

Justification for Other Than Full and Open Competition

J&A Log Number 24-09
U.S. Department of Housing
and Urban Development
Office of the Chief Procurement Officer

PART 1 - PROGRAM OFFICE RECOMMENDATION

I recommend the use of other than full and open competition for the acquisition of **[describe services or supplies]**

REO FSM Contract Areas 3A, 4A, 5A, 6A, 7A, 8A, 1D, 2D, 4D, 5D, 1P, 3P, 4P, 5P, 4S, and 6S

Negotiations should be conducted with the following source(s) **only [provide names, addresses and points of contact; continue on separate sheets as needed]:**

See Attached Exhibit 1

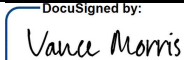
The estimated cost of this acquisition is: **\$ 26,862,648.00**

The statutory exception which allows this use of other than full and open competition is **[select one]:**

- Only one responsible source and no other supplies or services will satisfy agency requirements - 41 USC 3304 (a)(1) (see FAR 6.302-1)
- Unusual and compelling urgency - 41 USC 3304 (a)(2) (see FAR 6.302-2)
- Industrial mobilization; engineering, developmental or research capability; or expert services - 41 USC 3304 (a)(3) (see FAR 6.302-3)
- Authorized or required by statute - 41 USC 3304 (a)(5) (see FAR 6.302-5)
- Public interest (**NOTE: requires Secretarial approval and Congressional Notification**) - 41 USC 3304 (a)(7) (see FAR 6.302-7)

A description of the circumstances that support the use of the above statutory authority is attached and included as Exhibit 1 to this justification.

Program Office Certification. I certify that the information contained in this justification is accurate and complete to the best my knowledge and belief.

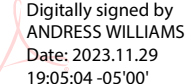
Head of Program Office [name] Vance T. Morris	Title/Name of Office: Associate General Deputy Assistant Secretary for Housing
Signature: 	Date: 11/29/2023
	For additional information contact:

PART 2 - CONTRACTING OFFICER REVIEW AND CERTIFICATION

Provide additional justification and comments here. Continue on back as needed.

Contracting Officer Certification.

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

Name: Address Williams	Signature: ANDRESS WILLIAMS 	Date: Date: 2023.11.29 19:05:04 -05'00'
---------------------------	--	---

PART 3 - OTHER APPROVALS**Up to \$750,000 - Contracting Officer**

Name	Title
Signature ANDRESS WILLIAMS <small>Digitally signed by ANDRESS WILLIAMS Date: 2023.11.30 11:49:14 -05'00'</small>	Date

\$750,000 to \$15,000,000 - Competition Advocate

Name	Title
Signature NICOLE JACKSON <small>Digitally signed by NICOLE JACKSON DN: CN = NICOLE JACKSON C = US O = U.S. Government OU = Department of Housing and Urban Development, Office of the Chief Procurement Officer Date: 2023.11.30 10:20:36 -05'00'</small>	Date

\$15,000,000 to \$75,000,000 - Head of the Contracting Activity

Name	Title
Signature	Date

Over \$75,000,000 - Senior Procurement Executive

Name Jimmy Fleming-Scott	Title Chief Procurement Officer
Signature	Date 11-30-2023

Additional Contracting Officer justification/comments from front [attach additional pages if needed]

Additional Guidance for Completing the Justification

(see HUD Handbook 2210.3, Chapter 4)

PART 1 - Program Office Recommendation

The supporting documentation in the Exhibit 1 must describe:

- The nature of the proposed acquisition that requires other than full and open competition;
- The unique qualifications of any proposed sole source; and
- The market research conducted (see FAR Part 10) and the results or the reason(s) why market research was not conducted.

The cost estimate must include all costs of the proposed acquisition, e.g., options, systems life costs, etc. The total will determine the approval level needed (see 3 below).

FAR Subpart 6.3 describes the statutory exceptions, their applicability and limitations on their use.

"Head of the Program Office" means:

- For all Headquarters acquisitions: the cognizant Assistant Secretary or designee.
- For field acquisitions: the program office director (e.g., Director, Multifamily Housing) within the State or Area Office.

PART 2 - Contracting Officer Review and Certification

Besides any information provided to support the program office's justification, the Contracting Officer shall provide:

- Documented results of any Federal Business Opportunity notices or explanation of why no notice was published.
- A statement of actions the Department may take to remove barriers to competition for subsequent acquisitions of similar services / supplies; and
- A determination that the anticipated cost / price is fair and reasonable. (See FAR Subpart 6.3 for further guidance.)

The Contracting Officer signing the certification shall be the same individual who will sign the proposed acquisition action which is the subject of this justification.

PART 3 - Other Approvals

The Contracting Officer shall obtain the approval for the dollar value ranges indicated.

If any person required to sign in these blocks disapproves this justification, he/she shall return it to the requesting activity with a written determination.

The requesting activity may obtain the name of the "Contracting Activity Competition Advocate" from the cognizant contracting office.

The "Head of Contracting Activity" is defined at Subpart 2402.1 of the HUD Acquisition Regulation (48 CFR Chapter 24). The cognizant contracting office may also provide the name of this individual.

DocuSign Envelope ID: B175F2BB-C49E-4F52-926B-04BF77AE0804 **Justification and Approval (J&A)**
Justification for Other than Full and Open Competition for
Field Service Management Services for Areas
3A, 4A, 5A, 6A, 7A, 8A, 1D, 2D, 4D, 5D, 1P, 3P, 4P, 5P, 4S, and 6S

1. Identification of the agency and the contracting activity:

Agency: The U.S. Department of Housing & Urban Development, Washington, D.C.

Program Office: Office of Single-Family Housing, Office of Single-Family Asset Management

Contracting Activity: Office of the Chief Procurement Officer, Atlanta Office - Southern Field Contracting Operations

2. Nature and/or description of the action being approved:

HUD's Office of Single-Family Housing, Office of Single Family Asset Management has a need of unusual and compelling urgency to continue Field Service Management (FSM) services under FAR 6.302-2 Other than Full and Open Competition to provide services for an additional four (4) months. The current task orders and contract ordering periods both expire on November 30, 2023. The Agency will issue task orders prior to November 30, 2023, with a period of performance of December 01, 2023, through March 31, 2024. This J&A is being completed because the relevant base contracts (Hybrid Fixed Priced/Cost Reimbursable) were sole source contracts awarded pursuant to FAR 6.302-2, with a two-month base period and a six-month option period pursuant to FAR 52.217-8, and the new task orders will extend the total period of performance for an additional four (4) months and because additional funding is required for the new task orders due to two (2) post award protests. New task orders with a one-month base and three (3) one-month options will be issued.

Contract Areas:

Contract Area 3A (IL)

Contract Area 4A (IN & KY)

Contract Area 5A (NC & SC)

Contract Area 6A (MS, AL, & TN)

Contract Area 7A (GA)

Contract Area 8A (FL, PR, & VI)

Contract Area 1D (CO, NM, North TX, & UT)

Contract Area 2D (AR, KS, LA, MO, OK, & So. TX)

Contract Area 4D (WI, IA, NE, & SD)

Contract Area 5D (WY, MT, ND, & MN)

Contract Area 1P (MI)

Contract Area 3P (CT, MA, ME, NH, NJ, NY, RI, & VT)

Contract Area 4P (OH)

Contract Area 5P (DC, DE, MD, PA, VA, & WV)

Contract Area 4S (ID & NV)

Contract Area 6S (OR, WA & AK)

The Federal Housing Administration (FHA), an organizational unit within HUD, administers the Single-Family mortgage insurance program. FHA insures approved lenders against the risk of loss on loans they finance for purchase or rehabilitation. When a borrower defaults on an FHA insured loan, the lender acquires title to the property by foreclosure, a deed-in-lieu of foreclosure, or other acquisition method, files a claim for insurance benefits, and conveys the property to HUD.

The FSM contractors provide vital property preservation and protection services for REO properties.

HUD has a critical need to issue a new task order against the current ordering agreements without delay in the referenced areas as a discontinuation in services would result in prolonged unoccupied assets posing increased risk of adverse occupants, theft, and vandalism, which in turn may result in blight on the communities in the specified areas. The FSM contractors also get REO properties in ready-to-show condition, which allows another contractor to market the properties for sale. HUD's holding costs expected to result from not issuing a four (4) month task order is approximately \$169,104,986.

These new task orders will involve no changes to the core services performed under the current contracts. The current task orders and Basic Ordering Agreements for the above-referenced areas expire on November 30, 2023. HUD has a critical need to issue task orders for four months to the incumbent contractor(s) to provide Field Service Management (FSM) services for properties until the GAO renders a decision on the protests against the 3.12 follow on awards.

Nationwide contracts for a base period of approximately 12 months and four Option periods of 12 months each were award on May 31, 2022, for contract areas: 3A/4A, 5A/8A, 6A/7A, 1D, 2D, 4D/5D, 3S/5S, 4S/6S and 5P and June 14, 2022, for contract areas 1P/4P and 3P. The Agency received three GAO protests on June 28, 2022, and decided to take corrective action which included termination of the awarded task orders. As an administrative formality, the Parent contracts remained in place. The first corrective action was completed on February 01, 2023, confirming the original award decisions. The Contracting Officer notified all interested parties on February 01, 2023, that corrective action was completed and the resulting apparent awardees.

Three GAO protests were filed on February 13, 2023, in response to the decisions resulting from the first corrective action. The Agency applied the necessary steps to honor the mandatory CICA Stay. The second corrective action was completed on October 27, 2023, confirming the original award decisions. The Contracting Officer notified all interested parties on November 03, 2023, that corrective action was completed and the resulting apparent awardees. Two GAO protests were received on November 13, 2023, for ten (10) of the eleven (11) contract Areas: 3A/4A, 5A/8A, 6A/7A, 1D, 2D, 4D/5D, 4S/6S, 1P/4P, 3P, and 5P. Contract Area 3S/5S was not protested. The Agency took the steps to honor the mandatory CICA Stay on November 14, 2023.

3. A description of the supplies or services required to meet HUD's needs (including the estimated value)

Subject to approval of this J&A action, the incumbent contractors will continue performance in the sixteen (16) contract areas through February 29, 2024 (if all options are exercised). The new task orders for these contract areas are a temporary measure urgently needed to avoid a break in services and serious injury to the government. The task orders,

which operate in the Atlanta, Denver, Philadelphia, and Santa Ana Homeownership Centers, are critical because an inefficient transition of properties that have ratified contracts, will result in a disruption in stakeholder processes and additional holding cost. The performance period will be from December 01, 2023, through March 31, 2024.

The Office of Single-Family Housing estimates that the one-month (1) base period, exclusive of the three (3) one-month options, for all contract Areas is \$6,715,662.00. The total amount requested to cover the one-month (1) base and 3- one-month options is \$26,862,648.00. Details per contract Area(s) are as follows:

Contractor	Contract Areas	Combined Estimated Value of All New Task Orders per Contract
DGG	3A, 4A, 5A, 8A, 1D, 2D, 4D, 5D, 1P, 3P, 4S, 6S	\$19, 479,432.00
Alpine	7A	\$1,255,336.00
BLM	4P and 5P	\$4,156,720.00
Innotion	6A	\$1,971,160.00

4. The statutory authority permitting other than full and open competition:

41 USC 3304 (a)(2) (see FAR 6.302-2) Unusual and compelling urgency.

5. Demonstration that the proposed contractor's unique qualifications or the nature of the acquisition requires use of the authority cited:

The current Task Orders will expire on November 30, 2023. Issuing another Task Order for four (4) months under FAR 6.302-2(c)(2) will allow GAO time to render a decision for the current bid protests. In the absence of issuing another Task Order, HUD will have a break in service that will adversely impact stakeholders and increase losses to the FHA Insurance Fund. As indicated above, HUD has a critical need to issue these Task Orders without delay in the referenced areas, as a discontinuation in services would result in prolonged unprotected and unoccupied assets posing increased risk of adverse occupants, theft, and vandalism, which in turn results in blight on the communities in the specified areas. The Performance Work Statement also requires the contractors to maintain a fully staffed and equipped office within the HOC jurisdiction. The incumbent contractors are currently performing in this capacity and have the necessary office space, staffing, and resources to provide these services immediately across the geographic areas without significant schedule delays and startup costs. Any new contractor would have to deal with the issues of on-boarding new employees and sub-contractors that have the resources and knowledge to begin work immediately.

Therefore, the incumbent contractors have unique capabilities to perform these services within the time frame required with no degradation to HUD's mission.

6. A description of efforts made to ensure that offerors are solicited from as many potential sources as is practicable, including whether a notice was or will be published as required by Subpart, 5.2 and if not, which exception under 5.202 applies.

Only incumbent contractors were solicited, as the incumbent contractors are the only contractors with the capability to perform these services within the time frame required. HUD completed the second corrective action on the FSM 3.12 on October 27, 2023. Two new GAO protests followed on November 13, 2023. Under the circumstances, it is totally impracticable to solicit or evaluate other offerors beyond the incumbents before the contracts expire on November 30, 2023.

A notice will not be published for the Task Orders as required by Subpart 5.2 pursuant to FAR 5.202(a)(2) due to the proposed action being made under FAR 6.302-2. The Agency would be seriously injured if it complies with the time periods specified in 5.203, as complying with the requirements would result in a break in service. The Contracting Officer shall post this justification on the Government-Point-of-Entry, known as [SAM.GOV](https://sam.gov).

7. A determination by the Contracting Officer that the anticipated cost to the Government will be fair and reasonable:

The Contracting Officer has determined that the anticipated prices will be fair and reasonable by doing a comparison of current contract pricing, previous Government contracts prices for like services, and proposed prices with the Independent Government Cost Estimates (IGCE).

8. A description of the market research conducted (see part 10) and the results or a statement of the reason market research was not conducted:

Market research was not conducted. The Contracting Officer completed market research for the long-term competitive FSM 3.12 procurement.

9. Any other facts supporting the use of other than full and open competition:

N/A

10. A list of the sources, if any, that expressed, in writing, any interest in the acquisition:

Because of the short-term nature of the requirement and significant startup costs associated with the effort, it is not practicable to solicit sources other than current contract holders. The following firms hold contracts for the following geographic areas.

Atlanta HOC

3A DGG/Guardian
4A DGG/Guardian
5A DGG/Guardian
6A Innotion Enterprises
7A Alpine Companies
8A DGG/Guardian

Denver HOC

1D DGG/Guardian
2D DGG/Guardian
4D DGG/Guardian
5D DGG/Guardian

Philadelphia HOC

1P - DGG/Guardian
3P DGG/Guardian
4P BLM Companies
5P BLM Companies

Santa Ana HOC

4S DGG/Guardian
6S DGG/Guardian

11. A statement of the actions, if any, that the agency may take to remove or overcome any barriers to competition before any subsequent acquisition of the supplies or services required.

The timing of the protests relative to the end of the incumbent contracts severely limits the agency's options. However, this action is specifically designed to allow HUD sufficient time for GAO to render decisions on the pending bid protests.

12. As the Contracting Officer, I certify that this justification is accurate to the best of my knowledge and belief.

Mr. Dan Leader
DGG RE Investments, LLC
2300 E Lincoln Hwy, Langhorne, Pa 19047

Mr. Brent Martin BLM Companies, LLC 204
Playa Della Rosita Ste A
Washington, UT 84780

Mr. Ryan Gesinski
Innotion Enterprises, Inc.
10650 Main St #303
Fairfax, VA 22030

Ms. April Cooper
Alpine Companies, Inc
121 N Main Street
Alpine, UT 84004