1. CONTRACTING AGENCY: U.S. Army Corps of Engineers, New Orleans District (CEMVN), Contracting Division, New Orleans, Louisiana

2. DESCRIPTION OF ACTION: In support of Presidential National Emergency Declaration Concerning the Novel Coronavirus Disease (COVID-19) Outbreak, on 13 March 2020, approval is requested for a Justification and Approval (J&A) to award one Firm Fixed Price (FFP) Indefinite Delivery Indefinite Quantity, Architect-Engineering Design Services Contract, to Linfield, Hunter, & Junius Inc., 3608 18th Street, Metairie, Louisiana 70002, for an other than full and open competition/sole-source basis. The action will be awarded as a Firm Fixed Price (FFP) Indefinite Delivery Indefinite Quantity, Architect-Engineering Design Services Contract. The type of funds utilized will be Federal Emergency Management Administration (FEMA) Disaster Relief funds. There are no planned options identified for the contract.

3. DESCRIPTION OF SUPPLIES/SERVICES: The purpose of this contract will be to provide Architect-Engineering Services in accordance with (IAW) the Presidential National

Emergency Declaration. On 20 March 2020, the State of Louisiana and FEMA in coordination with the United States Department of Health and Human Services (HHS) (ESF#8), directed the U.S. Army Corps of Engineers, New Orleans District to provide facility assessments, planning, engineering, design, contracting and construction support to address medical facility shortages arising from COVID-19 situation in Louisiana. USACE will continue to develop and refine the requirements or attributes to create Non-Acute COVID-19 Alternate Care Facilities and/or Acute COVID Alternate Care Facilities, up to an Intensive Care Unit (ICU) capability, in existing buildings e.g, college dorms or hotels/motels and/or in large building areas such as gyms or stadiums (potentially open air) and apply those requirements to facilities identified by the state.

Work effort performed by this contractor will consist of the design support for site assessment, development of technical requirements for USACE procurement of a design-build contract to retrofit the selected space into an Alternate Care Facility (ACF) to serve patients ranging from Non-Acute Non-COVID patients up to critical-care (COVID) patients. This effort is to provide an ACF meeting basic healthcare functions with an emphasis on patient isolation, infection control, fire protection and life safety. This Justification is for COVID-19 in the State of Louisiana. The estimated total value of the contract to be awarded under this J&A is \$700,000.00. The period of performance for the Architect-Engineering Services contract is anticipated to be six months in total and performance must begin immediately to meet this schedule.

4. AUTHORITY CITED: 10 U.S.C.2304(c)(2), or 41 U.S.C.3304(a)(2) as implemented by FAR 6.302-2(a)(2), Unusual and Compelling Urgency.

5. REASON FOR AUTHORITY CITED: In support of the Presidential National Emergency Declaration, consistent with DFARS PGI 206.302-2(b), where “use of this [unusual and compelling urgency] authority may be appropriate . . . [for] architect-engineering services needed at once because of fire, flood, explosion, or other disaster.” The agency’s need for the supplies or services is of such an unusual and compelling urgency that the Government would be seriously injured unless the agency is permitted to sole-source a contract to a single firm selected from the group of firms that were down-selected from the historical records and market research acquisitions completed at the district level.

Background/Selection of Sole Source Contractor: As discussed in paragraph 8, Market Research, CEMVN is conducting this procurement IAW the Two-Phase Design-Build Selection Procedures in FAR 36.3. To that end, CEMVN issued a limited competition Phase I design-build request for proposals to a total of two firms (supported by a J&A approved by the Senior Procurement Official), and adequate competition was obtained in Phase I. The Government conducted its Phase I evaluation and down-selected to two firms that were determined to be the most highly qualified firms. CEMVN will continue sole-source negotiations as part of Phase II of the design-build acquisition only with Linfield, Hunter, & Junius Inc. for the particular requirement identified as COVID-19.

Linfield, Hunter, & Junius Inc. was determined to be the highest qualified firm for the specific requirement to provide architect-engineering services supporting USACE, because of their demonstrated ability to complete similar work on time or early, very relevant significant

experience in the design, supervision, consulting services, project and construction management responsibilities on a variety of multi-discipline projects ranging from small to large facilities.

Justification: The President declared a national emergency on 13 MAR 2020. FEMA assigned USACE to support Emergency Support Function (ESF) #3 “Public Works and Engineering.” On **20 March 2020**, FEMA assigned the Agency a mission assignment that included the above referenced hospital work. This work is urgent and compelling in nature. As described by the President, “[t]he spread of COVID-19 within our Nation’s communities threatens to strain our Nation’s healthcare systems. As of March 12, 2020, 1,645 people from 47 States have been infected with the virus that causes COVID-19. It is incumbent on hospitals and medical facilities throughout the country to assess their preparedness posture and be prepared to surge capacity and capability.” USACE has been requested to provide design and construction support to increase the capacity of our Nation’s healthcare system and must undertake design and construction as quickly as possible, to provide the necessary surge capacity.

Without limiting the number of sources from which the Government solicits Phase II proposals to a single firm, the Government would be unable to undertake construction quickly enough to meet the immediate need for additional hospital capacity in this area and would not meet the delivery schedule necessary to provide additional capacity as close to the projected surge date as possible. A traditional design-build project acquired IAW the requirement for full and open competition under the Competition in Contracting Act (CICA) could take upwards of 6-9 months to award based upon historical averages of contracts of this dollar amount. The time savings achieved through use of other than full and open competition is expected to be 6-9+ months. This time savings is critical in order for construction to begin as quickly as possible, supporting the urgent and compelling nature of this procurement, and to ensure timely response to the national emergency.

Alternative: CEMVN examined several alternatives for fulfilling these requirements, but no other alternative would allow for performance to begin immediately. The only viable alternative is to select a single firm with whom the Government will negotiate, in conjunction with utilizing a Firm Fixed Price IDIQ contract, it will allow the contractor to begin performance immediately..

Impact: As determined by the President, the current COVID-19 outbreak presents a public health crisis and constitutes a national emergency. Because of the magnitude and gravity of the emergency, the President declared that hospitals must be prepared to surge capacity and capability, and that additional measures are needed to successfully contain and combat the virus in the United States. The USACE is the only entity with the capacity to build the infrastructure needed to support response to this emergency, but can only do so if certain exceptions full and open competition are implemented. Failure to select a single firm from the group of firms down-selected into Phase II of this two-phase design-build acquisition with whom the Government will negotiate to begin performance immediately, would result in delays in design and construction of medical infrastructure required to adequately respond to the COVID-19 outbreak and would have severe adverse impacts on the safety and the public health of the United States. Approval of this J&A will enable U.S. Army Corps of Engineers, CEMVN to expedite award for urgently needed design and construction services identified above in paragraph 3.

6. EFFORTS TO OBTAIN COMPETITION: CEMVN solicited from as many firms as was practicable for Phase I. A limited sources J&A approved by the Senior Procurement Executive on **13 March 2020**, Control No. **MVN-20-0016**, supported other than full and open competition for Phase I. As discussed in Paragraph 5, Alternative, no other alternative will allow performance to begin immediately. The notice required at FAR 5.201 will not be published based on the exception at FAR 5.202(a)(2), Unusual and Compelling Urgency.

7. ACTIONS TO INCREASE COMPETITION: CEMVN is mindful of the requirement in FAR 6.302-2 to request offers from as many potential sources as is practicable under the circumstances, and therefore did perform a limited competition for Phase I for an Architect-Engineering Services procurement. However, here it is not practicable to request an offer from more than one source under Phase II of an Architect-Engineering Design Services procurement, because without issuing a Firm Fixed Price IDIQ contract on a sole-source basis, CEMVN would be unable to undertake Architect-Engineering Design Services immediately and would not meet the delivery schedule of 2 weeks.

8. MARKET RESEARCH: Based upon the Presidential National Emergency Declaration, CEMVN was instructed to determine the most expeditious tools available to fulfill these urgent and compelling COVID-19 requirements. Immediately a review of existing contract vehicles was conducted. Across the ACF mission, the Government is attempting to maximize competition to the greatest extent practicable IAW FAR Part 6, and provide maximum practicable opportunities to locally based contractors. Leadership, understanding the latitudes afforded under FAR 6.302-2, did not want to completely divest itself of a competitive environment and therefore CEMVN issued a limited competition Phase I Architect-Engineering Design Services request for proposal to **2** firms. The Government conducted its Phase I evaluation and down-selected to the most highly qualified firms, and will now continue sole-source negotiations as part of Phase II only with Linfield, Hunter, & Junius Inc., 3608 18th Street, Metairie, Louisiana 70002.

9. INTERESTED SOURCES: In this instance, the need to undertake construction as soon as possible is of such an unusual and compelling urgency that the Government and the public would be seriously injured unless CEMVN is able to limit the number of sources from which it solicits Phase II proposals to one. To date, no other sources have written to express an interest.

10. OTHER FACTS: NA

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: Christopher L. Dunn, Ph.D., P.E.
Title: Assistant Chief, Engineering Division

Signature: _____

13. FAIR AND REASONABLE COST DETERMINATION:

"I hereby determine that the anticipated cost or price to the Government for this contract action will be fair and reasonable."

This will be determined by conducting a detailed cost/price analysis of the offeror's proposal, taking into consideration all pertinent information including field pricing assistance, audit reports and technical analysis, fact-finding results, independent Government cost estimates and price histories.

Name: Cynthia M. Hall

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: Cynthia M. Hall

Title: Contracting Officer Signature: _____