



## JUSTIFICATION AND APPROVAL

### FOR OTHER THAN FULL AND OPEN COMPETITION

1. **Contracting Office:** Defense Commissary Agency (DeCA), Resale Contracting Division, 1300 E. Avenue, Fort Lee, Virginia 23801-1800.

2. **Type of Contract Action:** Modification of contract HDEC02-15-D-0001 with Tyson Fresh Meats Inc. The proposed modification will extend the period of performance for two (2) months from May 1, 2016 to June 30, 2016. This is a requirements type contract. The Resale Stock Fund Activity, Defense-Wide working Capital Fund, provides funding.

3. **Description of Supplies/Services:** This action will provide an uninterrupted supply of fresh beef and frozen coarse ground beef products to the Central Meat Processing Plant (CMPP) at Ramstein AFB, Germany that supports the meat department in DeCA Europe's commissary locations. The proposed two (2) month modification would increase the estimated contract value by \$2,966,698.00 for a new contract total amount of \$57,098,758.00 and extend the contract performance period until June 30, 2016.

4. **Authority Cited:** 10 U.S.C. 2304(c) (1), in accordance with FAR 6.302-1(a) (2) (ii), only one responsible source and no other supplies and services will satisfy Agency requirements.

5. **Reason for Authority Cited:** Contract HDEC02-15-D-0001 ended on October 31, 2015 with an extension of 6 months which expires on April 30, 2016. Award of the follow-on contract, resulting from solicitation HDEC02-14-R-0007, is in process. Only the incumbent contractor can provide full, uninterrupted service to the CMPP Europe until the new award is in place. The additional two months is needed to allow the contract awardee sufficient time to transition to DeCA's automated systems and ensure the systems are functioning properly and to process EDI orders transmitted under the existing contract. The projected award date is April 26, 2016.

In the absence of a contract extension, the CMPP will be without fresh beef and frozen coarse ground beef products where the service members will be denied their full commissary benefit provided to them by statute under 10 USC 2481 and 10 USC 2484. The commissary benefit is the cornerstone of the military quality of life and it is essential that DeCA provides fully operational commissaries. The availability of fresh beef and frozen coarse ground beef products will cease to be processed at the CMPP and subsequently will not be available to meat departments in store locations in Europe covered under this contract. The commissary benefit is an essential part of the military existence.

Tyson Fresh Meats, Inc. already has the systems in place to continue operations in accordance with the agency requirements for Europe given the time constraints involved for this extension period. Tyson Fresh Meats is the only source available that has the necessary infrastructure established to provide uninterrupted service in accordance with federal, state and agency requirements to the DeCA commissaries for this extension period.

**6. Efforts to Obtain Competition:** In order to further foster competition, the solicitation HDEC02-14-R-0007 was published in FedBizOpps on August 25, 2015 on a full and open competitive basis, identifying the Government's intention to procure fresh beef and frozen coarse ground beef products to the CMPP Europe.

This justification will be made available for public inspection, after the completion of the contract modification to extend contract performance with the incumbent contractor, in accordance with FAR 6.305.

A sources sought notification was not issued for this requirement due to the fact no contractor would be capable to provide service for only a two month period. Support to this effort requires contractors to sign an EDI Trading Partner Agreement (TPA) between the Beef-To-Europe (BTE) contract and the Government. The contractor must be able to accept and transmit EDI transaction sets. For this requirement, the contractor must be able to deliver containers to the Point of Embarkation (POE) not more than 3 days prior to the sail date. No deviation from these specified time frames are allowed. The BTE contractor shall have the sole responsibility for compliance with any USDA directives, regulatory guidance, notices and certification requirements imposed by host nations. The contractor shall have the responsibility to furnish any and all USDA required certifications and any cost associated with issuance/distribution. The process for establishing these requirements would take more time than the two month extension period. In order to ensure continuity of service, the requirement to post a sources sought notification is waived by the Head of the Contracting Activity as allowed by DFARS/PG 206.302-1.

**7. Fair and Reasonable Cost Determination:** The Contracting Officer has determined that the cost to the Government for the two (2) month contract extension will be fair and reasonable based upon the fact the contractor has agreed to maintain the current pricing determined fair and reasonable at the time of award.

**8. Market Research and Interested Sources:** Market research did not reveal any contractors having the ability to facilitate the successful and expeditious execution of the products and services required via this modification. Due to the complex nature of the procurement, it is unreasonable to expect that anyone other than the incumbent will be able to effectively perform the requirements in a timely manner due to the anticipated delay in notice of the new award.

**9. Other Factors:** Not applicable.

**10. Interested Sources:** No changes from the original J&A.

**11. Actions to Increase/Foster Competition:** The follow-on requirement has been solicited on a full and open competition basis and it is anticipated that all future acquisitions will be competed on a full and open basis.

**12. Location covered under contract HDEC02-15-D-0001:** No changes from the initial J&A.

**Technical Certification:**

I certify that the supporting data under my cognizance, which are included in this justification, are accurate and complete to the best of my knowledge and belief.

Name: Charles Dowlen

Program Manager

Signature: DOWLEN.CHARLE S.R.JR.1045893479  
Digitally signed by DOWLEN.CHARLE S.R.JR.1045893479, DN: cn=DOWLEN CHARLES R JR 1045893479, o=PKI, ou=DECA, Date: 2016.04.07 09:35:52 -0400

Date: 4/7/2016

**Requirements Certification:**

I certify that the supporting data under my cognizance, which are included in this justification, are accurate and complete to the best of my knowledge and belief.

Name: Charles Dowlen

Program Manager

Signature: DOWLEN.CHARLE S.R.JR.1045893479  
Digitally signed by DOWLEN.CHARLE S.R.JR.1045893479, DN: cn=DOWLEN CHARLES R JR 1045893479, o=PKI, ou=DECA, Date: 2016.04.07 09:36:13 -0400

Date: 4/7/2016

**Fair and Reasonable Price Determination and Contracting Officer Certification:**

I hereby determine that the price for this contract action will be fair and reasonable. I certify that this J & A is accurate and complete to the best of my knowledge and belief.

Name: Kimberly A. Cooper

Contracting Officer


Signature: COOPER.KIMBERLY.A.122 9658227  
Digitally signed by COOPER.KIMBERLY.A.1229658227, DN: c=US, ou=U.S. Government, ou=DIG, ou=PKI, ou=DECA, cn=COOPER.KIMBERLY.A.1229658227, Date: 2016.04.08 12:36:21 -0400

Date: 4/8/2016

**APPROVAL**

Based on the foregoing justification, I hereby approve the procurement of the two (2) month extension from May 1, 2016 until June 30, 2016 for the continued delivery of fresh beef and frozen coarse ground beef products for DeCA's Central Meat Processing Plant located in Ramstein, Germany. This J&A is approved on an other than full and open competition basis pursuant to the authority of 10 U.S.C. 2304 (c)(1), provided funds are available, or will be available, and provided that the services and products herein described have otherwise been authorized for acquisition.

APPROVED:

Signature:  \_\_\_\_\_ Date: 4/15/16 \_\_\_\_\_  
Joseph H. Jett  
Director and Chief Executive Officer  
Defense Commissary Agency