



JUSTIFICATION FOR OTHER THAN FULL AND OPEN COMPETITION
41 U.S.C. 3304

J&A-22-00320

Pursuant to the requirements of the Competition in Contracting Act (CICA) as implemented by the Federal Acquisition Regulation (FAR) in accordance with the requirements of FAR 6.303-1. This justification for the use of the statutory authority under FAR Subpart 6.3 is based on the following facts and rationale required under FAR 6.303-2 as follows:

1. Agency and Contracting Activity.

The Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (ICE), Office of Acquisition Management (OAQ), proposes to extend a contract on behalf of Enforcement and Removal Operations (ERO) on a basis of other than full and open competition.

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

(a) Type of action: Contract modification

(b) Amount of the current J&A: \$8,250,000.00

(c) Brief Description: OAQ intends to procure on a sole source basis, communication services for non-citizens in ICE custody nationwide.

Talton Communications, Inc. (Talton)
910 Ravenwood Dr.
Selma, AL 36701-6723

3. Description of Supplies/Services.

This requirement is to provide an additional five and a half months of non-citizen communication services at an estimated cost of \$8,250,000.00. This is based on historical pricing of \$1.5 M per month.

	<i>Time</i>	<i>Total</i>
<i>Base</i>	6.5 mos.	\$10,700,000.00
<i>Current J&A</i>	5.5 mos.	\$8,250,000.00
		\$18,250,000.00

4. Identification of statutory authority permitting other than full and open competition.

The statutory authority permitting other than full and open competition is 41 U.S.C. §3304 as implemented by:

- ☒ FAR Subsection 6.302-1: Only one responsible source and no other supplies or services will satisfy agency requirements.



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- ☐ 6.302-2: Unusual and compelling urgency
In accordance with limitation at FAR 6.302-2(d).
- ☐ 6.302-3: Industrial mobilization; engineering, development, or research capability; or expert services.
- ☐ 6.302-4: International agreement.
- ☐ 6.302-5: Authorized or required by statute.
- ☐ 6.302-6: National security.
- ☐ 6.302-7: Public interest.

5. Demonstration that the nature of the acquisition requires use of the authority cited.

ICE and Talton Communications, Inc. (Talton) entered into a Contract HSCEDM-16-C-HS002 for noncitizens communication services (NCS) in 2016 and is intimately familiar with the ICE requirements. Given that Talton owns and manages the NCS throughout 39 ICE facilities, a follow-on contract was awarded under Contract 70CDCR22C00000002 in 2022.

At this time, there is no other source capable of providing the immediate mission service requirements and compliance with the ICE requirements. The current contractor, Talton Communications, Inc. (Talton), is uniquely positioned to continue operations and management of the ICE/ERO non-citizen communication services nationwide, while ICE prepares a re-competition of the procurement.

Talton has the infrastructure in place at 39 ICE facilities and has installed over 4,000 telephones with privacy enclosures and 7,000 wireless tablets and charging stations. The services provided by Talton are critical to non-citizens access to legal representation and communication to family members.

At approximately 300 facilities, Talton has implemented a unique pro bono platform that allows non-citizen access to the platform that includes over 2,000 approved attorney telephone numbers, embassies, consulates, approved legal aid agencies, ICE immigration service helplines, and court-ordered settlement contact numbers.

In light of COVID-19 pandemic, social and attorney visitation has been limited at facilities and the agency currently provides non-citizens 520 minutes of phone services per month. Award of the proposed action ensures continuity of services. Talton has the ICE mission-required equipment, infrastructure, and comprehensive system for domestic collect, prepaid collect, debit, and international debit calls. Additionally, Talton's tablets provide enhanced telecommunication features including video visitation and controlled electronic messaging



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services compatible with ICE's communication system.

Any other vendor would be required to hire manpower in the numbers required to provide the service, and obtain background checks, clearances, and training for each employee on providing the infrastructure in place and to continue the services until the new award is completed for communication services. This is a time-consuming and costly process for a five-and-a-half-month extension. It would be virtually impossible for any other vendor to hire personnel and have them cleared and trained within the time-frame necessary to ensure no disruption and performance at the level of quality required. The cost to the government and the disruption to the mission caused by transitioning to another contractor on a short-term basis until a new competitive action can be awarded is not economically justifiable. It is much more efficient, and there is no disruption of the mission by extending the current contract until a new competitive contract can be awarded.

The re-competition of this requirement is currently in the pre-solicitation phase. Award of the sole-source contract is needed to ensure uninterrupted services continues throughout the pre-award activities and until award of a competitive contract. Delaying award of a sole-source contract would require ICE to purchase calling cards and cell phones for 21,000 non-citizens in its custody. This could result in violation to PBNDS, noncitizens privilege, and unnecessary serious financial burden to cover the cost of buying cell phones for such a large population.

In the short-term, the contracting officer has determined that issuing this 5.5-month extension is in the best interest of the Government. Talton continues to adapt to the evolving conditions and is the only contractor capable of performing consistent, reliable, and uninterrupted services while ICE's competition efforts are underway.

6. Description of efforts made to ensure that offers are solicited from as many potential sources as is practicable.

OAQ has already publicized this requirement, as required by subpart 5.2, by posting a pre-solicitation notice on July 7, 2022, on beta.SAM.gov. The forthcoming solicitation will be posted to beta.SAM.gov as well.

7. 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 price will be fair and reasonable, as the 5.5-month contract will use the current contract pricing which was already determined to be fair and reasonable at time of award.

8. Description of market research:

In preparation for the upcoming re-competition, ICE posted a request for information (RFI) to beta.SAM.gov on January 14, 2022, and closed on January 26, 2022. The purpose of this RFI was to elicit feedback from all interested parties and identify contractors capable of



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performing telephone services for non-citizens. In response to that market research, ICE received three (3) responses from small businesses: Talton, ICSolutions, and Correct Solutions Group (CSG). Talton, the incumbent, demonstrated it is capable of providing communication services on an immediate basis.

ICSolutions and Correct Solutions Group (CSG) may be capable of providing the subject services, but they would require a transition period to do so. Therefore, Talton is the only contractor capable of immediately providing communication services.

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

None.

10. A listing of the sources, if any that expressed, in writing, an interest in the acquisition.

- Talton Communications
- ICSolutions
- Correct Solutions Group

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

After award of this action, DHS intends to post the approved/signed justification pursuant to 6.305.



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12. Contracting Officer's Certification.

I certify that the data supporting the recommended use of other than full and open competition is accurate and complete to the best of my knowledge and belief.

Contracting Officer

Date

13. Technical/Requirements Personnel Certification.

I certify this requirement meets the Government's minimum need and that the supporting data, which forms a basis for this justification, is complete and accurate.

Technical Representative/COR

Date

14. Approval.

Elease Sanders
Competition Advocate

Date