

OFFICE OF ACQUISITION MANAGEMENT (OAQ)
Justification for Exception to Fair Opportunity
Exceeding the SAT
FAR 16.505(b)(2)(ii)(B)

J&A-20-0265

1. Agency and Contracting Activity:

The U.S. Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (ICE), Office of Acquisition Management (OAQ), on behalf of ICE/Office of Chief Information Officer (OCIO), proposes to award a Delivery Order, pursuant to FAR 16.505(b)(2)(ii)(B).

2. Nature and/or description of the item/service being procured and anticipated cost:

(a) Type of action: Firm-Fixed-Price (FFP) Delivery Order

(b) Amount the current J&A is justifying: [REDACTED]

(c) Brief Description: ICE/OAQ intends to award an eleven (11) month Delivery Order under the DHS First Source II Indefinite Delivery/Indefinite Quantity (IDIQ) contract # [REDACTED]. The current Delivery Order # [REDACTED] is set to expire on September 7, 2020. ICE/OAQ intends to limit the number of sources to only one source pursuant to FAR 16.505(b)(2)(ii)(B). The contractor listed below is the only company capable of providing and maintaining the ICE Cloud Hosting Infrastructure support required at the level of quality required because the hosting support is unique or highly specialized.

Four Points Technology, LLC
14900 Conference Center Drive
Suite 100
Chantilly, VA 20151

3. Description of Supplies/Services:

This requirement is to provide an eleven (11) month new Delivery Order to allow time for the re-compete and any protests that may occur. The estimated total for the eleven (11) months of support is [REDACTED]

<u>Period</u>	<u>Time</u>	<u>Price</u>	<u>Total</u>
Base Period	7 months	[REDACTED]	[REDACTED]
Ordering Period 1	1 months	[REDACTED]	[REDACTED]
Ordering Period 2	1 months	[REDACTED]	[REDACTED]
Ordering Period 3	1 months	[REDACTED]	[REDACTED]
Ordering Period 4	1 months	[REDACTED]	[REDACTED]
Total			[REDACTED]

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4. Statutory Exception and rationale for its use:

Exception:

- ☐ FAR 16.505(b)(2)(i)(A). The agency need for the supplies or services is so urgent that providing a fair opportunity would result in unacceptable delays.
- ☒ FAR 16.505(b)(2)(i)(B). Only one awardee is capable of providing the supplies or services required at the level of quality required because the supplies or services ordered are unique or highly specialized.
- ☐ FAR 16.505(b)(2)(i)(C). The order must be issued on a sole-source basis in the interest of economy and efficiency because it is a logical follow-on to an order already issued under the contract, provided that all awardees were given a fair opportunity to be considered for the original order.
- ☐ FAR 16.505(b)(2)(i)(D). It is necessary to place an order to satisfy a minimum guarantee.
- ☐ FAR 16.505(b)(2)(i)(E). For orders exceeding the simplified acquisition threshold, a statute expressly authorizes that the purchase be made from a specific source.

Rationale:

ICE/OAQ intends to procure continued ICE Cloud Hosting Infrastructure support. The authority for this action is 41 U.S.C. 4106(c)(2), Competitive Procedures. The competitive ICE Cloud AWS and Microsoft Azure Hosting Infrastructure support requirement is anticipated to be competed in the beginning of the second quarter of FY 21 and awarded by the end of the second quarter of FY 21.

ICE released a RFI on the NIH CIO-CS GWAC to all small businesses in the fourth quarter of FY 19 to address questions relating to cloud hosting with AWS and Microsoft. A subsequent RFI was issued on the NIH CIO-CS GWAC to all small businesses to address additional new questions relating to cloud hosting with Microsoft and to help gain greater results in vendor responses. For the same reasons, ICE also issued another RFI on the NASA SEWP V GWAC to all small businesses in the second quarter of FY 20.

Based on combined responses received from the RFIs, ICE determined that the requirement had changed for adopting and supporting cloud hosting environments and that small business vendors must have active established partnerships to be a reseller with Amazon and Microsoft and must meet specific levels of technical certification and competency from Amazon and Microsoft. ICE continued to refine its requirement and conduct market research to identify the

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contract vehicle that will best meet ICE's needs. Although ICE anticipated issuing a solicitation for the requirement in FY 20, the solicitation was further delayed as the result in changes to acquisition strategy based on departmental guidance and consideration of other contract vehicles now, such as: the GSA Multiple Award Schedule. Based on these developments, ICE now anticipates releasing a solicitation in the beginning of the second quarter of FY 21.

The requested interim contract will continue to maintain the ICE Cloud Hosting Infrastructure support through August 7, 2021, which should provide sufficient time for ICE to issue the solicitation, make a new contract award, transition in, and, if necessary, provide time to adjudicate any protests received on the new award.

Four Points Technology, LLC is currently the only contractor capable of providing the ICE Cloud Hosting Infrastructure support required at the high level of quality and they are familiar with the ICE IT infrastructure. Keeping this contractor in place pending the solicitation, award, and transition to a new contract will ensure continuity of services without extensive delays due to their knowledge and understanding of ICE's cloud requirements.

Furthermore, the time required for a new contractor to setup a new virtual cloud environment with user accounts, provisioning multiple consoles, hosting infrastructure connections, and the virtual resources necessary to continue hosting the ICE application systems in the ICE Cloud may delay and result in an interruption in service and capabilities that could present significant safety and mission impacts. Accordingly, it is in the best interest of the Government to issue this short-term new Delivery Order with the incumbent contractor while ICE issues the solicitation and recompetes the new contract award.

5. Determination by the Contracting Officer that the anticipated cost to the Government will be fair and reasonable:

The Contracting Officer has determined that issuing a new Delivery Order for continued ICE Cloud Hosting Infrastructure support represents the best value and will result in the lowest overall cost, considering price and administrative costs, to meet the Government's needs. First Source II has already negotiated fair and reasonable pricing for all required support. Discounts from the existing contractor will also be requested. As a result, the price of this First Source II Delivery Order has been determined to be fair and reasonable.

6. Any other facts supporting the justification:

Not applicable.

7. A statement of the actions, if any, the agency make take to remove or overcome any barriers that led to the exception to fair opportunity before any subsequent acquisition for the supplies or services is made:

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The ICE Cloud AWS and Microsoft Azure Hosting Infrastructure support requirement is anticipated to be solicited in the beginning of the second quarter of FY 21 and competitively awarded by the end of the second quarter of FY 21. Therefore, the award of a Delivery Order for support through August 7, 2021 will provide the critical coverage of support until ICE can transition this requirement to the new ICE Cloud AWS and Microsoft Azure Hosting Infrastructure support contract.

8. DHS intends to post this requirement on Beta.SAM pursuant to FAR 16.505(b)(2)(ii)(D).

9. Technical/Requirements Personnel Certification:

Pursuant to FAR 16.505(b)(2)(ii)(B)(9), I certify that this requirement meets the Government's minimum need and that the supporting data, which form a basis for the justification, are accurate and complete.


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Date 08/26/2020

10. Contracting Officer Certification and/or Approval:

Pursuant to FAR 16.505(b)(2)(ii)(B)(8), I certify that this justification is accurate and complete to the best of my knowledge and belief and hereby determine that the circumstances for an exception to fair opportunity exist:

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Contracting Officer Date 08/26/2020

11. Approval:

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Date 08/27/2020
Office of Acquisition Management (OAQ)
U.S. Immigration and Customs Enforcement (ICE)