



DEPARTMENT OF THE ARMY

U.S. Army Corps of Engineers
WASHINGTON, D.C. 20314-1000

May 2, 2003

REPLY TO
ATTENTION OF:

Directorate of Military Programs

Honorable Henry A. Waxman
House of Representatives
Washington, DC 20515-6143

Dear Mr. Waxman:

This is in response to your inquiry of April 10, 2003 regarding the contract for services to repair and provide for continuity of operations of the Iraqi oil infrastructure.

The term and total cost of the current contract are limits on, and not our expectations regarding, the duration and potential dollar value of the contract. These limits are based on estimates drawn from contingency plans that addressed best to worst scenarios that might unfold in Iraq. In the worst scenario, a large proportion of Iraq's 1500 oil wells would be on fire, and there would be massive intentional oil spills and pollution resulting from the fires, extensive damage to associated infrastructure, including gas-oil separators, pipelines, pumping stations, refineries, and import facilities. Since the actual requirement for emergency services was unknown, the contract was structured to enable us to order the full range of services required by any potential situation, including a scenario in which there was extensive intentional damage to the Iraqi oil fields.

This contract was designed from the outset as a bridge to competition and is structured accordingly. The indefinite delivery/indefinite quantity, cost plus award fee contract allows the Government to issue individual task orders for a specified period of performance at an estimated not-to-exceed dollar amount. We will limit orders under this contract to those services required prior to the availability of competitively awarded contracts.

The scope of work provided by the current contract, and the contemplated competitive contract(s) that will replace it, includes extinguishing oil well fires and assessing the condition of oil facilities; cleaning up oil spills or other environmental damage at oil facilities; engineering design and repair or reconstruction of damaged infrastructure; operation of facilities; and distribution of products.

In order to maximize competition, we started planning for the follow-on procurement as a classified, limited competition in parallel with the current contract. We did not wait for the end of hostilities to begin working to achieve the savings that we expect competition to bring. In late March, the project was largely declassified, thus allowing us to publicly announce the requirement and plan for full and open competition. We are now completing the competitive acquisition strategy and plan, preparing the statement of work, and preparing the solicitation that will request proposals to perform the work. The solicitation will be advertised on the Federal

Business Opportunities website (www.fedbizopps.gov) by late spring or early summer. The best estimate for award of the contract based on this schedule is approximately the end of August.

In October 2002, the United States Central Command (CENTCOM) Commander, in consultation with the Office of the Under Secretary of Defense for Policy, identified the classified requirement to develop contingency plans for the repair and continuity of operations of the Iraqi oil infrastructure. The Army's Logistics Civil Augmentation Program (LOGCAP) contract provides for development of such plans to address requirements of the Combatant Commanders. (The LOGCAP contract, which is re-competed periodically, had been competitively awarded by the United States Army Materiel Command to Kellogg, Brown & Root (KBR) in December 2001.) Because of its planning work under the LOGCAP contract, KBR was already very familiar with operational plans of Combatant Commanders and was a regular participant in contingency planning. After determining that the effort was within the scope of the LOGCAP contract, the Army Field Support Command issued a task order under the LOGCAP contract for Brown and Root Services (BRS), a division of KBR, to develop the required contingency plan. The effort was classified. The task order was issued November 11, 2002.

On January 22, 2003, the Secretary of Defense designated the Army as the Executive Agent for the execution of the contingency plans, and on February 13, 2003, the Secretary of the Army assigned the Executive Agent responsibility to the United States Army Corps of Engineers (USACE). USACE worked closely with CENTCOM operational planners and identified an immediate need both to continue planning and to pre-position equipment and technical experts. USACE determined that the most expeditious approach to meeting these requirements was to use the LOGCAP contract. On February 14, 2003, after receiving approval from Headquarters Department of the Army, the U.S. Army Materiel Command issued a sole source letter contract to KBR under the LOGCAP contract to continue the planning and accomplish pre-positioning of equipment and personnel. The pre-positioning work commenced immediately.

USACE needed to provide, on very short notice, an extremely broad range of services. In late February 2003 USACE received approval from Headquarters Department of the Army to issue a sole source contract to KBR to perform all services that might be necessary to carry out the contingency plans it had developed, and the contract was awarded March 8, 2003. This provides maximum flexibility, so that even if the worst case unfolded, USACE could issue task orders for performance of any combination of services without having to negotiate another contract. Likewise, the period of performance was based on the possibility of having to deal with a prolonged effort in an intense and chaotic environment not well suited to transition to one or more successor contractors. While the broad scope of the KBR contract enabled performance in any circumstance, it is purposefully designed as a temporary mechanism to enable execution until competitively awarded contracts can replace it. The contract is being used judiciously. Task orders are placed only for work that is required in the near term leaving as much as possible for performance under competitively awarded contracts.

To conduct an effective full and open competition, there must be sufficient time to prepare and approve the acquisition strategy and planning, to define the scope of work for the contemplated contract(s), to prepare and issue an unclassified competitive solicitation, to allow

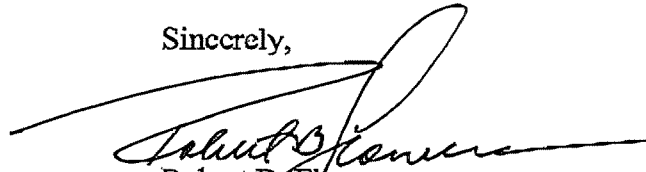
industry to prepare adequate proposals, to thoroughly analyze and evaluate the proposals, to discuss and negotiate with potential contractors, and to make award(s) to the successful offeror or offerors. In this case because of the effort already accomplished, the time required to complete this is estimated to be from four to nine months.

The initial planning task was issued to BRS because it was within the scope of the competitively awarded LOGCAP contract, and not primarily because of a security clearance issue. To accomplish a classified planning task of this magnitude in a compressed period of time, BRS had to act immediately. It was able to do so because it was already engaged in the Combatant Commander's planning as part of the LOGCAP contract. If there had not been an existing contract under which the planning could be done, and we had conducted a classified competition, we would have had to have sufficient time not only for the competitors to obtain the required clearances, but also for the competition itself. The LOGCAP contract is in place because such time is often unavailable, and to take the time would slow contingency planning unacceptably and impair the mission.

The total estimated cost of specific work to be performed is established prior to issuing the individual task order to the contractor. For each order, the government establishes the scope of work and estimated cost. The scope of work is presented to the contractor, who prepares its technical and cost proposal for accomplishing the work. Negotiations result in an agreed upon estimated cost, the task order is issued, and the contractor begins performance. The Administrative Contracting Officer monitors performance. During each evaluation period, the government determines the amount of award fee based on criteria including the quality of the contractor's performance and the effective control of costs.

I trust this information answers your questions. Thank you again for your interest in the procurement process of the United States Army Corps of Engineers.

Sincerely,



Robert B. Flowers
Lieutenant General, U.S. Army
Commanding