



**DEFENSE THREAT REDUCTION AGENCY  
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BELVOIR, VA 22060-6201**

28 July 2021

**JUSTIFICATION FOR AN EXCEPTION TO FAIR OPPORTUNITY  
AMENDMENT**

**1. Nature and/or Description of Action**

The Defense Threat Reduction Agency (DTRA) Cooperative Threat Reduction (CTR) Biological Threat Reduction Program (BTRP) proposes to procure, without using full and open competition, remediation, commissioning, endurance run, and required training for the State Scientific Research Institute of Laboratory Diagnostics and Veterinary-Sanitary Expertise (Kyiv ILD) and the State Service of Ukraine for Food Safety and Consumer Protection Regional Diagnostic Laboratory (Odesa RDL). This procurement action would occur as a modification of CTR Integrating Contract (CTRIC) III Task Order HDTRA1-20-F-0054 as implemented by Jacobs/CH2M Hill (CH2M) whose period of performance (PoP) is 01 July 2020 through 30 June 30 2023. This acquisition would be an exception to the FAR 16.5 "Fair Opportunity" process. The planned requirement will be procured under a bilateral modification P00002.

This ETFO is an amendment the ETFO approved by the Competition Advocate on March 18, 2021. The expected value of the previously approved ETFO was approximately [REDACTED]. The expected dollar increase of this ETFO is approximately [REDACTED]. The revised expected total dollar value of this ETFO is \$3,615,812.81. The ETFO authority, rationale, and period of performance has not changed and the market research conducted for this effort remains valid and unchanged.

**2. Description of the Supplies/Services Required**

For this acquisition, BTRP requires CH2M to remediate all deficiencies identified in each laboratory's site assessment report and complete any remaining equipment installation in order to commission and operationalize both facilities to be compliant with the local and the World Health Organization standards to which each facility was designed. The original ETFO was based on a PoP of seven months. This amendment includes 7 months of additional work (a total PoP of 14 months) as well as costs for construction warranties for the Kyiv and Odesa laboratories in Ukraine, which were not included in the original ETFO. The Government Cost Estimate (IGCE) is [REDACTED], which is approximately thirty-one percent of the total task order award.

**3. Exception to Fair Opportunity**

The justification for this ETFO action is FAR 16.505(b)(2)(i)(C) which states "the order must be issued on a sole-source basis in the interest of economy and efficiency as a logical follow-on to an order issued under the contract, provided that all awardees were given a fair opportunity to be considered for the original order." The original order provided fair opportunity to all CTRICs to bid on the work. In this case, issuance of a new task order would create unacceptable delays. Time to award would be 120 days plus an additional 30 days for a new performer to assess both

laboratories and submit a report to DTRA, plus another 15 days for DTRA review and acceptance. Total delay would be approximately 165 days—an unacceptable, inefficient delay for the Government.

This type of work is a logical extension of work that CH2M is already prepared to do at other sites in Ukraine.

Given the delays and additional costs, a new task order modification for the current order for new/additional work is preferable; with the increase in value, the maximum ordering value ceiling of the CTRIC Indefinite Delivery, Indefinite Quantity (IDIQ) contract value will not be exceeded.

#### **4. Justification Rationale**

The use of the established contractor greatly reduces cost and the risk to the Government. The time required to award a new contract or CTRIC task order risks the Government of Ukraine (GoUA) operationalizing the laboratories without DTRA approval and safety validation or the deterioration of critical equipment DTRA purchased and provided from disuse. Both facilities are owned by and in the custody of GoUA, but neither facility currently performs active biological work because DTRA has requested GoUA not begin work until commissioning and final works are complete. Kyiv ILD is finalizing its own utility hookups, and GoUA staff already occupy administrative spaces at both facilities. There exists a risk GoUA will begin operating and modifying the laboratories without DTRA's knowledge and before final commissioning has been completed. The facilities' continued disuse risks deterioration of critical systems and potential equipment theft or damage. The Government does not expect to receive a better price by competing this effort amongst other the other CTRIC contractors. The use of the established contractor eliminates the need for integration costs, and project management office expenses associated with establishing a new office and project management team. There are also delays caused COVID, including lost days to quarantine, travel restrictions and additional requirements to travel. Therefore, DTRA urgently requires the completion of commissioning of both facilities to achieve active, safe operationalization of DTRA's mission success.

When DTRA issued a Task Order Request for Proposals under the CTRIC IDIQ, the Agency included design, renovation, and commissioning of biological containment laboratories at several sites. The scope, however, did not plan for this type of work to be performed at the Kyiv ILD and Odesa RDL facilities. These two facilities were scheduled to be fully complete under the Biological Threat Reduction Integrating Contract (BTRIC) Task Order 04, as [REDACTED]. Both facilities are more than ninety (90) percent complete; but due to a variety of issues including GoUA office closures and other COVID-19 quarantine restrictions, [REDACTED] could not complete commissioning and final equipment installation within the PoP, which ended on 13 October 2020. Task Order 04 had already been extended by the maximum allowable time period as the end of the IDIQ performance period was approaching its conclusion with no ability to extend. This eliminated the possibility of extending BTRIC Task Order 04 to complete the work and ensuring mission success.

CH2M has completed an assessment of both facilities and is aware of remaining work required. CH2M's current scope includes precisely the type of work required but originally planned for other sites. The additional laboratory work and warranties are required for in-country commissioning and cannot be accepted by our in-country partner unless they are completed.

The Statement of Work has been modified to clarify and explicitly refer to the identified follow-on tasks. The contractor submitted a cost and technical proposal which was evaluated by the Government. Upon evaluation, CH2M proposed an additional 7 months of work to include construction warranties for both the Kyiv and Odesa laboratories. A bilateral modification is in the best interest of the Government as it relates to cost, schedule, and performance as a CTR-identified high priority effort in Ukraine.

## **5. Market Research**

Market research finalized on September 27, 2019 remains current and applicable. The research showed other CTRIC contractors could perform the work being added under this contract; however, selecting a new contractor for this project related tasking would result in much higher costs, significant delays, and duplication of efforts already performed by CH2M. Conducting a new fair opportunity competitive action would be disadvantageous to the Government in terms of performance, cost, and schedule. Market research was also conducted prior to the procurement resulting in the current order which was competitively awarded. During a down selection, CH2M was found as the most qualified offeror in terms of cost and technical approach.

## **6. Other Facts**

The anticipated price for this action will be determined to be fair and reasonable based on an analysis of cost and/or price proposal submitted by CH2M. The proposed prices will be compared to the GCE as applicable. In addition the Contracting Office will use cost analysis and clarifications and negotiations as necessary to determine fair and reasonable and realistic. In addition, DTRA will conduct a detailed technical evaluation of CH2M's proposal. Procedures FAR 15.404-1 will be utilized to analyze this proposal.

## **7. Subsequent Actions**

DTRA BTRP goal to complete and commission the Kyiv ILD and Odesa RDL will remain for the duration of the contract. As BTRP and other CTR programs evolve, the Program Office will assess CH2M's performance and effectiveness in furthering CTR's mission to address CTR-specific areas prior to any decisions regarding future efforts.

## **Technical Certification**

I certify that the data and information forming the basis for this justification are accurate and complete to the best of my knowledge and belief.

[Redacted Signature]

\_\_\_\_\_  
Program Manager

29 July 2021

\_\_\_\_\_  
Date

**Contracting Officer Certification**

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

[Redacted Signature]

\_\_\_\_\_  
Contracting Officer

\_\_\_\_\_  
Date

**General Counsel Coordination**

This justification is legally sufficient.

[Redacted Signature]

\_\_\_\_\_  
Attorney

\_\_\_\_\_  
Date

**Approval**

Based on the above justification, I hereby approve accomplishment of this acquisition by means other than using full and open competition.

[Redacted Signature]

\_\_\_\_\_  
Competition Advocate

\_\_\_\_\_  
Date