

JUSTIFICATION AND APPROVAL
FOR OTHER THAN FULL AND OPEN COMPETITION

FOR:

**Feasibility Study, Proposed Plan and Decision Document at
the Former Lyndonville Air Force Station East Haven,
Vermont and Saint Albans Former Air Force Station, Saint
Albans, Vermont**

Stone Environmental, Inc.

**In Support of
DERP/FUDS Program
(Former Lyndonville Air Force Station (D01VT036301) and
Saint Albans Former Air Force Station (D01VT036702))**

**CONTRACTING DIVISION
U.S. Army Corps of Engineers
New England District**

15 April 2015

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

1. CONTRACTING ACTIVITY:

The U.S. Army Corps of Engineers Contracting Office, New England Contracting District, 696 Virginia Road, Concord, MA 01742.

2. DESCRIPTION OF ACTION:

The action being proposed is a sole source, firm fixed price, new stand alone 'C' contract with Stone Environmental, Inc., a small business, through the issuance of solicitation **W912WJ-15-R-0019**. The action is required to perform AE/HTRW services for a data gap evaluation, Feasibility Study (FS) report, Proposed Plan (PP) and Decision Document (DD) for the Former Lyndonville Air Force Station, East Haven, VT and Saint Albans Former Air Force Station, Saint Albans, VT to complete the projects. The projects are funded by the Defense Environmental Restoration Program/Formerly Used Defense Site (DERP/FUDS) program. DERP funding is available and estimated in the amount of \$223,120.00 to perform AE/HTRW services in support of completion of project documents.

Stone Environmental, Inc. was awarded Task Order 0004 under its W912WJ-11-D-0001 IDIQ AE contract for the purpose of preparing the Feasibility Study, Proposed Plan and Decision Document for the Former Lyndonville Air Force Station East Haven, Vermont and Saint Albans Former Air Force Station, Saint Albans, Vermont in Fiscal Year 2012 (FY12). Prior to issuance of task order 0004, as a result of administrative inadvertence, an option to extend the IDIQ contract was not timely exercised. Task order 0004 was within the scope, within the maximum value of the IDIQ contract, and within the potential ordering period of the IDIQ contract had the options been exercised timely. In the interest of transparency, in an abundance of caution, and to prevent any continued actual or apparent irregularities, the Government is terminating for convenience IDIQ W912WJ-11-D-0001 task order 0004 and replacing it with a new stand alone 'C' architect-engineer (AE) contract.

This action is identified solely as a means to perform AE/HTRW services for the preparation of the Feasibility Study, Proposed Plan, and Decision Document reports for each site, the Former Lyndonville Air Force Station East Haven, Vermont and Saint Albans Former Air Force Station, Saint Albans, Vermont. Stone Environmental, Inc. will not perform work for any other project or program under this specific contract action. The estimated \$223,120.00 is an approximate figure based upon a reasonable government estimate on the remaining work from the original contract task order (\$175,120.00) plus additional project management (11 months) costs (approximately \$48,000) due to time extension needed to complete the objectives of the original task order. The estimate is based upon historical data and includes all costs associated with the contract, including contingencies. The actual price will be negotiated in accordance with the request for proposal process and in accordance with the scope of work.

3. DESCRIPTION OF SUPPLIES/SERVICES:

Remedial investigations have been completed at these two projects under the DERP/FUDS program. The action proposed is the follow-on work, which consists of completing a data gap analysis and preparation of reports including the Feasibility Study (FS), Proposed Plan (PP), and Decision Document (DD) for both projects, the Former Lyndonville Air Force Station East

Haven, Vermont and Saint Albans Former Air Force Station, Saint Albans, Vermont. The data gap analysis is performed to verify that there is no data missing from the remedial investigation that would prevent completion of the follow-on documents (FS, PP, and DD). This shall be a sole source, firm fixed price, new stand alone 'C' AE contract, approximately \$223,120.00 and the period of performance shall be approximately February 2016.

4. AUTHORITY CITED:

10 U.S.C. 2304(c)(1), Only One Responsible Source and No Other Supplies or Services Will Satisfy Agency Requirements, as implemented by FAR 6.302-1(a)(2)(iii), for DoD, NASA, and the Coast Guard, services may be deemed to be available only from the original source in the case of follow-on contracts for the continued provision of highly specialized services when it is likely that award to any other source would result in –

- (A) Substantial duplication of cost to the Government that is not expected to be recovered through competition, or
- (B) Unacceptable delays in fulfilling the agency's requirements. (See 10 U.S.C. 2304(d)(1)(B).)

5. REASON FOR AUTHORITY CITED:

(1) Background:

The objectives of task order 0004 awarded to Stone Environmental, Inc. on June 8, 2012 were to complete the Remedial Investigation/Feasibility Study (RI/FS) phase of the Former Lyndonville Air Force Station and Saint Albans Former Air Force Station projects through completion of the Decision Document, including, but not limited to, completion of data gaps evaluation, Feasibility Study (FS), Proposed Plan (PP) (including public meeting), and Decision Document (DD). The proposed work is follow-on work to the recently completed Remedial Investigation (RI) reports developed by another Contractor (The Johnson Company) from approximately 2010-2014.

The proposed work was part of Task Order 0004 and is currently approximately 62% complete. Stone Environmental, Inc. has developed significant expertise and knowledge unique to these project sites, including site visits and institutional knowledge gained from the previous contractor (whose contract is now complete). Stone Environmental has drafted approximately half of the sequential project documents (starting with FS, followed by PP, followed by DD) and has finalized the FS for the Lyndonville project.

Stone Environmental, Inc.'s successful completion of work to date for this project demonstrates its unique, specific, and detailed knowledge of the requirements associated with the this project, including:

- Familiarity with historic site information obtained during site visits and record reviews;
- Significant knowledge transmitted from previous Remedial Investigation (RI) Contractor for subsequent Feasibility Study (FS) follow-on work;
- Knowledge of local regulations and requirements (including knowledge gained from on-going report preparation and review process at NAE and the state regulatory agency (Vermont Department of Conservation (VT DEC)));
- Keeping established relationships with stakeholders; and

- Ability to meet current project schedule.

Only Stone Environmental, Inc. can continue to provide the highly specialized services started by their review of all prior investigative efforts at the project sites, without unacceptable delays and substantial duplication of cost. Stone Environmental, Inc. has performed all of the services for this project to date, and has therefore attained unique and detailed knowledge of the specific requirements associated with this project. The project is approximately 62% complete, and Stone Environmental, Inc. is the only responsible source available that can complete the work without significant schedule delays and substantial duplication of costs. No other AE would be able to pick up the partially-completed study project close-out documents without a substantial learning curve.

If this project is solicited competitively, there will be unacceptable delays to the completion of the work, along with substantial duplication of costs that will not be recovered through competition. Additionally, the impact of delays to Lyndonville and Saint Albans Former Air Force Station Feasibility Study, Proposed Plan, and Decision Document will cause significant ripple effects to funding which will impair completion of other projects and to the ability to execute the DERP/FUDS program mission.

(2) Impact

If this project is solicited competitively, there will be unacceptable delays to the completion of the work, along with substantial duplication of costs that will not be recovered through competition.

- a. Substantial duplication of costs that will not be recovered through competition:

There would be substantial duplication of cost to the Government that is not expected to be recovered through competition, including:

- Substantial learning curve while a different AE “relearned” the existing conditions. This would amount to substantial duplication of contractor effort and costs that would not be expected to be recovered;
- The cost of six months of USACE procurement and contracting oversight would be duplicated. This is estimated to be approximately \$50,000.00.

- b. Unacceptable delays to the completion of the work:

If this Justification and Approval is not approved, there will be unacceptable delays in project closeout due to duplication of work already performed and delays to subsequent work. This will have a negative impact on the DERP/FUDS Program’s mission for achievement of project milestones identified in the DERP/FUDS work plan. These milestones include Signed Decision Document for Former Lyndonville Air Force Station in FY15 and Saint Albans Former Air Force Station in FY 16.

Alternatives

Alternative 1- The New England District estimates the delays and impacts associated with openly competing a new requirement would be up to approximately one year:

- Five (5) months for soliciting and awarding a new A/E contract (EP 715-17, Appendix 7 indicates a typical duration for the solicitation and award of an A/E contract is 145 days)
- Three (3) months for the awardee to develop the necessary background and skill sets necessary to familiarize itself with the existing project documentation, site visits, and familiarity with USACE and DERP/FUDS procedures.
- Three (3) months for the awardee to revalidate the effort already made by Stone Environmental to verify all project information and concept development.

Alternative 2- The New England District estimates the delays associated with utilizing an existing IDIQ through another USACE District would be up to approximately 6 months, including:

- Three (3) months for soliciting and awarding a new Task Order utilizing an existing IDIQ.
- Three (3) months for the awardee to develop the necessary background and skill sets necessary to familiarize itself with the project including review of all historical remedial investigation/feasibility study (RI/FS) documentation.
- Additional risk would be involved because the prior contractor is not available to provide transitional follow-on meetings and site visits to help familiarize the awardee with project details.
- Three (3) months for the awardee to revalidate the effort already made by Stone Environmental to verify all project information and concept development.

Use of In-house Resources: New England District's technical specialists have the additional time and resources available to complete the remaining work within the timeframe required to meet the DERP/FUDS program. The estimated labor hours to complete the work would be 1500 hours.

Either of these three alternatives would result in an added 6-12 month delay to the DERP/FUDS project's efforts toward site closure in addition to the 6 months delay for the IDIQ, resulting in a cumulative delay of up to 18 months to the projects. If the IDIQ cannot be awarded and completed this FY15, the Lyndonville and Saint Albans projects would be delayed an additional 18 months and the FY15 milestone (Lyndonville) could not be accomplished.

The delays are unacceptable due to the existing risk to human health and the environment that the delays to the schedule associated with openly competing this requirement or using the IDIQ with another contractor will result in continued risk to human health and the environment. The current work is needed to select a remedy to implement which will protect human health and the environment at former Lyndonville and Saint Albans Air

Therefore, if the Decision Document cannot be completed this FY, the DERP/FUDS program will experience unacceptable delays within USACE, the regulatory agency (VT DEC) and the property owners (i.e., property owners).

The delays are described as follows:

The schedule to complete work would be extended by up to 18 months thereby significantly impacting the DERP/FUDS mission, resulting in unacceptable delays to the DERP/FUDS program. This would result in inability to achieve FUDS Programmatic Work

Plan milestones: Signed Decision Document for Former Lyndonville Air Force Station in FY15 and Saint Albans Former Air Force Station in FY16. An 18 month delay would delay milestone achievements to FY17 and FY18.

Approval of this Justification and Approval for a sole source, new stand alone 'C' contract to be awarded to Stone Environmental would avoid the unacceptable delays and substantial duplication of cost to the Government that is not expected to be recovered through competition.

6. EFFORTS TO OBTAIN COMPETITION:

As stated in paragraph 5, above, Stone Environmental, Inc. is the only responsible source to complete the remaining work that can continue to provide highly specialized AE/HTRW services so that the Government can close-out these sites under the DERP/FUDs program. Stone Environmental is a Small Business and this supports the goal of the Federal Government in placing opportunities for the small business programs. A competition for this action would introduce unacceptable delays in project close-out, including the conceptual remedial design alternatives. As also demonstrated above, a competition would result in substantial costs to the Government that would not be expected to be recovered through such competition.

7. ACTIONS TO INCREASE COMPETITION:

NAE is an HTRW Design Center and is tasked with completion of a full a range of environmental remediation/construction projects associated with the Superfund, BRAC, and FUDS Programs. NAE also supports other environmental missions including support to other USACE Districts, Federal Agencies, and DoD Branches. NAE has historically maintained a suite of HTRW IDIQ Remediation Contracts including a set of Multiple Award Remediation Contracts (MARC) that recently expired. The MARC IDIQs were awarded in FY11 and had a total capacity of \$45M distributed to four different contracts as follows: \$20M Small Business, \$10M 8(a), \$10M HUBZone and \$5M SDVOSB. NAE intends to procure another set of MARC awards in early FY16 similar to the existing MARC awards in terms of capacity and distribution between small business subcategories. The new MARC acquisition strategy has not been finalized but will be in 2nd Quarter FY15.

New England District is in the process of soliciting for additional HTRW AE IDIQ contracts. The contracts to be acquired are to replace five recently expired HTRW AE IDIQ contracts. The recommended approach, which is presently under PARC review, will be to solicit eight new contracts with a total value not to exceed \$40M. These will include two unrestricted contracts at a total value of \$10M each; two Small Business Contracts at a total value of \$5M each, and up to four socioeconomic small businesses (SDVOSB, EDWOSB, and/or 8(a)) contracts, at a total value of \$2.5M each. All contracts will have a five-year ordering period.

The small business considerations were based on the results of a Market Survey that were received by a Sources Sought announcement (closing date of 5 September 2014.) Of the responses received, twelve Small Business firms demonstrated the capabilities to perform the proposed work with the following small business concerns represented: three 8(a); zero HUBZone; three Service-Disabled Veteran-Owned; and six Economically Disadvantaged Women-Owned.

Solicitation is expected to be issued in third quarter of FY15 with award anticipated in third quarter.

8. MARKET RESEARCH:

A Notice of Intent to award a sole source follow-on contract was synopsized on 9 December 2014, and published for the required fifteen days on Federal Business Opportunities. Past history and market research indicates that there are AE/HTRW feasibility study phase services available. However, no other contractor will be able to continue to provide the highly specialized services provided to date by Stone Environmental, including drafting approximately half of the sequential project documents (starting with FS, followed by PP, followed by DD) and finalizing the FS for Lyndonville, while also accommodating the programmatic needs of Lyndonville and Saint Albans Former Air Force Station DERP/FUDES project milestone deadlines in a timely (and cost effective) manner. This Justification and Approval for other than full and open competition will be made publicly available on the Federal Business Opportunities website.

9. INTERESTED SOURCES:

This is a stand-alone contract for design services necessary to complete the data gap evaluation, Feasibility Study, Proposed Plan, and Decision Document for the Former Lyndonville Air Force Station, East Haven, VT and the Saint Albans Former Air Force Station, Saint Albans, VT. Results from the published Notice of Intent, 9 December 2014, resulted in one response from a contractor, asking if it would qualify to complete the remaining work. The contractor was told that the notice of intent was issued as a market research tool and if it decided to submit a response in a timely manner it would be considered by the government in formulating the acquisition strategy. The contractor did not provide a further response.

As stated in paragraph 7 of this Justification and Approval, there will be opportunities for interested sources to participate in future acquisitions.

10. OTHER FACTS:

The need for this Justification and Approval is based on the need for Stone Environmental, Inc. to perform the project close-out services, based on the specialized experience and capability they possess. Stone Environmental, Inc. was previously awarded the original IDIQ Contract, W912WJ-11-D-0001, for AE/HTRW services, Task Order 0004, specifically for the data gap evaluation report, Feasibility Study, Proposed Plan, and Decision Document for the Former Lyndonville Air Force Station, East Haven, VT and the Saint Albans Former Air Force Station, Saint Albans, VT. The proposed contract is a follow-on contract that incorporates the remaining work under Task Order 0004.

11. TECHNICAL CERTIFICATION: Include the following statement:

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: Marie Wojtas

DATE: 09 April 2015

TITLE: Project Manager

SIGNATURE: WOJTAS.MARIE.
A.1228545500
Digitally signed by WOJTAS.MARIE.1228545500
DN: cn=US, o=U.S. Government, ou=DoD,
ou=PKI, ou=USA,
Date: 2015.04.09 09:28:26 -0400

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: Scott E. Acone, P.E.

DATE: 10 April 2015

TITLE: Chief, Engineering/Planning Division

SIGNATURE: SCOTT.E.ACONE
Digitally signed by ACOE.SCOTT.E.1228574593
DN: cn=US, o=U.S. Government, ou=DoD,
ou=PKI, ou=USA,
cn=A.CONE.SCOTT.E.1228574593
Date: 2015.04.10 14:01:12 -0400

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. Proposed prices will be compared to the independent government estimate that has been developed using historic costs for similar projects. Certified cost or pricing data will be requested if determined to be necessary.

NAME: Jessica M. Kidd

DATE: 10 April 2015

TITLE: Contracting Officer

SIGNATURE: JESSICA.M.KIDD
Digitally signed by KIDD.JESSICA.M.1278037335
DN: cn=US, o=U.S. Government, ou=DoD,
ou=PKI, ou=USA,
cn=KIDD.JESSICA.M.1278037335
Date: 2015.04.10 15:58:18 -0400

14. CONTRACTING OFFICER CERTIFICATION:

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

NAME: Jessica M. Kidd

DATE: 10 April 2015

TITLE: Contracting Officer

SIGNATURE: JESSICA.M.KIDD
Digitally signed by KIDD.JESSICA.M.1278037335
DN: cn=US, o=U.S. Government, ou=DoD,
ou=PKI, ou=USA,
cn=KIDD.JESSICA.M.1278037335
Date: 2015.04.10 15:58:34 -0400

APPROVAL

Based on the foregoing justification, I hereby approve the procurement of a firm fixed price, new stand alone 'C' Architect Engineer contract with Stone Environmental, Inc. on an other than full and open competition basis pursuant to the authority of 10 U.S.C. 2304(c)(1), as implemented by FAR 6.302-1(a)(2)(iii), for DoD, subject to the availability of funds, and provided the services herein described have otherwise been authorized for acquisition.

NAME: Jessica M. Kidd

DATE: 10 April 2015

TITLE: Contracting Officer

SIGNATURE:  Digitally signed by
KIDD, JESSICA, M, 1.278037335
DN: c=US, o=U.S. Government, ou=DoD,
ou=PMI, ou=USA,
cn=KIDD, JESSICA, M, 1.278037335
Date: 2015.04.10 15:58:49 -0400