



## U.S. Immigration and Customs Enforcement

### JUSTIFICATION FOR OTHER THAN FULL AND OPEN COMPETITION

Pursuant to the requirements of 41 U.S.C. 3304(a)(1) Competition in Contracting Act of 1984 (CICA) as implemented by FAR Subpart 6.3, and IAW the requirements of FAR Subpart 6.303-1, the justification for the use of the statutory authority under FAR Subpart 6.3 is justified by the following facts and rationale required under FAR Subpart 6.303-1 as follows:

#### 1. Agency and Contracting Activity

The U.S. Department of Homeland Security (DHS)/Immigration and Customs Enforcement (ICE) and the Office of Acquisitions Management (OAQ)/Detention Management Division (DM), proposes to extend Contract Number HSCEDM-09-D-00007 for twelve (12) additional months. ICE proposes to enter into this contract extension on a basis other than full and open competition.

#### 2. Nature and/or Description of the Action Being Approved

DHS ICE has a sole source requirement to extend contract HSCEDM-09-D-00007 for detention and transportation services at the Houston Contract Detention Center in Houston, Texas. The contractor for these services is the Correction Corporation America (CCA) located at 10 Burton Hills Blvd., Nashville, TN 37215. The contract expires on March 31, 2014. The current value of HSCEDM-09-D-00007 is \$182,749,821.76. This extension would raise the value of HSCEDM-09-D-00007 as follows:

From: \$182,749,821.76  
By: \$ 39,251,032.95  
To: \$222,000,854.71

#### 3. Description of Supplies/Services

The contract extension will require the contractor to continue providing trained and qualified management staff, supervision, manpower, relief officer(s), uniforms, equipment, vehicles and supplies to provide detention, transportation and food services seven (7) days a week, twenty-four (24) hours per day under contract HSCEDM-09-D-00007.

The contractor is expected to comply with appropriate national standards such as ICE 2011 Performance Based National Detention Standards (PBNDS 2011), American Correctional Association (ACA) Standards for Adult Local Detention Facilities (ALDF), Standards for Health Services in Jails, National Commission on Correctional Health Care (NCCHC) and other state and local laws on firearms. The extension begins April 1, 2014. An extension of the current services is estimated to cost **\$39,251,032.95** per the proposed contract prices.

#### **4. Identification of Statutory Authority Permitting Other Than Full and Open Competition**

The statutory authority permitting other than full and open competition is 41 U.S.C, 253 (c) (2), implemented by FAR Subpart 6.302-1, Only one responsible source and no other supplies or services will satisfy agency requirements.

#### **5. Demonstration that the Contractor's Unique Qualifications or the Nature of the Acquisition Requires the Use of the Authority Cited**

CCA has partnered with ICE since contract formation and is intimately familiar with the nuances associated with the detention of ICE detainees at the Houston Contract Detention Facility contract HSCEDM-09-D-00007. The facility is owned and managed by CCA and is currently dedicated to only ICE detainees. The facility meets the requirements of Houston Field Office of having an immediately and readily available facility within twenty-five (25) miles of the field office and the George W. Bush Intercontinental Airport equipped to house up to 1,000 male/female low, medium, and high level aliens. In addition it also meets their requirements for time to travel to the nearest airport along with location to adequate hospital and mental healthcare.

The re-competition of this requirement has undergone significant delays due to unexpected budgetary constraints. A new contract cannot be awarded before the current contract expires on March 31, 2014.

An extension of the current contract would ensure continuity of services allowing ICE to continue to detain aliens in the facility. The incumbent contractor has the requisite qualified facility and personnel in place to continue uninterrupted services beyond the current contract expiration date. If this extension is not approved, ICE would need to transfer of hundreds of detainees to other facilities that are not capable providing services in the required proximity of the Houston Field Office that meets ICE standards, mobilize qualified personnel, and accept a sudden influx of detainees.

#### **6. Efforts to Obtain Competition**

In an effort to procure a full and open competition new/replacement Contract Detention Center & Transportation Services contract, for the expiring HSCEDM-09-D-00007, the Government posted a Request for Information (RFI), a Sources Sought, via FedBizOpps on November 9, 2012 and amended it on November 16, 2012 and further amended on September 12, 2013 for the competition of a requirement for detention services in the Houston AOR. The RFI was addressed to parties interested in renovating an existing facility, constructing a new facility or providing detention services at an existing facility with a capacity of approximately 1,200 beds. There were five (5) responses received to the RFI. While, the RFI revealed that there were four (4) respondents who were found to be preliminarily capable of providing the services requested in the RFI, CCA's Houston Contract Detention Facility was found to be the only source capable of meeting the Government's current need for a facility with the required and readily available capacity to provide in the time frame required 1,000 ICE dedicated beds in the required proximity to the Houston Field Office and the George W. Bush Intercontinental Airport for this twelve (12) month extension period.

**7. Determination by the Contracting Officer that the Anticipated Cost to the Government Will be Fair and Reasonable**

Given the current circumstances in which ICE needs a short term provider with an extremely limited window in which to procure services and where they do not appear to be another provider immediately to ready to step in, ICE cannot conclude that the price of stop gap services provided is unreasonable. A pricing proposal was requested by the Contracting Officer from CCA for the twelve (12) month extension of HSCEDM-09-D-00007. It has been proposed that services will be extended at the current bed day rate of \$109.24 for 1-900 detainees a lowered rate of \$40.00 per bed day for 901-1,000 detainees. The proposed pricing is the same for 1-900 detainees and lower for 901-1,000 detainees than ICE is currently paying under Option Year 4. The anticipated value of the twelve (12) month extension is **\$39,251,032.95**, as detailed in the chart below.

CLIN	Description	QTY	Unit Price	12 Month Extension
7001	Detention Services- 1-900 or 1001+ Detainees	328,500	\$109.24/bed day	\$35,885,340.00
7002	Detention Services- 901-1000 Detainees	9,855	\$40.00/bed day	394,200.00
7003	Guaranteed Mileage 500,000	36,400	N/A	2,835,000.00
7005	Detainee Volunteer Wages	21,000	\$1.00/day	67,430.00
7006	On Call Post/Guard Services	8,760	\$31.91/hour	\$68,446.95
7008	Postage Stamp	4,800	N/A	\$616.00
				<b>\$39,251,032.95</b>

**8. Description of Market Research**

The Government posted a Request for Information (RFI), a Sources Sought, via FedBizOpps on November 9, 2012. The RFI was amended on November 16, 2012 and further amended on September 12, 2013 for the competition of a requirement for detention services in the Houston AOR. The RFI was addressed to parties interested in renovating an existing facility, constructing a new facility or providing detention services at an existing facility with a capacity of approximately 1,200 beds. There were five (5) responses received to the RFI. Responses to the RFI were received from Corrections Corporation of America (CCA), Community Education Centers, Inc. (CEC), The GEO Group, Inc. (GEO), Jaguar Security, Inc. (Jaguar) and Management and Training Corporation (MTC).

- CCA responded by indicating its interest in renovating an existing facility.
- CEC responded by indicating its interest in renovating an existing facility.
- GEO responded by indicating its interest in providing a newly built facility.
- Jaguar is not a full service provider of corrections/detention management services. Jaguar submitted a response to the RFI that indicated that it was interested in providing guard services.
- MTC responded by indicating its interest in providing a newly built facility.

An internet search was conducted to identify contractors capable of meeting the Government's current requirement by immediately providing a 1,000 bed facility capable of providing detention management and transportation services within the twenty-five (25) mile proximity to the Houston Field Office and the George W. Bush Intercontinental Airport. Market research identified CCA as the only contractor immediately available to satisfy the Government's current requirement.

### **9. Any Other Facts Supporting the Use of Other than Full and Open Competition**

In an effort to procure a full and open competition new/replacement Contract Detention Center & Transportation Services contract, for the expiring HSCEDM-09-D-00007, the Government posted a Request for Information (RFI), a Sources Sought, via FedBizOpps on November 9, 2012 and amended it on November 16, 2012 and further amended on September 12, 2013 for the competition of a requirement for detention services in the Houston AOR. The RFI was addressed to parties interested in renovating an existing facility, constructing a new facility or providing detention services at an existing facility with a capacity of approximately 1,200 beds. There were five (5) responses received to the RFI. While, the RFI revealed that there were four (4) respondents who were found to be preliminarily capable of providing the services requested in the RFI, CCA's Houston Contract Detention Facility was found to be the only source capable of meeting the Government's current need for a facility with the capacity to immediately provide 1,000 ICE dedicated beds in the required proximity to the Houston Field Office and the George W. Bush Intercontinental Airport for this twelve (12) month extension period.

### **10. A Listing of the Sources, if any, that expressed in writing an Interest in the Acquisition**

There were five (5) responses received to the RFI referenced in paragraph 8-- CCA, CEC, GEO, Jaguar and MTC.

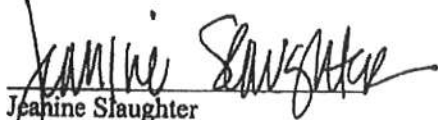
### **11. A Statement of the Actions, if any, the Agency May Take to Remove or Overcome any Barriers to Competition before any Subsequent Acquisition for Supplies or Services Required**

ERO and OAQ have worked collaboratively to complete the Market Research, Acquisition Plan and Performance Work Statement in an effort to move forward with the future competition as stated in the RFI.

**12. Certifications**

I certify that the facts and representations under my cognizance, which are included in this justification, meet the Government's minimum need and that the supporting data, which forms a basis for this justification, is complete and accurate.

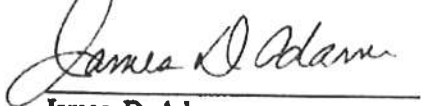
**Requirements/Technical Personnel:**

  
\_\_\_\_\_  
Jeanine Slaughter  
Contracting Officer's Representative

3/27/2014  
Date

**Contracting Officer:**

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

  
\_\_\_\_\_  
James D. Adams  
Contracting Officer

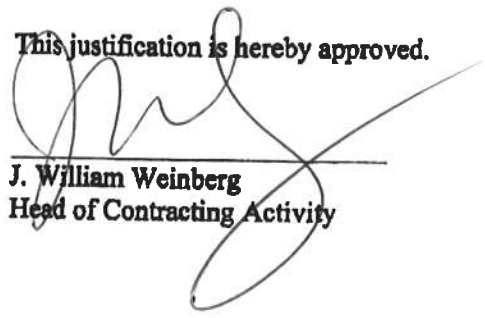
3/27/2014  
Date

**13. Concurrence**

It is determined that the basis for the use of other than full and competition procedures is:

**APPROVAL:**

This justification is hereby approved.

  
\_\_\_\_\_  
J. William Weinberg  
Head of Contracting Activity

31 MARCH 2014  
Date