

## JUSTIFICATION REVIEW DOCUMENT

**DESCRIPTION OF ACQUISITION:** Natural Gas Utility Service for the Harrison Village Commissary, Indiana

**STATUTORY AUTHORITY:** 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.

**ESTIMATED CONTRACT AMOUNT:** The estimated cost for the base year award is \$22,500 for a 12-Month Base Period March 1, 2013 through February 28, 2014; Base and nine one-year option periods, at an estimated cost of \$225,000.

**Contract Specialist:** Barbara Wright  
Telephone Number: 804-734-8000x86093  
Contract Specialist Date: 12/11/12

**PCO:** Loria Samples Hile  
Telephone Number: 804-734-8000x48630  
Contracting Officer Date: 12/11/12

**Technical:** Kyle Seiling  
Telephone Number: 804-734-8000x48062  
General Engineer Date: 12/14/12

**Requirements:** None

**Reviews:** We have reviewed this J&A and find the justification adequate to support other than full and open competition.

**Program Manager:** N/A

**Legal Counsel:** ~~Elliot Clark~~ *Ronald Horn*  
Phone: 804-734-8000x48207  
Signature: *Ronald Horn* Date: 12/12/12

**Chief of Contracting Office:** Michael Shaffer  
Phone: 804-734-8000x48681  
Signature: *Michael Shaffer* Date: 12/12/2012

**DeCA Competition Advocate:** ~~Melissa Rios~~ *ERNE FAVALE*  
Phone: 804-734-8000x48680  
Signature: *Ernie Favale* Date: 12/18/12

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

- 1. CONTRACTING OFFICE:** Defense Commissary Agency  
Enterprise Acquisition Division  
Store Support Services Branch  
1300 E Avenue  
Fort Lee, Virginia 23801-1800
- 2. TYPE OF CONTRACT ACTION:** The type of action contemplated is a new utility contract; rates will be in accordance with rates regulated under the Indiana Utility Regulatory Commission per Title 170 of the Indiana Administrative Code, and indefinite quantity, which will fluctuate depending on actual usage. This effort will utilize DWCF funding.
- 3. DESCRIPTION OF SUPPLIES/SERVICES:** The Harrison Village Commissary currently receives natural gas utility services from Citizens Energy Group, on DeCA contract HDEC05-08-C-0003 and the fourth option period expires after February 28, 2013. Estimated cost for the base year award is \$22,500 for a Base period of performance March 1, 2013 through February 28, 2014. The Base and nine one-year option periods will be \$225,000 in total. FAR 41.205(d)(2) allows for a utility contract for more than one year, but not more than ten years. Historically Citizens Energy Group has never signed a bilateral contract or any modification on the current contract. Due to the lack of response from the company, a ten-year contract is warranted as a means of lowering the Government's burden. The subsequent awarded state regulated utility contract will be reviewed annually as required by FAR. If a change in market conditions occurs, such as deregulation by the State of Indiana, a new contract will be solicited among State authorized providers, if more than one provider is available.
- 4. AUTHORITY CITED:** Statutory Authority 10 U.S.C. 2304 (c) (1), as implemented by FAR 6.302-1, Only One Responsible Source and No Other Supplies or Services Will Satisfy Agency Requirements.
- 5. REASON FOR AUTHORITY CITED:** The State of Indiana, under the Indiana Utility Regulatory Commission, regulates natural gas utility companies within the state borders. Natural gas utilities in the State of Indiana have service territories and are only permitted to provide service in their service territory. The attached service territory map was provided by the Indiana Utility Consumer Office. The Harrison Village area, within Marion County (Indianapolis), is served by Citizens Energy Group and this natural gas utility is the only source available to provide the services, as indicated by the State of Indiana Code.
- 6. EFFORTS TO OBTAIN COMPETITION:** Market research was conducted and indicated that there are no other natural gas utility providers in the Harrison Village area who can supply this service to the Harrison Village Commissary. Please see Paragraph (7), Market Research for further documentation.
- 7. MARKET RESEARCH:** An internet search located one possible natural gas utility service provider in the Harrison Village Commissary area. The GSA Areawide Public Utility contract

listing does not include a natural gas contract for this area. There are three Air Force contracts for natural gas supply, but none for the Harrison Village area; therefore, an interagency contract is not possible. The State of Indiana Code 8-1-2-1 "Utility Regulation; Definitions", states; "'Utility", as used in this chapter means every plant or equipment within the state used for: (2) the production, transmission, delivery, or furnishing of heat, light, water, or power, either directly or indirectly to the public..." The State of Indiana allows third party suppliers for the natural gas supply only, transportation is provided by the utility in that service area. Competing the natural gas supply is not a viable decision due to (1) the third party supplier of natural gas is not subject to regulation by the Indiana Utility Regulatory Commission; (2) using a third party supplier for natural gas itself will require two contracts, one with Citizens Energy Group as the utility provider (transportation and meter readings) and one with the third party supplier for the natural gas; and (3) the utility, Citizens Energy Group, assesses additional administrative fees to the third party suppliers, which are generally passed along to their customers. The State of Indiana has the Northern Indiana Public Service Company's (NIPSCO) Choice Program, which allows customers in northern Indiana to choose from third party suppliers. However, the Harrison Village commissary is not within that service area and the Indiana Office of Utility Consumer Counselor NIPSCO fact sheet warns consumers that this is not a cost savings service and there is no guarantee of lower bills. Due to these issues, Citizens Energy Group is the only utility able to provide this service and is regulated by the State of Indiana.

**8. ACTION TO INCREASE/FOSTER COMPETITION:** As stated under Paragraph 5, only one utility company can service an existing service territory. Therefore, Indiana State law prohibits competition for this service.

**9. INTERESTED SOURCES:** To date, Citizens Energy Group is the only available source capable of providing this specific service at the Harrison Village commissary.

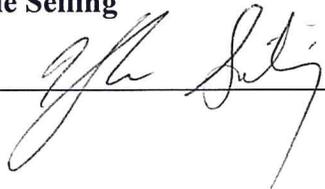
**10. OTHER FACTORS:** Citizens Energy Group was awarded the previous contract for this service at this commissary location, HDEC05-08-C-0003 and the period of performance for the base and four option years was March 1, 2008 through February 28, 2013. This contract was awarded as a sole source, under Statutory Authority 10 U.S.C. 2304 (c) (1), as implemented by FAR 6.302-1, Only One Responsible Source and No Other Supplies or Services Will Satisfy Agency Requirements.

Subcontracting Competition: There are no subcontracting possibilities in accordance with FAR 19.705-2(b)(1) as Citizens Energy Group maintains all in-house capabilities (plant and equipment) for this service.

**11. TECHNICAL CERTIFICATIONS:** 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: Kyle Seiling**

**Title: General Engineer**

Signature 

Date 12/14/12

**12. 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.

Not Applicable

**13. FAIR AND REASONABLE COST DETERMINATION AND CONTRACTING OFFICER CERTIFICATION:**

I hereby determine that the anticipated cost for this contract action will be fair and reasonable based on regulations established by the Indiana Utility Regulatory Commission under Title 170 of the Indiana Administrative Code; and in accordance with DFARS 241.201(3) which states "Rates established by an independent regulatory body – (iii) are a valid basis on which prices can be determined fair and reasonable." I determine that sufficient justification exists to issue a sole source solicitation for the natural gas services for the Harrison Village Commissary. I certify that this J&A is accurate and complete to the best of my knowledge and belief.

NAME: Loria Samples Hile

TITLE: Contracting Officer

SIGNATURE: Loria Samples Hile

DATE: 12/11/12

**APPROVAL**

Based on the foregoing justification, I hereby approve the procurement of natural gas utility services for the Harrison Village Commissary on an other than full and open competition basis pursuant to the authority of 10 U.S.C. 2304(c) (1), provided funds are available, or will be available, and provided that the services and property herein described have otherwise been authorized for acquisition.

APPROVED:

Loria Samples Hile  
Loria Samples Hile  
Contracting Officer

Date 12/11/12