



UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT  
REGIONAL MISSION FOR CENTRAL ASIA

Office of Economic Growth

**ACTION MEMORANDUM**

**TO:** John Griffin, Contracting Officer

**FROM:** Lora Kudaibergenova, CTO

**DATE:** March 19, 2009

**SUBJECT:** Approval of Other than Full and Open Competition for  
Modification of Contract # 176-C-00-06-00007

**Action Requested:** You are requested to modify the above referenced contract on the basis of other than full and open competition. The proposed modification of the current contract is for the provision of technical assistance on the issue of Kazakhstan's rating in the World Economic Forum's Global Competitiveness Index. Assistance will be provided to the Ministry of Economy and Budget Planning of the Republic of Kazakhstan and other policymaking bodies of the Kazakhstani government, including the Center for Strategic Design and Analysis of the President's Administration. The additional cost is \$247,000 for the Kazakhstan portion of the estimated cost. The new price of the modified contract will be \$17,062,566.

Authority for this action is found under in AIDAR 706.302-70(b)(5), which, for an award for the continued provision of highly specialized services when award to another resource would result in substantial additional costs to the government or would result in unacceptable delays, allows for less than full and open competition when full and open competition would impair or otherwise have an adverse effect on programs conducted for the purpose of foreign aid, relief and rehabilitation.

AIDAR 706.302-70(c)(2) (as provided at FAR 6.303) requires a written justification for this action. This requirement is addressed in the attached justification.

The aforementioned contract was awarded to The Pragma Corporation ("Pragma") on September 28, 2006 for activities in Kazakhstan, Kyrgyzstan, and Tajikistan under the USAID Business Environment Improvement ("BEI") project. Period of performance under the contract is until September 30, 2010. The overall goal of the BEI project is to reduce the regulatory and administrative burden for SME's by working with Governments to streamlines processes and through informed and effective dialogue and partnerships between the private sector and the public sector.

**JUSTIFICATION FOR OTHER THAN FULL AND OPEN COMPETITION  
As Required Per FAR 6.303**

1. **Agency:** U. S. Agency for International Development – Regional Mission for Central Asia (USAID/CAR).
2. **Nature and Description of the Action Being approved:** Modification, on the basis of other than full and open competition, to the contract with Pragma, for the provision of technical assistance in the form of analysis and recommendations on the issue of Kazakhstan's rating in the World Economic Forum's Global Competitiveness Index survey for the Ministry of Economy and Budget Planning of the Republic of Kazakhstan and other policymaking bodies of the Kazakhstani government, including the Center for Strategic Design and Analysis of the President's Administration. The additional cost is \$247,000 for the Kazakhstan portion of the estimated cost. The total price of the contract will be increased from \$16,815,566 to \$17,062,566.
3. **Background and Description of Services Required:** Because of a series of highly successful interactions with the Ministry of Economy and Budget Planning (MEBP) and other related state bodies, the Pragma-implemented BEI project has won a high level of trust and recognition from the government of Kazakhstan. USAID promoted, through the BEI project, among other things, reforms under the framework of the World Bank Doing Business (WBDB) survey. The latest, 2009 WBDB survey published in September 2008, showed the country's rating improved by 10 points, from the 80<sup>th</sup> to the 70<sup>th</sup> place. This achievement was widely recognized and covered in numerous media publications which mentioned USAID and BEI as having a significant role in the success. In fall 2008, 7 working groups were established by the government to proceed with WBDB-related reforms, with BEI representatives participating in 6 of them (the 7<sup>th</sup> having another USAID project, RTLC, in it). There are no other international or bilateral donors presented in these working groups. In addition, Pragma's country director for Kazakhstan has the status of a counselor to Prime-Minister, and he is also the only representative of the donor community that is a member of the Commission on Removal of Administrative Barriers and Improvement of Business Climate for Small and Medium Enterprises. Membership in this Commission has allowed BEI to promote reforms at the highest level from which decisions covering multiple ministries are only possible to institute. Some three years ago Kazakhstani President Nursultan Nazarbaev announced in his address to the nation that Kazakhstan would strive to get into the top 50 most competitive countries, as measured by the World Economic Forum's Global Competitiveness Index (GCI). Since then, the GOK has not been able to achieve any success in this direction. At the end of 2008, MEBP was tasked with analyzing the GCI structure and proposing ways to improve the country's rating in it. MEBP asked USAID to provide immediate assistance with this task as MEBP is establishing a special unit dealing with the two indices and needs prompt assistance with properly formulating its structure and scope of work. . In addition to the Ministry request that BEI be tasked with the work, USAID believes that because of BEI Pragma's unique relationship access at the Prime-Ministerial level, the technical assistance will be more effective and is more likely to induce desirable reforms improving investment climate in the country.

- 4. Statutory Authority:** AIDAR 706.302-70, which refers to 40 USC 113 (e)(2) permits other than full and open competition when such competition “would impair or otherwise have an adverse effect on programs conducted for the purposes of foreign aid, relief, and rehabilitation.” 40 USC 113(e) provides that “nothing in this subtitle impairs or affects the authority of...an executive agency, with respect to any program conducted for purposes of ... foreign aid, relief, or rehabilitation, but the agency carrying out the program shall, to the maximum extent practicable, consistent with the purposes of the program and the effective, efficient conduct of agency business, coordinate its operations with the requirements of this subtitle and with policies and regulations prescribed under this subtitle”
- 5. Demonstration that the Nature of the Acquisition Requires the Authority Cited:** The current contract with Pragma was awarded under full and open competition. Pragma proposed the Best Value to the Government based on the price, technical compliance and quality, past performance and other factors. A cost plus fixed fee contract was awarded. The level of trust of and interaction with the Kazakh government, as well as the importance GCI for GOK were not anticipated when the contract was competed. Had it been known, the solicitation would have been modified to include work on GCI in the scope of work. A stand-alone contract exceeding the simplified acquisition threshold normally requires full and open competition. However, in this case, an exception to the usual competitive procedure is warranted. The Kazakh government has requested receiving assistance relating to GCI analysis as soon as possible. Further, a new contractor’s efforts to replicate Pragma’s relationships at the Prime Minister level in order to promote the types of policy change envisioned by this modification would take considerable resources and time. Using other than full and open competition, as authorized by AIDAR 706.302-70(b)(5), will allow USAID to render the requested assistance to the government in an expedient and efficient manner, preserve the established connection and trust with the government, and continue providing assistance without interrupting it for the period of competition. Using other than full and open competition is in the best interests of the Government. Given the size of the award, the ready access availability of BEI Pragma staff and the need to provide a timely response, thus avoiding an unacceptable delay, USAID believes there are significant savings to the government by utilizing an existing contractor to perform the required service. To preserve the level of interaction and trust achieved by the project with the Government and to accommodate GOK demand for technical assistance on the above-mentioned index in an expedient and effective way, which will allow promoting further the reform agenda in Kazakhstan, it is necessary to hire additional long and short-term experts that will accommodate this need.
- 6. A description of efforts made to ensure that offers are solicited from as many potential sources as practicable:** Special notice has been posted at the FedBizOps website on 04/08/2009 about the intention of award in accordance with FAR 5.201. No enquiries were received in regards to this notice.
- 7. Fair and Reasonable Cost to the Government:** The cost of one additional international expert for around 2 person/months and one local expert for around 10 person/months or an alternative staffing combination, is fair and reasonable because it is based on the current market prices and does not exceed USAID rates.

8. **Market Research:** Due to circumstances described in points 3 and 5, no efforts on soliciting offers from other sources have been made.
9. **Any other facts that support the use of Other than Full and Open Competition:** Cost savings are estimated at \$40,000 to rent an office space and provide minimal administrative and logistical support
10. **Listing of Sources that Expressed Written Interest in Acquisition.** Any expressions of interest following the notice of proposed contract action will be reviewed for consideration.
11. **The actions, if any, the Agency can take to remove or overcome any barriers to competition in future acquisitions for the supplies or services:** If PED is extended, USAID intends to design a new policy improvement project under the PED framework that will be flexible to address GOK needs to the maximum extent possible and that will enable USAID to attract contributions from current and potential private sector partners. USAID intends to make the future award through a full an open competition.
12. **Recommendation and approval:** Pursuant to AIDAR 706.302-70(b)(5) for awards of \$250,000 or less by an overseas contracting activity, which, for an award for the continued provision of highly specialized services when award to another resource would result in substantial additional costs to the government or would result in unacceptable delays, allows for less than full and open competition when full and open competition would impair or otherwise have an adverse effect on programs conducted for the purpose of foreign aid, relief and rehabilitation, it is recommended that by your signature below, you approve the modification for the above referenced contract by increasing the ceiling price by \$247,000, up to \$17,062,566.
13. As per FAR 6.303-2(a)(12), by his signature as “approved” below, the Contracting Officer certifies that this justification is accurate and complete to the best of his knowledge and belief.

APPROVED:

  
 John Griffin, Contracting Officer

Date: 4/28/09

DISAPPROVED:

\_\_\_\_\_  
 John Griffin, Contracting Officer

Date: \_\_\_\_\_