**DEPARTMENT OF THE NAVY**
NAVAL FACILITIES ENGINEERING SYSTEMS COMMAND SOUTHEAST
JACKSONVILLE, FL 32212-0030

J&A No. N69450-26-JA-0254

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

1. Contracting Activity:

Naval Facilities Engineering Systems Command Southeast (NAVFAC SE), Jacksonville, Florida. The requiring activity is Naval Submarine Base (NSB) Kings Bay.

2. Description of the Action Being Approved:

The action being proposed under this Justification and Approval (J&A) is a sole source task order award to Moran Environmental Recovery (MER), 75 York Ave Ste D, Randolph, MA, 02368, under U.S. Coast Guard (USCG), Basic Ordering Agreement (BOA) 70Z08424GBOST0002 in order to perform emergency actions in support of degraded lead acid batteries at NSB Kings Bay Trident Refit Facility (TRF) building 4030.

3. Description of Supplies/Services:

The proposed award shall provide all labor, material, equipment, and supervision required to conduct site evaluation, emergency removal actions, time-critical remedial actions and property restoration services. Urgency is necessary to mitigate the risk to the facilities and personnel through further degradation of the batteries and battery leakage.

The work to be provided under this award includes:

a) Project management;
b) Providing personal protective equipment (PPE), as appropriate;
c) Decontamination of personnel and equipment, as appropriate;
d) Medical monitoring of response personnel, as necessary;
e) Containerizing for transport the leaking/bulging batteries;
f) Transport the leaking/bulging batteries to NSB Kings Bay Hazardous Waste Facility;
g) Cleanup of spilled acid from leaking battery;
h) Restoration of the site to pre-mishap conditions, to the extent practical;

Estimated Dollar Value
[redacted]

4. Statutory Authority Permitting Other Than Full and Open Competition:

The statutory authority permitting other than full and open competition is 10 U.S.C § 3204

(a)(2) Unusual and Compelling Urgency. FAR 6.103-2 indicates that when the agency's need for the supplies or services is of such urgency that the Government would be seriously injured unless the agency is permitted to limit the number of sources from which it solicits bids or proposals  full and open competition need not be provided for.

Environmental emergency response efforts are regulated by applicable Federal On-Scene Coordinators (FOSC's) under 40 CFR 300 along with state and local On-Scene Coordinators under state and local regulations. OPNAV M- 5090.1E further specifies the use of USCG BOA contractors to support emergency response actions under the Navy / Federal On-Scene Coordinator (Navy OSC / FOSC) program.

5. Rationale Justifying Use of Cited Statutory Authority:
This approval is being sought to provide emergency environmental response actions related to degraded lead acid batteries at NSB Kings Bay TRF Building 4030. The degraded batteries pose adverse safety, health, environmental, and mission impacts. Expediency is of the utmost importance to mitigate the risk to the building personnel, facility equipment and mission operations from the degraded batteries. Sufficient time to negotiate a task order is not available. Definitization will be made by issuance of a firm fixed price task order under US Coast Guard Basic Ordering Agreement (USCG BOA) 70Z08424GBOST0002. The USCG BOA unit costs are also significantly lower than typical commercially available emergency response rates. These expenses are similar to scheduled (non- emergency) environmental services labor and equipment rates versus unscheduled, emergency response rates. Contractors on these BOA's rely on the high volume and large scope of incidents typically awarded by the Federal government to support the reduced rates.

The USCG maintains a list of vetted, approved contractors that routinely demonstrate an ability to respond to urgent environmental incidents in a timely manner; have a vast inventory of response equipment in storage and/or readily accessible for immediate deployment; have a labor force trained to deal with environmental emergency response issues; and has authorized NAVFAC to utilize these contractors through USCG BOAs. There are a limited number of USCG approved contractors within the AOR that have these capabilities. Environmental emergency response is a niche field requiring unique and specialized knowledge, skills and abilities. Contractors on the USCG BOA have these qualifications. This incident involves the release of hazardous substance pollutants, posing a risk of environmental and health impacts.

The CNRSE OSC maintains a list in the CNRSE OSC Plan of USCG approved contractors within the AOR. This is a subset of the overall list of USCG approved contractors within the CONUS and identifies those capable of handling OHS incidents. MER is one of the contractors approved by the USCG; a designated service provider identified in the CNRSE OSC Plan; and capable of OHS incidents. Further, MER is one of the largest approved contractors in the AOR with offices, equipment, and personnel located near NSB Kings Bay and capable of a timely response. MER's ability to respond immediately to incidents; their extensive inventory of equipment; and staff with specialized training applicable to OHS incidents is essential for a time-critical response. Additionally, MER has demonstrated successful experience responding to spills for the U.S. Navy and has

affiliations with numerous organizations with additional, specialized capabilities commonly encountered during environmental emergency response incidents. As a result, they are already familiar with the hazards, response techniques, and site-specific requirements for this response. Their experience enables their response to be more efficient and provides unique qualifications that other contractors would not possess. This direct experience is indispensable not only for safe and efficient actions, but also for ensuring an adept environmental response. Other USCG approved contractors cannot respond in as timely a manner; do not have similar equipment resource capabilities; do not possess additional, specialized services like MER's network; and/or do not have the specialized experience required to respond to the unique hazards associated with degraded and leaking batteries. The nature of the hazardous substance release and urgency for immediate clean-up is time critical.

6. Description of Efforts Made to Solicit Offers from as Many Offerors as Practicable:

Due to the unusual and compelling nature of this requirement, offers will not be solicited from other sources. This is an emergent requirement. The USCG BOA is the U.S. Navy's predesignated contracting mechanism for OHS incident response. Environmental emergencies cannot be planned nor programmed. As a result, it is not practical to solicit and develop an unfunded, future requirement that cannot be anticipated. The USCG BOA was solicited by full and open competition. Use of the USCG BOA is specified in OPNAV M-5090.1E and the CNRSE OSC Plan; as well as, identified in every emergency management and environmental media management spill contingency plan across the AOR.

In accordance with FAR 5.101(b)(2), synopsis of this proposed contract action is not required as award will be made under the conditions prescribed in FAR 6.103-2.

7. Determination of Fair and Reasonable Cost:

The NAVFAC SE Project Manager has determined that the anticipated cost to the Government of the supplies/services covered by this J&A will be fair and reasonable by evaluating the labor and material costs to perform similar emergency response actions in the past within the NAVFAC SE AOR. The Contracting Officer will determine the price negotiated for this modification to be fair and reasonable pursuant to FAR part 15.4.

8. Actions to Remove Barriers to Future Competition:

This is an emergent requirement. The USCG BOA is the U.S. Navy's predesignated contracting mechanism for OHS incident response. Environmental emergencies cannot be planned nor programmed. As a result, it is not practical to solicit and develop an unfunded, future requirement that cannot be anticipated. The USCG BOA was solicited by full and open competition. Use of the USCG BOA is specified in OPNAV M-5090.1E and the CNRSE OSC Plan; as well as, identified in every emergency management and environmental media management spill contingency plan across the AOR.

CERTIFICATIONS AND APPROVALS

9. TECHNICAL/REQUIREMENTS CERTIFICATION

I certify that the facts and representations under my cognizance, which are included in this justification and its supporting acquisition planning documents, except as noted herein, are complete and accurate to the best of my knowledge and belief.

[redacted]

10. LEGAL SUFFICIENCY REVIEW

I have determined this Justification is legally sufficient.

[redacted]

11. PROCURING CONTRACTING OFFICER CERTIFICATION

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

[redacted]

12. APPROVING OFFICIAL (NFAS 6.304)

Upon the basis of the above justification, I hereby approve the action described herein using other than full and open competition, pursuant to the authority of 10 U.S.C § 3204(e).

[redacted]