



# USAID | HAITI

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## UNCLASSIFIED

### ACTION MEMORANDUM FOR THE DEPUTY MISSION DIRECTOR FOR USAID/HAITI

**TO:** Anthony S. Chan, Deputy Director, USAID/HAITI/DIR

**FROM:** Dana Fischer, Acting Team Leader, USAID/HAITI/GJD

**DATE:** May 17, 2011

**REFERENCE:** Local Governance and Decentralization (LOKAL) with Tetra Tech ARD

**SUBJECT:** Justification for Other Than Full and Open Competition to Tetra Tech ARD

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## AUTHORITY

1. **FAR 6.303-2 Justifications – Content.** Attachment 1 addresses the requirements of this provision in detail.
2. **AIDAR 706.302-70 Impairment of foreign aid programs.** Relevant paragraphs of this provision are as follows:

***(a) Authority***

*(2) Full and open competition need not be obtained when it would impair or otherwise have an adverse effect on programs conducted for the purposes of foreign aid, relief, and rehabilitation.*

***(b) Application***

*(5) 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.*

***(c) Limitations***

*(1) Offers shall be requested from as many potential offerors as is practicable under the circumstances. While the authority at 706.302-70(b)(5) is for use when the contracting officer determines that the incumbent contractor is the only practicable, potential offeror, the requirement to publicize the intended award, as required in FAR 5.201, still applies.*

*(4) Use of the authority in 706.302-70(b)(5) for proposed follow-on amendments in excess of one year or over \$250,000 is subject to the approval of the Agency Competition Advocate. For all other follow-on amendments using this authority, the contracting officer's certification required in FAR 6.303-2(a)(12) will serve as approval."*

**ISSUE FOR DECISION**

Your approval is requested to issue Tetra Tech ARD a six month contract in the amount of \$2,160,000 through exercise of the authority at AIDAR 706.302-70(b)(5).

**BACKGROUND**

USAID/Haiti awarded Task Order DFD-I-00-05-00121-00 on September 30, 2007 to Tetra Tech ARD to implement the so-called "LOKAL" project to strengthen local governance and advance decentralization. The program is focused on reinforcing the capacity of targeted municipalities to fund and deliver public services while fulfilling their constitutional roles and responsibilities. The total estimated cost of the Task Order is \$12,493,989, and 11,725,000, has been obligated. The end date of the Task Order is June 30, 2011.

USAID/LOKAL's final year of execution was severely disrupted by the devastating earthquake of January 12, 2010. Activities were reoriented to offer affected municipalities the technical and material resources needed to effectively plan, coordinate and manage aid for recovery and reconstruction operations. The earthquake highlighted the critical importance of decentralization and deconcentration in fostering more balanced regional and local development across the country. In the days after the catastrophe, it became clear that the local authorities wanted to address the multiple needs of those stricken by the disaster, but were ill-equipped to do so.

Activities undertaken in FY2011 were conducted in a context both somewhat favorable to the advancement of decentralization and improved governance, but also precarious, given the major challenges confronting the country. The Ministry of Interior and Local Government (MICT), through the Department of "Territorial Collectivities" continued to support initiatives needed to establish a more solid basis for future decentralization and deconcentration. These include preparing a comprehensive five year program for institutional support and investment and the coordination of donor interventions around this vision. A key element of LOKAL's final year of implementation has been the harmonization of its activities around those of the MICT program.

**Justification per: AIDAR 706.302-70 Impairment of Foreign Aid Programs**

This justification is intended to support a non-competed award to enable Tetra Tech ARD to implement bridge activities to fill the gap between the end of the Task Order and the installation of a new partner after a competitive procurement process. Under the 2010-2015 Haiti Country Strategy, a program in support of local governance and decentralization is currently being designed and the competitive procurement is expected to result in a new award beginning in early 2012.

In the meantime, it is critical to maintain program momentum and continuity of effort in support of decentralization, one of the top priorities of President Elect Martelly. Bridge activities will focus on decentralization as a priority in view of the devastating impact of the 2010 earthquake which highlighted the negative consequences of the concentration of power and resources in Port-au-Prince. Improved local governance is central to the achievements of many of the policy reform objectives described in the 2010-2015 USAID/Haiti Strategy. More immediately, it is in the strategic interest of the USG to maintain the

constructive relationships with the targeted municipalities and the MICT developed over the course of the Task Order. LOKAL has been able to ally itself (both at the national and local levels) with reform-minded officials. Getting their buy-in to dare to innovate in the funding and delivery of municipal public services has been hard-won. It is unlikely that their trust and professional commitment would survive a rupture between LOKAL and the completion of a competitive procurement for a follow-on project. Rekindling these relationships after a hiatus would be difficult.

Therefore, this non-competed contract to Tetra Tech ARD will focus on working with Municipalities and Municipal Assemblies at the communal level. Timely assistance to Parliament on decentralization related issues will be carried out in coordination with USAID/Haiti's ongoing Parliament Support Project. Pushing the revival of the decentralization bill, stalled in Parliament since 2009, is high on the Martelly administration agenda.

This contract will allow the completion of some LOKAL activities which cannot be finalized under the contract. In particular, this will include Municipal Support Projects in Acul-du-Nord, Bas-Limbé and Limbé for communal markets and protection of water sources to reduce public health risks. Infrastructure and/or provision of equipment and substantial support for management and institutional development will be required. Bridge activities will also provide ongoing support for municipal revenue mobilization activities and keeping up the momentum created by these initiatives. Major activities are as follows:

- 1) Continued support for decentralization policy reform in light of a revived interest on the part of the Martelly administration;
- 2) Planning workshops for programming, validation and promotion of municipal investment projects in earthquake-damaged Carrefour;
- 3) Implementation and monitoring of Municipal Support Projects in Bas-Limbé, Limbé, Cabaret, Carrefour and Saint-Marc;
- 4) Technical assistance in municipal infrastructure and equipment maintenance and in document management;
- 5) Establishment of ties with newly elected parliamentarians and members of parliamentary commissions on decentralization in both chambers;
- 6) Pending elections and installation of newly elected public officials, deliver orientation training on decentralization for newly elected mayors and deputy mayors, emphasizing their roles and mandates. To the extent possible, this orientation program will benefit remaining municipalities in the targeted development corridors of the 2010-2015 USAID/Haiti Strategy.

Under *AIDAR 706.302-70 (a)(2) Impairment of Foreign Assistance*, the bridge program activities will emphasize the completion of Municipal Support Projects in Bas-Limbé, Carrefour, Limbé and Cabaret as well as capacity building in infrastructure maintenance, municipal revenue mobilization and municipal investment planning. Additionally, the bridge program will provide continuity of efforts and maintain constructive relationships with reform-minded officials while procurement actions leading to the new Local Governance Support program under the Haiti 2010-2015 Country Strategy are finalized by early 2012.

**ACTION MEMO FOR THE DEPUTY DIRECTOR**

**AIDAR 706.303-70** invokes the requirements of **FAR 6.303-2** which are addressed in Attachment 1.  
**RECOMMENDATION**

Upon review of this Justification for Other Than Full and Open Competition, it is my recommendation that the proposed request is justified, fair, and reasonable and is important to help achieve Mission objectives.

Approved by: [Signature] Date: 5/17/2011

[Signature]  
GARY C JUSTO  
Anthony S. Chan, Deputy Director

Disapproved by: \_\_\_\_\_ Date: \_\_\_\_\_

Anthony S. Chan, Deputy Director

**AIDAR 706.303-70(e)(4) - Agency Competition Advocate Consultation**  
Use of the authority in **AIDAR 706.-303-70(b)(5)** for proposed follow-on amendments in excess in one year or over of one year or over \$250,000 is subject to the approval of the Agency Competition Advocate.

[Signature]  
Jean Horton  
Agency Competition Advocate  
Date: 5/18/11

**CLEARANCE PAGE FOR:**

Justification for Other Than Full and Open Competition to Tetra Tech ARD



Dana Fischer, Acting Team Leader

Date: May 17, 2011



Susan DeCamp, Program Officer

Date: 5/17/2011



Richard E. Spencer, Contracting Officer

Date: May 17, 2011

ATTACHMENT 1**FAR 6.303 JUSTIFICATIONS****FAR 6.303-2 CONTENT**

- a) Each justification shall contain sufficient facts and rationale to justify the use of the specific authority cited. As a minimum, each justification shall include the following information:

- 1) **Identification of the agency and the contracting activity, and specific identification of the document as a "Justification for other than full and open competition."**

This memorandum sets forth the justification for other than full and open competition for a new stand-alone contract to Tetra Tech ARD to continue implementing activities in local governance and decentralization. The new stand-alone contract will bridge the gap between current activities under the existing Task Order, which is scheduled to end on June 30, 2011, and the installation of a new partner, expected by early 2012, for the new Local Governance Support program under the Haiti 2010-2015 Country Strategy. This JOFOC is based on the authority set forth in AIDAR 706.302.-70(b)(5), Impairment of Foreign Aid Programs.

- 2) **Nature and/or description of the action being approved**

This JOFOC requests for a contract to be awarded to Tetra Tech ARD to allow activities in support of local governance and decentralization to continue for an estimated timeframe of six months, until start-up of the new local governance and decentralization support program under the Haiti Strategy.

- 3) **A description of the supplies or services required to meet the agency's needs (including the estimated value).**

The Agency requires the continuation of technical support that TetraTech ARD has been providing under the LOKAL task order. These services reinforce the capacity of targeted municipalities to fund and deliver public services while fulfilling their constitutional roles and responsibilities. Infrastructure and/or provision of equipment and substantial support for management and institutional development will be required. The estimated value of the additional services required by USAID is \$2,160,000.

- 4) **An identification of the statutory authority permitting other than full and open competition.**

AIDAR 706.302-70(b)(5).

- 5) A demonstration that the proposed contractor's unique qualifications or the nature of the acquisition requires use of the authority cited.**

This bridge program represents a critical window of opportunity to advance the objectives of the current US government strategy in Haiti. Maintaining the momentum of the current program during the first 100 days of the new government administration is of absolute necessity, and a competitive process to select a contractor to complete the required work would present an undue risk to USAID's investments in local governance.

The new contract will allow the completion of some LOKAL activities which cannot be finalized under the task order. Infrastructure and/or provision of equipment and substantial support for management and institutional development will be required.

Tetra Tech ARD has demonstrated a unique ability to build constructive relationships with targeted municipalities and the Ministry of Interior and Local Government (MICT), developed over the course of the Task Order Tetra Tech has implemented for almost four years. Tetra Tech ARD has established deeply-rooted trust and commitment in the municipalities and the MICT and a rupture of Tetra Tech ARD's presence and support on the ground would severely and adversely affect USAID/Haiti's reputation and ability to further strengthen local governance in Haiti.

- 6) A description of efforts made to ensure that offers are solicited from as many potential sources as is practicable, including whether a notice was or will be publicized as required by Subpart 5.2 and, if not, which exception under 5.202 applies.**

Notice of this action will be posted on FedBizOps.gov within 14 days of execution.

- 7) A determination by the contracting officer that the anticipated cost to the Government will be fair and reasonable.**

The USAID Contracting Officer has evaluated the independent government cost estimate and determined that the costs to the government for additional services under this non-competed contract, as described herein, are fair and reasonable.

- 8) A description of the market research conducted (see Part 10) and the results or a statement of the reason market research was not conducted.**

USAID/Haiti's GJD Office has been continuously engaged with the market participants providing technical assistance in the governance sector in Haiti, and is aware of their capabilities. Discussion with other individuals knowledgeable about the local market's capacity confirmed that Tetra Tech ARD is capable and best situated to provide the services required until a new contract can be put in place under the 2010-2015 Haiti Strategy. Moreover, when the task order was competed through the fair opportunity process, Tetra Tech ARD's response was superior to others interested in performing the work.

Tetra Tech ARD's investments in improved local governance and services have shown success in improving municipal ability to plan, prepare budgets and consult with local citizens. This approach and the budgeting manual developed by Tetra Tech ARD have now been adopted nationally, improving budget preparation throughout most of the country's 140 communes. The project has also provided technical assistance for public/private municipal planning committees in keeping with the law on decentralization, using a participatory approach to develop commune development plans and also to elicit citizen priorities for annual municipal budgets. Within Haiti, Tetra Tech ARD leads in decentralization efforts.

**10) A listing of the sources, if any, that expressed, in writing, an interest in the acquisition.**

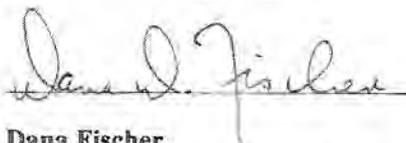
Although other IQC holders/sources expressed interest during the task order competition, they were not deemed fully capable of optimally executing the work equivalent to what is called for under this new contract. No other sources have expressed interest in performing work under the contemplated stand-alone contract.

**11) A statement of the actions, if any, the agency may take to remove or overcome any barriers to competition before any subsequent acquisition for the supplies or services required.**

Similar requirements as requested for this non-competed contract will be procured under full and open competition under the 2010-2015 Haiti Strategy. USAID uses full and open competition whenever possible.

**12) Contracting Officer certification that the justification is accurate and complete to the best of the Contracting Officer's knowledge and belief.**

Upon detailed review, the undersigned Contracting Officer has determined that this justification is fair and reasonable and in accordance with the conditions of FAR 6.303-2 and AIDAR 706.302-70.



**Dana Fischer**  
Acting Governance Team Leader



**Date**

ROUTING AND TRANSMITTAL SLIP		Date 05/17/11	
TO: (Name, office symbol, room number, ( Building, Agency/Post)		Initials	Date
1. Dana Fischer, GJD <i>Dana D. Fischer</i>		<i>DF</i>	5/17/11
2. Susan DeCamp, PCPS		<i>[Signature]</i>	5/17/2011
3. Eleonore Xavier, OAA			
4. Richard E. Spencer, OAA		<i>[Signature]</i>	5/17/2011
5. Anthony S. Chan, DDIR <i>[Signature]</i>		<i>[Signature]</i>	5/17/11
<input type="checkbox"/> Action	<input type="checkbox"/> File	<input type="checkbox"/> Note and Return	
<input type="checkbox"/> Approval	<input type="checkbox"/> For Clearance	<input type="checkbox"/> Per Conversation	
<input type="checkbox"/> As Requested	<input type="checkbox"/> For Correction	<input type="checkbox"/> Prepare Reply	
<input type="checkbox"/> Circulate	<input type="checkbox"/> For Your Information	<input type="checkbox"/> See Me	
<input type="checkbox"/> Comment	<input type="checkbox"/> Investigate	<input checked="" type="checkbox"/> Signature	
<input type="checkbox"/> Coordination	<input type="checkbox"/> Justify	<input type="checkbox"/>	
<b>REMARKS</b> Action Memorandum for Justification for Other Than Full and Open Competition to Tetra Tech ARD   <p style="text-align: center;"><b>DO NOT use this form as a RECORD of approvals, concurrences, disposals, clearances, and similar actions</b></p>			
FROM: (Name, org. symbol, Agency/Post) Governance Office		Room No. – Bldg.	
		Phone No. 8472	

**Gomez, German (HAITI/TDY for OAA)**

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**From:** Jean Louis, Josiane (HAITI/DIR)  
**Sent:** Friday, May 13, 2011 4:20 PM  
**To:** port-au-prince usaid  
**Cc:** Moh, Kermit (LAC/AA); Riley, Dan(LAC/CAR); Bernard, Belinda (LAC/CAR); Tepera, Malise (LAC/CAR); Goertz, Robin W; Hazzard, Carol  
**Subject:** USAID Front Office Coverage

Dear All,

Effective immediately until further notice; please note that Mr. Gary Juste is the Acting Deputy Director. All correspondence for Mr. Juste should read:

**Gary C. Juste**  
Acting Deputy Director

Best Regards,

Josiane