SWG-26-03

[redacted]

JUSTIFICATION & APPROVAL TO LIMIT COMPETITION UNDER
RFO FAR 6.103-2(b)

PROGRAM/EQUIPMENT: CONTROL NO: PANSWD-26-P-0000 028844

Sole Source Contract for Construction Phase Architect-Engineer (A-E) services, Houston Ship Channel (HSC) Segment 3 at Spillman Island, Harris County, TX

AUTHORITY: 10 United States Code 3204(a)(2) as implemented in RFO Federal Acquisition Regulation 6.103-2(b), Unusual and Compelling Urgency.

AMOUNT: $1,046,239.53

Prepared by:

Name: Antoinette Fonseca, P.E. [redacted]

Title: A-E/VE Management Chief Date Reviewed: 24 April 2026

[redacted]

Contracting Officer:

Name: Carol Hodges [redacted]

[redacted] Date Reviewed:24 April 2026

Technical Representative for Geotechnical:

Name: James Meng, Ph.D., P.E. [redacted]

Title: Geotechnical Lead Engineer Date Reviewed: 27 April 2026

Technical Representative for Structural:

Name: Ignacio M. Toledo-Rodríguez, P.E. [redacted]

Title: Acting Chief, Structural Section Date Reviewed: 24 April 2026

[redacted]

[redacted]

[redacted]

Requirements Representative for HSC:

Name: Elizabeth McCarthy

[redacted]

Title: HSC - Project Manager

Date Reviewed: 24 April 2026

[redacted]

[redacted]

Reviews

I have reviewed this justification and find it adequate to support the justification for an exception to fair opportunity.

Technical Expert:

Name: Antoinette Fonseca [redacted]

Signature: [redacted]

Date: 4/24/26

Small Business Representative:

Name: Wayne Hiatt [redacted]

Signature: [redacted]

Date: 6/10/26

Legal Counsel:

Name: Clark Bartee [redacted]

Signature: [redacted]

Date: 4/27/26

[redacted]

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JUSTIFICATION AND APPROVAL FOR OTHER THAN FULL AND OPEN COMPETITION

1. CONTRACTING AGENCY: The responsible contracting agency is the U.S. Army Corps of Engineers, Southwestern Division, Galveston District, Contracting Division (CESWG-CT), 2000 Fort Point Road, Galveston, TX 77550.

2. DESCRIPTION OF ACTION: Request approval to establish a contract with HDR MN Galveston JV (HDR) on the Galveston District's $900M Multiple Award Task Order Contract (MATOC) tool for $1,046,239.53. The firm- fixed-price task order contract with HDR for repairing slope failures in the Barbours Cut Channel, verifying the structural integrity of the post-failure bulkhead cutoff wall, redesigning the adjacent wall, engineering during advertisement (EDA) and engineering during construction (EDC) architect-engineer (A-E) services is required for support of the Houston Ship Channel. HDR is the Designer of Record (DOR) for the bulkhead wall. The task order will be fully funded using Civil Works funding. .

3. DESCRIPTION OF SERVICES:

   a. The requirement is to conduct a comprehensive structural assessment of the existing bulkhead wall system and develop engineering design plans, specifications, construction cost estimates, project schedules, and supporting documentation necessary for repair or rehabilitation of the bulkhead system. Intent is to retain the A-E entity for the full duration of each project, which will be solicited with a duration of 270 calendar days. Required services include, but are not limited to, update design drawings and specifications, responses to all bidder inquires, amendments, construction submittal reviews, responses to contractor Requests for Information (RFI's), execution of potential design changes, and attendance at necessary site visits and construction related meetings in order to ensure the DOR's proposed repair measures addressing slope and wall failures at the Eastern End and Point 3 of Spilman Island. This project will be funded utilizing CIVIL WORKS funds.

   b. The requiring activity is for the United States Army Corps of Engineers (USACE). USACE provided Section 401(1) 7, Water Resources Development Act (WRDA) 2020, (PL 116-260) for HSC. The required services described below are consistent with the referenced authorities.

   c. The statement of work will require the A-E to perform a structural assessment of the existing bulkhead system and prepare a Geotechnical/Structural Baseline Report for Repairs documenting the technical basis for proposed repair measures addressing slope and wall failures at the Eastern End and Point 3 of Spilman Island. Based on the assessment findings, the A-E shall develop engineering design plans, specifications, construction cost estimates, project schedules, and supporting documentation necessary for repair or rehabilitation of the bulkhead system. In developing the statement of work, the Government identified it is necessary and beneficial that the DOR be involved in these efforts so that the design is properly executed, adjusted, and interpreted in order to minimize any potential liability to the Government, the construction contractor, and to the A-E – in effort to deliver a successful repair to the project. This work is highly specialized and highly specific to the design efforts that the DOR previously completed.

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4. AUTHORITY CITED: 10 United States Code 3204(a)(2) as implemented in RFO Federal Acquisition Regulation 6.103-2(b), Unusual and Compelling Urgency.

5. REASON FOR AUTHORITY CITED: This J&A is necessary to mitigate the irreparable harm to the Government should the USACE depend upon the Port of Houston (PoH) to address the design issues or self-procure the services required using standard procedures:

   a. Background: The Non-Federal Sponsor (NFS) procured HDR services to complete the original design effort as work-in-kind (WIK).

      HSC Expansion Channel Improvement Project is an authorized project to widen the channel from 300 ft to 455 ft. During construction activities associated with channel widening, two slope failures occurred along the south end of Spilman Island, between the Barbours Cut Ship Channel Flare and the Turning Basin. The first event, referred to as the Enterprise Failure, occurred in late October 2025 between approximately STA 61+50 and STA 56+50. The second event, identified as the Sloughing Failure, occurred in late November 2025 between approximately STA 50+50 and STA 47+00.

      The Enterprise failure affected the bulkhead cutoff wall, causing southward wall movement between pipe piles 050 and 090. The maximum initial movement recorded was 8 1/4" at pipe pile 073 (STA 58+85.41). Currently the wall continues to exhibit progressive movement. The maximum movement recorded to-date was 11 1/8" at pile 073. The failure exposed the wall up to approximately 13 feet.

      The Sloughing failure affected the bulkhead cutoff wall, causing southward wall movement between pipe piles 164 and 187. The maximum initial movement recorded was 1 5/8" at pipe pile 180 (STA 48+36.12). The wall continued to move until present. The maximum movement recorded to-date was 2 3/5" at pipe pile 176 (STA 48+75.34). The failure exposed the wall up to approximately 13 feet.

      Given the failure of the bulkhead cutoff wall, it is in the Government's best interest to retain the original Designer of Record (DOR). This approach is necessary for the following reasons:

      - Design Integrity and Liability: Only the DOR can legally modify the existing sealed Request for Proposal (RFP) documents. This ensures the continuity of design responsibility and avoids the substantial time and expense of a new designer having to review the original design then provide a solution to alleviate the failure.

      - Schedule and Financial Risk: Procuring a new A-E firm would delay future dredging operations in the affected area, with potential of placing the contract in standby mode at a cost of [redacted] of delay.

      Retaining the DOR is the most efficient and cost-effective solution to mitigate further project delays and financial losses.

   b. Justification: As the designer of record, HDR has intimate and irreplaceable knowledge of the bulkhead design that uniquely qualifies them to perform the services required for remediation and redesign of the bulkhead system. If the Government were to competitively

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solicit these services, HDR would have superior knowledge and offer vastly less risk to the Government in performing these services in comparison to any of the other offerors on the $900M MATOC tool. Further, the costs associated with having another designer accept the risk of interpreting the DOR's designs to make modifications to the existing design, decode and interpret design intent, and address extension of design submittals would be wasteful – and place additional cost and liability on the Government. HDR's depth of knowledge collected during project design makes them the most qualified source capable of providing the required services. HDR would be determined to be the most highly qualified firm based on the primary evaluation criteria:

- Specialized Experience and Technical Competence -
- Professional Qualifications -
- Past Performance -
- Capacity to Accomplish the Work -
- and Knowledge of Locality -

Any delays in mitigating this unusual and compelling exigency would cause serious and irreparable injury to the Government:

- The current schedule to procure the required services through traditional acquisition methods creates delays of greater than 50 work-days.

- CESWG has executed contracts for construction phase services consistently over many years and understands the level of effort associated. The Government already negotiated the labor and overhead rates with HDR on the previously awarded District 900M MATOC (W912HY-26-DA0012) and will utilize the alternate structured approach to resolve any profit discussions at the time of execution of the work. The Contracting Officer (KO) will also consider all pertinent information including the terms of HDR's previous contract, any field pricing assistance, technical analysis, fact-finding results, negotiations, and the Independent Government Estimate (IGE) to ensure the Government receives a fair and reasonable price for the work.

- SWG has already established a tool in which the A-E source selection process was followed and in accordance with FAR 36.602-1, the Source Selection Board selected HDR as one of the most qualified firms to execute projects within the District. The selection criteria, under FAR 36.602-1(a), are discussed above. If pursued competitively on the 900M MATOC tool, the Government will have to issue a TORN notice, evaluate all the proposals, and write a Source selection memorandum to only arrive at the same conclusion. HDR has a competitive advantage over all other A-E firms on the tool which cannot be overcome for each project. Competition will not diminish the advantage, despite the added administrative costs, to complete the requirement.

- Engaging a new A-E firm for the bulkhead wall remediation involves a scope of work that extends far beyond simply designing the repair itself. Due to legal and professional standards, the new firm cannot merely modify or build upon the original sealed design. Instead, they must assume full responsibility for the entire wall system in the affected area, which requires the following comprehensive and

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time-consuming process:

1) Assumption of Design Liability & Full System Due Diligence - The new firm must effectively "adopt" the bulkhead wall as their own design.
2) Independent Site Investigation and Data Validation - The new firm cannot rely solely on the data provided in the original plans. To assume liability, they must independently verify all site conditions.
3) Complete Re-analysis and Redesign - With validated data, the new A-E must re-create the design from the ground up before even addressing the specific repair.
4) Production of New, Independent Construction Documents - All of this work culminates in a completely new set of sealed construction documents.

Hiring a new A-E firm introduces significant schedule delays and cost increases. The process of data validation, re-analysis, and redesign can take several months, during which time project risks such as the daily standby costs for the dredging contractor and the wall failure will continue to accumulate. Retaining HDR (DOR) bypasses this entire redundant and costly process, allowing for an immediate and efficient modification of the existing, understood design.

Compelling Urgency in Fulfilling Agency's Requirements:

- Impending Financial Risk Due to Project Delays. A critical schedule conflict is emerging that requires immediate action to avoid substantial costs. The Government has a construction contractor, McCarthy, responsible for dredging the channel to its new 455-foot width. Any delay in the bulkhead wall remediation will directly impact this work. While the construction schedule currently has a 20-day float, this is projected to be exhausted by April 15th. After this date, if the dredging contractor is forced into standby, the Government will incur daily costs estimated at [redacted] (totaling at least [redacted] for 50 lost workdays).

- Duplication of Research and Engineering Knowledge. The period of performance for the HSC Spillman Island wall was approximately 12 months with a total design cost funded by local sponsor, Port of Houston.

c. Impact: HDR is the firm who has designed the HSC bulkhead wall, and they possess the corporate knowledge, design documentation, analysis, and research results required to provide the required services. Should a new A-E be hired, the new A-E could indemnify themselves for errors and omissions associated with the previous DOR's design. In addition, HDR could indemnify themselves against errors and omissions associated with the work performed by the new A-E. This would create a gap in continuity of liability and remaining technical and performance risk would be assumed by the Government. If this J&A is not approved and full competition is required, the cost, schedule and technical risks all increase for the Government.

The Government does not have the technical capacity to execute these services in-house, and inability to execute a contract with the DOR in a timely manner will result in an immediate negative impact to the ongoing construction effort. The construction

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financial impacts are twofold:

1. Daily Standby Costs (Effective after May 12th): The project schedule contains 20 days of float, which is anticipated to be exhausted by mid-May. Beyond this date, the Government could incur standby costs totaling approximately $200,000 per day, comprising:

- Dredge Standby (McCarthy's Subcontractor): [redacted]
- Prime Contractor Overhead (McCarthy): [redacted] (Field & Home Office)
- Prime Contractor Equipment/Field (McCarthy): [redacted]

2. Demobilization Costs: Should the delay be substantial enough to require contractors to leave the site, the Government would be liable for one-time demobilization and remobilization costs starting at [redacted] for McCarthy, plus other yet-to-be-determined costs from additional subcontractors.

If HDR were not awarded this work, the Government would incur additional damage. Because the Government does not have the capacity to provide these services required, an outside A-E firm would have to be engaged. Contracting this requirement to another A-E would take an additional 90 days, at minimum, through existing A-E indefinite delivery contracts. As referenced, the A-E would require at least 90 days to develop familiarity with the project. Starting that contracting process now will place the A-E task order award date at the end of July which means the construction contractor will already be in a hold status for 30 days. An additional 90 days of time required for a new A-E to develop familiarity with the project would delay the Government's ability to provide rapid, accurate and decisive responses for the failing bulkhead. If the Government were to delay the construction contractor by 120 days (90+30) at [redacted] per day, plus one-time demobilization and remobilization costs starting at [redacted] that would amount to an additional [redacted] cost to the Government. Therefore, a 120 day delay in awarding the redesign contract would expose the Government to a potential cost of over $24.2 million from the active construction contractor, not including additional unknown costs from other subcontractors.

d. <u>Alternatives:</u> The following alternatives were considered but deemed unsuitable:

(1) Full and Open Competition: This alternative is not viable due to the extensive time required. A standard competitive procurement process would take several months to complete. During this period, the on-site construction contractor, McCarthy, would be forced to suspend operations near the bulkhead, placing the dredging contract on standby. This would result in the Government incurring daily costs of approximately [redacted] Furthermore, a new A-E firm would be legally required to conduct a complete redesign, duplicating costs and adding months to the schedule before construction could even resume. The resulting financial impact and project delays are unacceptable to the Government.

(2) Competition Among Existing Multiple Award Task Order Contract (MATOC) Holders: While faster than a full and open competition, this alternative still requires weeks to months for firms to prepare proposals and for the Government to conduct an evaluation and award. This timeframe is still too long to avoid placing the McCarthy contract on standby, thereby incurring the same significant daily costs. Crucially, this alternative does not resolve the core issue of design liability. Any firm other than the

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Designer of Record (DOR) would still need to perform a costly and time-consuming full redesign, negating any minor time savings from using a MATOC.

(3) Perform the Redesign with In-House Government Resources: The primary constraint of this alternative is the immediate availability of specialized personnel. The USACE technical staff with the requisite expertise in complex geotechnical and structural design are currently fully engaged on other mission-critical projects. Diverting these resources would jeopardize other projects, and there is no capacity to absorb a project of this scale and urgency without a significant delay. This delay would, once again, lead to the suspension of the active construction contract and the associated daily financial penalties.

Conclusion:

No other alternative can meet the Government's urgent requirements without imposing unacceptable schedule delays and substantial, avoidable costs. Only the Designer of Record possesses the unique, intimate knowledge of the existing design and the legal authority to modify it efficiently, thereby allowing the active construction contract to proceed with minimal disruption.

6. EFFORTS TO OBTAIN COMPETITION: Based on information in paragraph 5 above there is currently no effort to obtain competition for this requirement. Further, for reasons described in this memorandum, HDR is clearly the most highly qualified firm for the work required and open competition would not represent a good faith solicitation by the Government, given HDR's knowledge of the project. Solicitation of such a contract would incentivize A-Es to expend time, effort, and funds to pursue a contract where the most highly qualified firm is already apparent to the Government. Additionally, a new firm will have a significant learning curve to overcome, require more time to study the original plans and analyses before they could even address the field issues. In contrast, the DOR can leverage their intimate knowledge and existing data to efficiently develop a targeted and cost-effective remediation design.

7. ACTIONS TO INCREASE COMPETITION: In this case, no actions can be made to remove or overcome barriers to competition as none exist. The Port of Houston competed this contract among a pool of contractors and HDR was selected as most highly qualified. Given these factors, providing fair opportunity is not feasible. Only the DOR can mitigate the legal and technical complexities of the additional design, provide efficient EDC services, and prevent the Government from incurring massive, unavoidable schedule delays and financial penalties on the active construction contract.

8. MARKET RESEARCH: Market Research was conducted to determine all courses of action that could meet this requirement in the most expeditious manner possible. Contract vehicles were surveyed and evaluated for scope, pool members and capacity. The Galveston District has no knowledge of any SATOCs awarded to HDR that also include this type of work within its scope. A MATOC is available, where the instant requirement is within scope, capacity is available and HDR a pool member; however, the time impact to acquire the services through said MATOC would cause serious and irreparable injury to the Government. The option that presented the best opportunity for success while exposing the Government to the least amount of risk is to sole source the work to HDR utilizing the MATOC available to expedite the RFPP process.

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9. INTERESTED SOURCES: In accordance with the exception allowed by RFO FAR 5.101(b)(2), the synopsis notice required by RFO FAR 5.101(a) was not posted due to the unusual and compelling urgency of this requirement, and therefore, no responses have been received.

10. OTHER FACTS: N/A

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11. TECHNICAL 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: James Meng, Ph.D., P.E. DATE: 6/10/26

TITLE: Geotechnical Lead Engineer [redacted]

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: Ignacio M. Toledo-Rodríguez, P.E. DATE: 4/24/26

TITLE: Acting Chief, Structural Section [redacted]

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: Elizabeth McCarthy DATE: _____

TITLE: HSC Project Manager [redacted]

[redacted]

13. CONTRACTING OFFICER CERTIFICATION:

I hereby determine that the anticipated cost or price to the Government for this contract action will be fair and reasonable. The determination of price reasonableness will be based on comparison with the Independent Government Estimate and historical pricing and rates from the 2026 A-E IDIQ contract (W912HY-26-DA012) awarded to HDR Engineering Inc.. Certified cost or pricing data will not be obtained as this anticipated contract amount will be less than the $2.5 M threshold. I certify that this J&A is accurate and complete to the best of my knowledge and belief.

NAME: Carol W. Hodges

DATE: 6/15/2026

TITLE: Contracting Officer

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Based on the foregoing justification, I hereby [redacted]ct procurement on an other than full and open competition basis to HDR MN Galveston JV, Inc. pursuant to the authority of 10 U.S.C. 3204(a)(2) as implemented in RFO 6.103-2 Unusual and compelling urgency subject to availability of funds, and provided that the services herein described have otherwise been authorized for acquisition.

Signature: [redacted] Date: 6/15/2026

Typed Name: Carol W. Hodges [redacted]fficer

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