DEFENSE LOGISTICS AGENCY
HEADQUARTERS
8725 JOHN J. KINGMAN ROAD
FORT BELVOIR, VIRGINIA 22060-6221

J&A Tracking Number 26-0023

Justification for Other than Full and Open Competition under Kuwait Petroleum Corporation (KPC) Contract Modification SPE602-20-D-0489/P00014

1. Summary/Introduction:

Defense Logistics Agency (DLA) Energy is the Integrated Materiel Manager and contracting activity for petroleum products and services for the Department of War (DoW). This Justification and Approval (J&A) is for the acquisition of designated petroleum products on an other than full and open competition basis due to unusual and compelling urgency, in accordance with (IAW) Federal Acquisition Regulation (FAR) 6.103-2, from the Kuwait Petroleum Corporation (KPC) via extension modification P00014 to contract SPE602-20-D-0489. DLA Energy is procuring all fuel products for use by the [redacted]. The anticipated period of performance for this contract modification is July 1, 2026, through June 30, 2027. This J&A authorizes procurement of approximately [redacted] U.S. gallons (USG) of Turbine Fuel, Aviation (JA1), Diesel Fuel (DF2), and Unleaded Regular Motor Gasoline (MUR) with an estimated value of [redacted] based on current market value. The total estimated value of the contract, including this and all other extensions is [redacted].

2. Nature and/or description of the action being approved (FAR 6.104-1(a)(2)):

The action being approved is a J&A authorizing other than full and open competition for the extension of DLA Energy's contract with KPC by twelve (12) months. The contract's period of performance will expire on June 30, 2026. This J&A authorizes the extension of the period of performance to June 30, 2027, for DLA Energy to acquire fuel in Kuwait per its estimated requirements in Section 3 below. Defense Working Capital Funds will be utilized for this effort.

3. Description of supplies or services required to meet the agency's need (including estimated value) (FAR 6.104-1(a)(3)):

The estimated requirements to be ordered under the proposed contract extension between July 1, 2026, through June 30, 2027, including an additional 31-day carryover period, are as follows:

i. JA1 conforming to ASTM-D1655 and DEF STAN 91-91 Issue 17 dated July 3, 2024. The total estimated quantity required is [redacted] USG.

ii. DF2 conforming to KPC's commercial automotive diesel. The total estimated quantity required is [redacted] USG.

iii. MUR conforming to KPC's commercial unleaded regular gasoline. The total estimated quantity required is [redacted] USG.

The estimated dollar value of this contract action is [redacted].

4. Identification of the statutory authority permitting other than full and open competition (FAR 6.104-1(a)(4)):

This J&A is based upon the authority of 10 U.S.C. §3204(a)(2) as implemented by Federal Acquisition Regulation 6.103-2. Unusual and compelling urgency precludes full and open competition, and delay in award of a contract would result in serious injury to the Government.

5. Demonstration that the proposed contractor's unique qualifications or the nature of the acquisition requires using the authority cited (FAR 6.104-1(a)(5)):

[redacted] needed because the current period of performance will expire on June 30, 2026, [redacted] the fuel from KPC as Kuwaiti law makes KPC a mandatory source for petroleum.

DoW has a significant military presence in Kuwait.

[redacted]

Kuwaiti law requires that fuel be sourced from KPC.

Kuwait Ministerial Decree Number 6 (1980) specifies that KPC is solely authorized to produce, refine, store, and market refined petroleum products in Kuwait. Further, Kuwait Ministerial Decree Number 4 (1989) regulates import and export of all petroleum products into Kuwait and specifies that it is not permissible to import or export any petroleum products without the prior approval of KPC. Therefore, KPC is the only available source for procuring DF2, JA1, and MUR in Kuwait [redacted]

[redacted] there is no reason to suspect changes or revocation to the referenced decrees. [redacted]

Justification for Other Than Full and Open Competition (Cont'd)
(SPE602-20-D-0489/P00014 – Kuwait Petroleum Corporation)

KPC demonstrated its ability to provide commercial fuel within the [redacted] specifications by performing multiple contracts in the Middle East, including its most recent contract, SPE602-20-D-0489 (Kuwait Supply).

DLA Energy is unable to implement procedures to acquire fuel via [redacted] prior to the expiration of the current contract period.

To date, DLA Energy resolutely strived to avoid the urgency presented by this J&A and endeavored to implement procedures to acquire fuel in Kuwait via [redacted] These efforts were a continuation of those made in 2021, 2022, 2023, and 2024 with the current objective of negotiating [redacted] prior to expiration of the existing commercial supply contract. DLA Energy requested additional support from the [redacted] as a viable alternative to the current contract for fuel support. During the second half of 2021 and early 2022, DLA Energy, in conjunction with [redacted], [redacted] in this effort to ensure arrangements were in place for usage of [redacted] prior to the expiration of the contract. Additionally, [redacted] along with [redacted] traveled to Kuwait to meet with [redacted], on the potential to use [redacted] among other issues. Nevertheless, DLA Energy faced numerous challenges, which included [redacted], as well as surging COVID concerns inhibiting engagement with [redacted].

Due to these various challenges, DLA Energy was unable to achieve its objective of sourcing fuel in Kuwait via [redacted] prior to the then-expiration date of the contract of June 30, 2022. DLA Energy therefore extended the contract for twelve (12) months, through June 30, 2023, to continue to pursue this option.

Exceptional circumstances continued during that contract extension. [redacted].

[redacted]

[redacted] For these reasons, there is no reasonable expectation that securing [redacted] with petroleum products, will be secured prior to the June 30, 2026, expiration of the current contract.

Urgency of requirement.

The need for fuel supply is urgent. KPC's performance under current supply contract SPE602-20-D-0489 will end on June 30, 2026. [redacted] The importance of and urgency for this requirement is significantly enhanced [redacted] o other commercial firms have been granted permission or authority by the Kuwaiti Government or KPC to furnish the required fuel supplies to the [redacted] in Kuwait.

A full year is needed because there is no reasonable expectation that the [redacted] prior to June 30, 2026, [redacted].

In the event that [redacted] is secured that fully supplies [redacted] fuel requirements in Kuwait prior to the expiration of the extension period, DLA Energy will utilize the [redacted] to provide the fuel required rather than continuing under the authority of FAR 6.103-2.

6. Description of the efforts made to ensure that offers are/were solicited from as many potential sources as is/was practicable, including whether a notice was or will be publicized as required by Subpart 5.1 and, if not, which exception under 5.101(b) applies (FAR 6.104-1(a)(6)):

As discussed in Section 5 above, Kuwaiti law specifies that KPC is solely authorized to produce, refine, store, and market refined petroleum products in Kuwait. [redacted] that fuel may not be sourced from other suppliers. As such, DLA Energy solicited an offer from KPC. The requirement was excepted from publication in accordance with FAR 5.202(a)(2).

7. Determination by the contracting officer that the anticipated cost to the Government will be fair and reasonable (FAR 6.104-1(a)(7)):

The Contracting Officer determined that the anticipated cost to the Government will be fair and reasonable based on prices received for comparable products in the region. [redacted]

8. Description of the market research conducted and the results or a statement of the reason market research was not conducted (FAR 6.104-1(a)(8)):

DLA Energy re-confirmed with [redacted] that KPC is the sole provider of fuel to the [redacted] in Kuwait on January 23, 2025. Given Kuwait's sovereign restrictions mandating KPC sourcing [redacted] approval to import fuel from other sources, further market research would not identify alternative sources and will not be conducted.

9. Any other facts supporting the use of other than full and open competition, such as (FAR 6.104-1(a)(9)):

(i) Explanation of why technical data packages, specifications, engineering descriptions, statements of work, or purchase descriptions suitable for full and open competition have not been developed or are not available.

Not applicable.

(ii) When 6.103-1 is cited for follow-on acquisitions as described in 6.103-1(c), an estimate of the cost to the Government that would be duplicated and how the estimate was derived.

Not applicable.

(iii) When 6.103-2 is cited, estimated cost, or other rationale as to the extent and nature of the harm to the Government.

Without satisfying the urgent and compelling need for extending the current contract beyond its end of performance on June 30, 2026 [redacted] in Kuwait since KPC is the only authorized source for supplying these requirements in Kuwait. [redacted] without a supply of the required fuel products.

10. A listing of the sources, if any, that expressed, in writing, an interest in the acquisition (FAR 6.104-1(a)(10)):

See Section 6 above.

11. Actions that may be taken to remove or overcome barriers to competition before any subsequent acquisition for the supplies or services are required (FAR 6.104-1(a)(11)):

There are no known actions that would enable DLA Energy to overcome these barriers to competition due to the impact of the Kuwaiti laws discussed above.

I hereby certify that the data which forms the basis for this justification is accurate and complete to the best of my knowledge and belief:

[redacted]

Contracting Officer, Bulk Petroleum Products

I hereby certify that the data which forms the basis for this justification is accurate and complete and that the purchase request covers only the minimum requirements to satisfy the needs of the Government.

[redacted]

Chief, Inventory and Distribution Management

Approved:

[redacted]

Senior Procurement Executive