

**DETERMINATION AND FINDINGS
FOR
SOLE SOURCE PROCUREMENT**

Agency: Department of General Services

Proposed Contract No.: DCAM-26-CS-SS-0004

Caption: Design Build Services for MPD 1st District Headquarters Substation HVAC Upgrades & Chiller Replacement

Contractor(s): Adrian L. Merton Inc.

FINDINGS

1. AUTHORIZATION:

D.C. Code Section 2-354.04 and Title 27 of the District of Columbia Municipal Regulations (“DCMR”) Section 4718.

2. MINIMUM NEED:

The Department of General Services (the “Department” or “DGS”) has an immediate need to engage the services of Adrian L. Merton Inc. (the “Contractor”) to provide Design Build Services for MPD 1st District Headquarters Substation HVAC Upgrades & Chiller Replacement (the “Project”), located at 101 M Street SW Washington DC, 20024.

3. ESTIMATED FAIR AND REASONABLE PRICE:

The estimated fair and reasonable price for providing the Project is approximately **\$1,332,984.15**.

4. BACKGROUND

The Department entered Basic Ordering Agreement DCAM-20-CS-RFQ-0002 (the “BOA”) with the Contractor on January 12, 2021, and issued a task order (the “Task Order”) for a design-build project utilizing a guaranteed maximum price (“Guaranteed Maximum Price” or “GMP”) delivery method for Design Build Services for MPD 1st District Headquarters Substation HVAC Upgrades & Chiller Replacement. The Contractor

completed the design phase of the project, which is one hundred percent (100%) complete and has been reviewed and accepted by the Department. The project was initially solicited on March 13, 2024, and had a substantial completion date of January 20, 2026. However, due to funding constraints outside the control of the Department, the project schedule was materially impacted and the BOA expired prior to the issuance of the construction-phase GMP modification. Once expired, the BOA no longer provides contractual authority to issue additional task orders or modifications. Accordingly, the Department is legally unable to add the construction phase to the existing Task Order under the expired BOA even though construction was contemplated under the original GMP delivery structure.

5. FACTS THAT JUSTIFY A SOLE SOURCE PROCUREMENT:

The Department has an immediate need to engage the services of the Contractor for the Project. Under this proposed sole source contract, the Contractor will provide construction services for the Project to complete the work contemplated for the original Task Order issued under the now expired BOA.

The scope of the Project generally includes replacing the inoperable chillers with one large chiller, that is redundant and capable for year-round operations. The chiller will have two pumps capable of supporting the chilled water flow independently. Additionally, the Project will include adding a configuration of primary/ secondary operating loops for more efficient cooling. The system will be flushed and charged with a 30% glycol solution for freezing protection, which includes a glycol feed system. This scope for the Project encompasses all of the remaining scope that was to be completed prior to the expiration of the BOA and Task Order.

MARKET RESEARCH

Market research confirmed that while multiple vendors are capable of performing HVAC design-build services, only the incumbent design-builder, Adrian L. Merton, has completed the full design package for this specific project. This vendor previously held the contract and developed the project's design documents under the original design-build effort. Leveraging that work is essential to maintain continuity, avoid redundant redesign costs, and ensure technical consistency with the existing project requirements. No other vendor possesses the completed design documents or the project-specific knowledge necessary to implement the work without significant schedule and cost impacts. Based on these factors engaging Adrian L. Merton to complete the project represents the most efficient and practicable source for this procurement.

FINDINGS

- The design and construction phases under a GMP design-build task order are inherently interdependent and were intended to be performed by a single contractor to ensure cost certainty, constructability, and schedule control.
- The design documents, cost estimates, constructability analyses, and GMP assumptions were developed exclusively by the Contractor and form the basis of the Department's Project scope and budget.
- Awarding the construction phase to a contractor other than the Contractor would require the transfer, reinterpretation, and potential modification of the completed design documents, resulting in a material risk of design errors, inconsistencies, and omissions. Such transfer would also cause additional delays in Project completion.
- Such a transfer would expose the Department to:
 - Increased risk of claims related to design liability and constructability disputes,
 - Loss of accountability for design-related issues;
 - Increased change in orders and cost growth beyond the established GMP framework; and
 - Potential disputes regarding responsibility for design assumptions and means and methods.
- Re-procuring the Project through a competitive process would require redesign, validation, or re-certification of the existing documents, resulting in substantial duplication of costs, schedule delays, and increased administrative burden to the Department.
- These risks could reasonably result in increased financial exposure, claims, and litigation risk to the Department, which would not be in the best interest of the District.
- The expiration of the BOA was an administrative circumstance unrelated to Contractor performance and does not negate the Contractor's unique position as the only source reasonably capable of performing the construction phase without unacceptable risk to the District.

6. CERTIFICATION BY THE DEPUTY DIRECTOR FOR CAPITAL CONSTRUCTION SERVICES:

I hereby certify, to the best of my knowledge and belief, that all my statements regarding the conditions, service needs, and urgency are true, correct, and complete. Furthermore, I affirm that the information provided herein is accurate. I understand that making a false statement is punishable by criminal penalties pursuant to D.C. Official Code § 22-2405 et seq. (2001). I understand that any information I give may be investigated as allowed by law or regulation.



Date

Osei Headley
Deputy Director,
Capital Construction Services

7. CERTIFICATION BY CONTRACTING OFFICER:

I have reviewed the above findings and certify that they are sufficient to justify the use of the single available source method of procurement under the cited authority. I certify that the notice of intent to award a sole source procurement action was published in accordance with 27 DCMR 4718 and that no response was received. I recommend that the Department of General Services, Associate Director/ Chief Contracting Officer approve using the sole source procurement method for this proposed procurement action.

Date

Kianna Shepherd
Contracting Officer,
Contracts & Procurement Division

DETERMINATION

Based on the above findings and in accordance with the cited authority, I hereby determine that it is not feasible or practical to invoke the competitive solicitation process under either Section 402 or 403 of the District of Columbia Procurement Practices Reform Act of 2010 (D.C. Law 18-371; D.C. Official Code § 2-354.02 or 2-354.03). Accordingly, I determine that the District is justified in using the sole source method of procurement.

Date

Dr. Jacque McDonald
Chief Procurement Officer,
Contracts & Procurement Division

