

JUSTIFICATION REVIEW DOCUMENT

Description of Acquisition: Modification to extend contracts HDEC02-07-D-0001 and HDEC02-07-D-0002 to provide uninterrupted fresh beef products to the meat departments in the commissaries within the former DeCA East Region (all commissaries east of the Mississippi River) to include Puerto Rico and Guantanamo Bay, Cuba within the Defense Commissary Agency.

Statutory Authority: 10 U.S.C. 2304(c)(1)

Amount: \$11,998,566.88

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Contract Specialist
Date: December 05, 2011

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Contracting Officer
Date: December 05, 2011

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Contracting Officer
Date: December 05, 2011

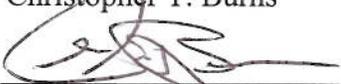
Requirements: Leslie Simpson
Telephone: (804) 734-8000, ext 48446

Commissary Management Specialist
Date: December 05, 2011

Signatures are required below:

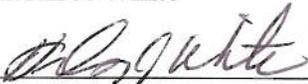
Director of Sales: Christopher T. Burns

Telephone: (804) 734-8000, 48278

Signature:  Date: 6 December 2011

Legal Counsel: Helen J. White

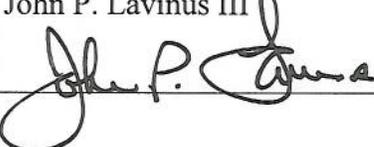
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Signature:  Date: 6 December 2011

Chief of Contracting Office

John P. Lavinus III

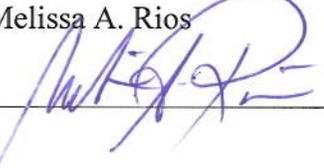
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Signature:  Date: 6 Dec 2011

DeCA Competition Advocate

Melissa A. Rios

Telephone: (804) 734-8000, 48680

Signature:  Date: 12/6/11

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

1. **Contracting Office:** Defense Commissary Agency (DeCA), Resale Contracting Directorate (MPR), Fort Lee, Virginia.
2. **Type of Contract Action:** Modification of contracts HDEC02-07-D-0001 and HDEC02-07-D-0002 with Tyson Fresh Meats, Inc. The modification will extend the period of performance from its current expiration date of December 31, 2011 to January 31, 2012, a 1-month extension. The contract type is a requirements type. The Resale Stock Fund Activity, Defense-Wide working Capital Fund, provides funding.
3. **Description of Supplies/Services:** This action will provide uninterrupted fresh beef products to the meat departments in the commissaries within the former DeCA East Region (all commissaries east of the Mississippi River) to include Puerto Rico and Guantanamo Bay, Cuba within the Defense Commissary Agency.
4. **Authority Cited:** 10 U.S.C. 2304(c)(1), in accordance with FAR 6.302-1(a)(2)(ii), only one responsible source and no other supplies and services will satisfy Agency requirements.
5. **Reason for Authority Cited:**

Contracts HDEC02-07-D-0001 and HDEC02-07-D-0002 are scheduled to expire on December 31, 2011. Solicitation HDEC02-11-R-0005 was issued on June 6, 2011 to accommodate the follow-on procurement. The follow-on award was projected to be awarded by mid-December 2011 prior to the contracts' expiration dates. However, the period from the projected new contract award date and the current contracts' expiration dates only leaves a two week window for contract transition. This timeframe also coincides with the Christmas holiday which is one of the most hectic times for store operations as it relates high patron demands and increased numbers of special orders make this time frame the least desirable for contract transition, particularly with a potential change in contractors. Contract transition inside of holiday periods is historically very stressful on store operations. Contractors are gearing up product production for the new requirements and may not get orders correct for the first few weeks. In addition, getting the stores oriented with new ordering procedures and meat personnel becoming used to slightly different producers workmanship in processing the required cuts of beef all impact store operations. The contract award is now projected for January 10, 2012.

The solicitation was issued on May 03, 2011 and closed on June 06, 2011. The acquisition milestones were delayed by a lengthy investigation into concerns of one of the offerors' corporate status and whether or not the company was responsible. This investigation went on for a period of seventy-five days until resolved. In the meantime, discussions were initially delayed and a second round of discussions became necessary. As such the initial projection of contract award in October 2011 was pushed into mid

Acquisition Sensitive Information

Control No. HDEC02-12-04

December 2011, and now projections of January 10, 2012. The dollar threshold for the new contract(s) will require Congressional notification prior to making awards. The average startup time for this type of contract is typically 30 days.

The Contracting Officer has determined that an extension of the current contracts, HDEC02-07-D-0001 and HDEC02-07-D-0002 supplied by Tyson Fresh Meats is critical and the best course of contractual action available to ensure uninterrupted supply of fresh beef products to 107 commissary locations to include Puerto Rico and Guantanamo Bay, Cuba. Tyson Fresh Meats has the production forecasted and the logistics in place to continue supplying the fresh beef to each location without delay during the extension period. In the absence of the contract extensions, the store locations would be without a dedicated source of fresh beef supply, the commissaries will be at a loss to procure the beef products in the quantities needed to support their store operations from local or even major producers. Major beef producers (approved sources) must plan their production to their specific customers to minimize overages and/or shortages of fresh beef products that may or may not sell. Orders from the commissaries are produced to order from all major producers. There is not a stock pile of fresh beef from an approved source available.

It would take a significant duplication of effort in re-competing the requirements for a limited time until the new contract awards can be transitioned into place. It would require more than 30 days lead time required from any source to startup production, align logistics, and timely deliver to the number of commissaries in this requirement. The commissaries would essentially be out of fresh beef products. The delays, beyond the contracts' expiration dates for fresh beef during a season where its demand is high would be unacceptable. The Agency would not only lose sales, but there would be high customer dissatisfaction, and the Agency would not be upholding its mission in providing quality of life for the military members and their families.

Tyson Fresh Meats has been performing satisfactorily for the past four years. Based on the past performance information provided by the stores covered by these contracts, Tyson Fresh Meats could continue performance on contracts HDEC02-07-D-0001 and HDEC02-07-D-0002 without disruption and is the only known source that is capable of supplying the fresh beef products needed for the 107 commissary locations on this requirement for this short period.

6. **Efforts to Obtain Competition:** A pre-solicitation notice was published on the FedBizOpps government website on February 24, 2011, identifying the government's intention to procure a primary source to provide fresh beef products to the 107 stores listed under the subject contracts. Solicitation HDEC02-11-R-0005 was posted to the FedBizOpps website and was issued on May 03, 2011. The solicitation subsequently closed on June 6, 2011. As required by FAR 5.2, the proposed contract modifications will be posted on the FedBizOpps. Additionally, this justification will be made available for public inspection, after the completion of the contract modifications, in accordance with FAR 6.305.

7. Fair and Reasonable Price Determination and Contracting Officer Certification:

Based on the current market prices, Tyson Fresh Meats' weekly special factors (firm-fixed) prices were competitively obtained and are consistent with what other federal government agencies and commercial customers are being charged. As Contracting Officer, I hereby determine the anticipated prices for these contract modification actions are fair and reasonable.

8. Market Research: Market research conducted for the follow-on acquisition included previous acquisition history, a search of the Small Business Administration's Dynamic Small Business database, and an exhaustive search of the Central Contractor Registration database and voluntary requests for the solicitation. No additional market research will be conducted for these contract modification actions and no other firms will be solicited since the required products are essentially only available from the incumbent contractor during the extended time frame required.

9. Other Factors: With the exception of synopsising the requirements, Tyson Fresh Meats is the only source expected to express an interest in performance for this abbreviated extended performance period of 30 days.

10. Interested Sources: Based on the fact that most major producers process cattle to order, the time required put logistics in place for the massive distribution for 107 stores to include Puerto Rico and Guantanamo Bay, Cuba, implementing order procedures, and adjusting to difficult access to certain military installations, particularly those with high security requirements, a new contractor would find it impossible to prepare the requirements and logistics necessary to start performance inside of the required 30 day time frame. As such, this makes it highly improbable to award this requirement to another contractor for this very short, 30-day extension time frame.

11. Action to Increase/Foster Competition: The follow-on acquisition has been solicited on a full and open competition basis and it is anticipated that all future acquisitions will be competed on a full and open basis.

Technical/Requirements Certification:

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

Name: Christopher T. Burns

Director of Sales Directorate

Signature:  _____

Date: 6 December 2011

Fair and Reasonable Price Determination and Contracting Officer Certification:

I hereby determine that the prices for these contract actions are fair and reasonable. I certify that this J & A is accurate and complete to the best of my knowledge and belief.

Name: Kimberly A. Cooper

Contracting Officer

Signature: Kimberly A Cooper

Date: 6 December 2011

APPROVAL

Based on the abovementioned justification, I hereby approved the procurement of the continuation of deliveries of fresh beef products for 107 commissaries covered under contracts HDEC02-07-D-0001 and HDEC02-07-D-0002 for a 30 day extension until January 31, 2012 on an other than full and open competition basis pursuant to the authority of 10 U.S.C. 2304(3)(1), provided funds are available, or will be available, and provided that the products herein described have otherwise been authorized for acquisition.

APPROVED:

Signature:  _____
Melissa A. Rios
Competition Advocate

Date: 12/6/11