MEMORANDUM FOR COMMANDER, DEFENSE SUPPLY CENTER PHILADELPHIA

SUBJECT: Compelling Reasons Determination, Contract SPM300-05-D-3128

The Public Warehousing Company (PWC) is the subsistence prime vendor contractor for Iraq and Kuwait under DSCP contract SPM300-05-D-3128. On November 16, 2009, PWC was suspended from Government contracting and has been placed on the Excluded Parties List System (EPLS). Pursuant to FAR 9.405-1(b), the DSCP subsistence prime vendor contracting officer has submitted a request that DSCP be permitted to continue to place orders under the contract for 180 days.

For the reasons discussed by the contracting officer, I find there are compelling reasons for DSCP to continue to place orders under contract SPM300-05-D-3128. Hence, DSCP may continue to place orders under the contract until May 15, 2010.

A. S. THOMPSON
Vice Admiral, SC, USN
Director
Request for Determination that Compelling Reasons Exist to Place Orders Exceeding the Guaranteed Minimum under Indefinite Quantity Contract SPM300-05-D-3128

1. The Defense Logistics Agency (DLA), Defense Supply Center Philadelphia (DSCP), Directorate of Subsistence is the contracting activity.

2. For the reasons that follow, the undersigned Contracting Officer requests that the cognizant Senior Executive make a determination that compelling reasons exist to continue to place delivery orders under DLA/DSCP contract SPM300-05-D-3128. The contractor is Public Warehousing Company (PWC). PWC is the current Prime Vendor for foodservice support (subsistence support) to U.S. Military personnel and other authorized personnel stationed in Kuwait and Iraq. This request is being made pursuant to Federal Acquisition Regulation subpart 9.405-1, as supplemented. The initial ordering period requested is 180 days from the date of this request. Every effort will be made to expedite this process.

3. Based on the operational requirements discussed below – the undersigned believes that, if ordering under contract SPM300-05-D-3128 ceases, there would be mission failure in Iraq and Kuwait. PWC is the only source that can currently meet the warfighters’ subsistence requirements in Iraq and Kuwait.

4. Modern battlefield requirements demand subsistence support that adequately provides for the needs of U.S. military personnel in intense and highly mobile combat situations. The Prime Vendor for Iraq and Kuwait is responsible for feeding approximately food personnel at more than locations every day. Four meals are served per day.

5. To perform under the contract, the Prime Vendor (PV) must manage a logistical pipeline – procuring, transporting and warehousing a full line of prepared and fresh foods from CONUS to Kuwait and Jordan service platforms – and procuring highly perishable items (dairy, bakery, fresh fruits and vegetables) from the local market or other neighboring countries. The PV then makes deliveries to locations in Iraq and Kuwait, maintaining a substantial delivery infrastructure. The delivery locations include Forward Operating Bases (FOBs), dining facilities (known as DFACs) and Mobile Kitchen Trailers (MKTs) in Iraq. The Prime Vendor is also responsible for subsistence support to ships operating out of Kuwait and Jordan. The Prime Vendor must maintain warehousing space, qualified authorized personnel and assets (trucks), and provide life-support trailers and other logistics assets.

6. Currently, performance under the contract requires transfer of more than cases of products into the theater daily, on an average of trucks per day. A fleet of approximately trucks is required. The average time for transport into Iraq is more than In addition to warehouse workers, drivers, and other personnel, the contractor provides qualified, authorized Transportation Officers, Squad Leaders, and Customer Service Representatives to coordinate with the military escort that is required.

7. The contractor performs in a "war zone" environment. Even with military convoy escorts, nearly 100 tractors and trailers have been lost during the current contract. Climatic disturbances
sand storms), insurgent activity, military escort availability and austere road conditions contribute to delivery and return-trip delays. On average, there are 50 trucks in theater on any given day. A Stop Work Order during drawdown in Iraq would be especially disruptive due to worsened Military Supply Route congestion. The contractor performs with all the risk of substantial damage/loss of human and material assets.

8. In order to transition to another subsistence contractor or contractors, a ramp-up period of 180 days is required. During that time, the new contractor(s) would stand up the required logistical pipeline and begin filling orders. However, during the ramp-up period, full support would need to be maintained under contract SPM300-05-D-3128 with PWC. The ramp-up period would be the same for contractors with or without an existing DSCP subsistence contract.

9. After full and open competition, contract SPM300-05-D-3128 was awarded as a fixed-price contract with Economic Price Adjustment (EPA). The contract expires on December 04, 2010. Currently, a full and open competition solicitation has closed, and offers are being evaluated in order to award the next generation of subsistence support contract for Iraq and Kuwait operations.

10. The Commander, DSCP, has been briefed and endorses this request. DSCP Office of Counsel recommends approval.

11. As the Contracting Officer, I hereby certify that the facts supporting this request are accurate and complete to the best of my knowledge and belief.

Nov. 16, 2009
DATE

R. A. ELLIS
Deputy Commander
Acquisition Strategy and Contract Management
MEMORANDUM FOR COMMANDER, DEFENSE DISTRIBUTION CENTER (DDC)

SUBJECT: Compelling Reasons Determination, Contract SP3100-05-C-0020

Public Warehousing Company, Inc. (PWC) is the contractor for distribution support services and facilities within the U.S. Central Command Area of Responsibility under contract SP3100-05-C-0020. On November 16, 2009, PWC was suspended from Government contracting and placed on the Excluded Parties List System. Pursuant to Federal Acquisition Regulation 9.405-1(b)(3), the DDC Contracting Officer requests permission to modify the existing contract to add additional workload in support of the Army serviceable excess materiel in Iraq (A12).

For the reasons specified by the Contracting Officer, I find compelling reasons for DDC to modify contract SP3100-05-C-0020 to increase funding by $3 million.

A. S. THOMPSON
Vice Admiral, SC, USN
Request for Determination that Compelling Reasons Exist to Modify Contract SP3100-05-C-0020 to Increase the Contract Amount to Support Receipt of Responsible Army Drawdown Material (AJ2)

1. The Defense Logistics Agency (DLA), Defense Distribution Center (DDC), Acquisition Operations is the contracting activity.

2. For the reasons that follow, the undersigned Contracting Officer requests that the Agency Head make a determination that compelling reasons exist to modify contract SP3100-05-C-0020 to increase the contract amount to support the receipt of Army Serviceable Excess Material (AJ2). This request is to allow an increase in contract funding of $3 million for anticipated additional work relating to AJ2 from approximately February 1, 2010, through the end of the contract period in August 2010. The contractor is Public Warehousing Company (PWC). PWC is the current contractor providing both the Contractor Owned, Contractor Operated (COCO) facility and distribution support services for operation of the Defense Distribution Depot Kuwait-Southwest Asia (DDKS). DLA’s Suspension and Debarment Official suspended PWC pursuant to FAR Subpart 9.405 on November 16, 2009, and that suspension remains in effect. This request is being made pursuant to FAR 2.405-(b)(3).

3. DDKS provides a strategic receive, storage, and issue mission in addition to operating the CENTCOM AOR, primarily Iraq, Afghanistan, Kuwait, Bahrain, and Qatar. Since 2005, DDKS has

DDKS currently supports Operation Iraqi Freedom (OIF) and Operation Enduring Freedom (OEF) operational units with ALOC, dedicated truck, and surface container shipments.

4. AJ2 material consists of items returning from Iraq and surrounding areas that are being transported to DDKS for either storage or redistribution to other depots. Workload has increased due to Army drawdown in Iraq. This increase in workload is estimated at an additional twenty-foot containers equating to approximately receipts beginning in February 2010 and continuing through August 2010. Currently, there are insufficient funds obligated on the contract to cover this additional workload. The current contract pricing arrangement consists of a Cost Plus Fixed Fee (CPFF) CLIN for Labor, a Cost Reimbursable CLIN (no fee) for Other Direct Costs, and a Firm Fixed Price CLIN for use of contractor owned facilities. The contractor will incur additional labor costs (CPFF CLIN) and other direct costs (Cost Reimbursable CLIN) due to the required increase in the level of effort. The government estimate for this added work is approximately Additional Full Time Equivalents (FTEs) at an estimated cost of $3 million.

5. Based on the operational requirements discussed below, if the contract is not modified to increase funding to support the receipt of Army AJ2, there is a high probability of drawdown mission failure in the CENTCOM AOR.

SOURCE SELECTION INFORMATION — See FAR 2.101 and 3.104
6. The Army AJ2 requirement is an essential component of its overall plan for efficient and effective logistics support in the CENTCOM AOR. The Army G4 memorandum dated 21 July 2008 (attached), established the process to send AJ2 material to DLA OCONUS Distribution Centers (Kuwait, Korea, Germany and Pearl Harbor). The Army’s intent was to position serviceable items at DLA OCONUS Distribution Centers for re-issue to operational units in the supported theater and avoid increased transportation and handling costs associated with returning this material to CONUS for re-issue. The Army plan has already resulted in small increments of Army AJ2 workload at DDKS. Due to the planned drawdown of troops in Iraq, this workload will significantly increase. The capability to support this requirement at DDKS is

(b)(7)(F)

Successful implementation of the Army AJ2 plan and Theater First program is critical to prevent a requirement for increased strategic airlift from CONUS, higher transportation costs, and greater lead time in providing materiel to the warfighter.

7. 

(b)(7)(F)

8. There are no realistic alternatives to use of the current PWC DDKS contract in support of these requirements. Experience gained from responses to solicitations for warehouse and distribution services at DDKS demonstrates that there are very few sources with even the potential to have the necessary capability to provide these services, primarily because of the requirement that the contractor possess and provide sufficient warehouse space for the requirement. In addition, there is insufficient time to compete for contract support of the Army AJ2 requirement due to the very short time remaining (less than one month) before the requirement must be supported. Finally, DOC has insufficient personnel and no facilities available to provide this support organically within the required timeframe. Because there is no realistic alternative to provide AJ2 support, it is critical that these services be performed at the current DDKS site under the existing contract with PWC.

9. DDC J7 is currently conducting market research to compete the DDKS requirement so that a replacement contract can be executed at the end of the current contract in August 2010.

10. The Commander, DDC, has been briefed and endorses this request, and it has been reviewed and concurred in by the DDC Office of Counsel.

SOURCE SELECTION INFORMATION - See FAR 2.101 and 3.104
11. As the Contracting Officer, I hereby certify that the facts supporting this request are accurate and complete to the best of my knowledge and belief.

[Signature]

DATE: 2 Jan 2010

MEDARD R. KOWALSKI, III
Contracting Officer

I hereby certify that the requirements which form the basis of this request are accurate, that these supplies meet the Government's minimum needs in accordance with applicable specifications, and this request is accurate and complete to the best of my knowledge and belief.

[Signature]

DATE: 7 Sep 10

WILLIAM H. BUDDEN, SES
Deputy Commander

SOURCE SELECTION INFORMATION - See FAR 2.101 and 3.104
MEMORANDUM FOR COMMANDER, DEFENSE ENERGY SUPPORT CENTER (DESC)

SUBJECT: Compelling Reasons Determination, Contract SPO600-08-C-5821

AFH is the current contractor providing services to operate, maintain, secure and provide safety and environmental protection for aviation and ground fuel bulk storage operations at Ramstein Air Base (AB), Germany, under Contract SPO600-08-C-5821. AFH is a joint venture between Agility Logistics, Ferguson Williams, and Hammer. On November 16, 2009, Public Warehousing Company, Inc. (PWC), was suspended from Government contracting and placed on the Excluded Parties List System. Pursuant to Federal Acquisition Regulation 9.407-1(c), this suspension was extended to AFH as an affiliate of PWC, as defined in FAR 9.403 ("Affiliates"). Pursuant to FAR 9.405-1(b)(3), the DESC Contracting Officer requested permission for DESC to modify Contract SPO600-08-C-5821 in support of Ramstein AB to add additional workload in support of the operations of the Ramstein AB aviation and ground fuels storage operations.

For the reasons specified by the Contracting Officer, I find compelling reasons for DESC to modify contract SPO600-08-C-5821 to modify the contract to include the work described in the DESC request and increase contract funding by approximately $10,000 per month for this work. This authorization is effective for six months, and the contract modification based hereon must therefore terminate by its own terms at the end of six months. Any determination concerning continuation of this work past that time will depend on the facts and circumstances current at that time.

A. S. THOMPSON
Vice Admiral, SC, USN
MEMORANDUM FOR COMMANDER, DEFENSE DISTRIBUTION CENTER (DDC)

SUBJECT: Compelling Reasons Determination, Contract SP3100-05-C-0020

Public Warehousing Company, Inc. (PWC) is the contractor for distribution support services and facilities within the CENTCOM Area of Responsibility under contract SP3100-05-C-0020. On November 16, 2009, PWC was suspended from Government contracting and placed on the Excluded Parties List System. Pursuant to Federal Acquisition Regulation 9.405-1(b)(3), the DDC contracting officer requests permission to modify the existing contract to increase the estimated cost to sustain distribution support services through the end of the current contract period, August 31, 2010.

For the reasons specified by the contracting officer, I find compelling reasons for DDC to modify contract SP3100-05-C-0020 to increase funding by $5,756,000.

A. S. THOMPSON
Vice Admiral, SC, USN
Director
Request for Determination that Compelling Reasons Exist to Modify
Contract SP3100-05-C-0020 to Increase the Contract Amount for Continued Operation of
Defense Distribution Center, Southwest Asia (DDKS)

1. The Defense Logistics Agency (DLA), Defense Distribution Center (DDC), Acquisition Operations is the contracting activity. The contract is for operation of DDKS. The contractor is Public Warehousing Company (PWC). DLA’s Suspension and Debarment Official suspended PWC pursuant to FAR Subpart 9.407 on November 16, 2009, and that suspension remains in effect.

2. The Contracting Officer hereby requests, pursuant to FAR 9.405-1(b)(3), that the Agency Head make a determination that compelling reasons exist to execute a modification to contract SP3100-05-C-0020 to approve adding funding to allow contract performance through the end of the current contract period, 31 August, 2010. The estimated cost to continue contract performance through the end of the current contract period is $5,756,000.

3. Because this is a cost reimbursement contract, the contract must be funded to cover the contractor’s costs in performing the contract. PWC has notified the Contracting Officer in writing, in accordance with FAR 52.232-20, that it anticipates reaching 75% of the current estimated cost of the contract by mid April 2010, and will reach 100% of the estimated costs by mid June 2010. Based on the current expenditure of funds rate, the Contracting Officer concurs with this estimate. The cost to complete the period of performance, (June 2010 through 31 Aug 2010), is estimated by the DDC to be in the amount of $5,756,000.00. This cost growth is due to unexpected increases in the level of effort required to support this mission that could not have been anticipated at time of award. In addition, as part of this increased level of effort, DDKS will begin to process approximately 29,000 lines of stock transfer orders to other distribution centers in the DDC network, in preparation for relocating to the new DDKS facility. The requirement for the new facility, which has been solicited competitively, is projected for award on or about 31 August 2010. DDC JS has confirmed that the current projected workload for the remainder of the current period of performance will exceed the initial estimated workload.

4. If the funding is not added for the current increased level of effort, movement of material will be jeopardized. Failure to take these actions places high risk on continued support in the CENTCOM AOR. DDKS provides a strategic receive, storage, and issue mission in Operation Iraqi Freedom (OIF) and Operation Enduring Freedom (OEF) operational units with ALOC, dedicated truck, and surface container shipments. Additionally, Army drawdown in Iraq requires a fully functioning operation to ensure that serviceable returns continue to be efficiently processed in the AOR for reissue to the warfighter.
5. There are no realistic alternatives to continuing this critical support other than modifying the current PWC DDKS contract in support of these requirements. DDC has insufficient personnel and no facilities available to provide support organically within the required timeframe. The relatively short time period between the present date and anticipated award of a new contract, along with the massive scale of the DDKS operation make it impossible to use an alternate commercial source to provide the service needed during the period June – 31 August 2010.

6. The Commander, DDC, has been briefed and endorses this request and it has been reviewed and concurred in by the DDC Office of Counsel.

7. As the Contracting Officer, I hereby certify that the facts supporting this request are accurate and complete to the best of my knowledge and belief.

\[signature\]

Date

JENNIFER D. MINER
Contracting Officer

I hereby certify that the requirements which form the basis of this request are accurate, that these supplies meet the Government’s minimum needs in accordance with applicable specifications, and this request is accurate and complete to the best of my knowledge and belief.

\[signature\]

Date

WILLIAM H. BUDDEN, SES
Deputy Commander
MEMORANDUM FOR COMMANDER, DEFENSE SUPPLY CENTER PHILADELPHIA

SUBJECT: Compelling Reasons Determination, Contract SPM300-05-D-3128

The Public Warehousing Company (PWC) is the subsistence prime vendor contractor for Iraq and Kuwait under contract SPM300-05-D-3128. On November 16, 2009, PWC was suspended from Government contracting and was placed on the Excluded Parties List System. I previously made a determination that compelling reasons existed allowing continued issuance of delivery orders to PWC through May 15, 2010. The contracting officer at DSCP now requests a new compelling reasons determination allowing issuance of delivery orders to PWC through December 4, 2010, which is the end date of PWC’s contract. DSCP awarded a follow-on contract to Anham on April 14, 2010, which requires a 180 day ramp-up period for full performance. There are two Government Accountability Office protests against the contract award to Anham which could delay the ramp-up period. This means that continued performance by PWC through the end of its contract is critical to ensuring continuity of support.

For the reasons discussed by the contracting officer, I find there are compelling reasons for DSCP to continue placing orders under contract SPM300-05-D-3128 until December 4, 2010. If Anham is able to begin full performance prior to December 4, 2010, then DSCP will cease placing orders against the PWC contract.

A. S. Thorton
Vice Admiral, SC, USN
Director

(b)(6)
MEMORANDUM FOR COMMANDER, DEFENSE DISTRIBUTION CENTER (DDC)

SUBJECT: Compelling Reasons Determination, Contract SP3100-05-C-0020

Public Warehousing Company, Inc. (PWC), is the contractor for distribution support services and facilities for the Defense Distribution Depot Kuwait-Southwest Asia under contract SP3100-05-C-0020. On November 16, 2009, PWC was suspended from Government contracting and placed on the Excluded Parties List System. Pursuant to Federal Acquisition Regulation 9.405-1(b)(3), the DDC contracting officer requests permission to extend the contract for a period of six months, pursuant to the Option to Extend Services clause, at an estimated cost of $33,740,834.

For the reasons specified by the contracting officer, I find compelling reasons for DDC to exercise the option to extend services on contract SP3100-05-C-0020 to allow continued performance of the contract for up to six months and increase funding by $33,740,834.

A. S. THOMPSON
Vice Admiral, SC, USN
Director
Request for Determination that Compelling Reasons Exist to Modify Contract SP3100-05-C-0020 to Increase the Contract Amount for Continued Operation of Defense Distribution Center, Southwest Asia (DDKS)

1. The Defense Logistics Agency (DLA), Defense Distribution Center (DDC), Acquisition Operations is the contracting activity. The contract is for operation of DDKS. The contractor is Public Warehousing Company (PWC). DLA’s Suspension and Debarment Official suspended PWC pursuant to FAR Subpart 9.407 on November 16, 2009, and that suspension remains in effect.

2. The Contracting Officer hereby requests, pursuant to FAR 9.405-1(b)(3), that the Agency Head make a determination that compelling reasons exist to execute a modification to contract SP3100-05-C-0020 to extend the contract for a period of six months, from September 1, 2010 through February 28, 2011. The estimated cost of a six-month extension of the contract is $33,740,834.00. A Justification and Approval (J&A) document has been approved (copy attached) and will be used as the authority to execute this extension.

3. The six-month extension under the current contract is required to ensure sufficient time for a quality transition and movement of material from the current PWC-owned site to a different site resulting from award of a follow-on contract. DDC is currently conducting a competitive best value acquisition as a follow-on to the current contract. The new contract is expected to be awarded on or about August 31, 2010. DDC requires a six month transition period following award of the new contract to provide for preparation of the new contractor’s facility, to include installation of storage aids, outdoor storage preparation, force protection requirements, and movement of material from the current PWC DDKS location to the new DDKS location. The six-month timeframe is based on the minimum time required to accomplish critical transition and phase-out tasks. After award of the new contract, the successful offeror will require approximately two months to prepare its warehouse and storage compound for receipt and storage of the stock to be transferred from the PWC location in Mina Abdullah, Kuwait, as well as to install all IT equipment necessary to accommodate Distribution Standard System installation and implementation. After the initial

\[ (b)(7)(F) \]

One additional month is required for clean up, disposition of government furnised property, and closing down of the PWC DDKS compound. DDC J7 must notify PWC of the proposed six month extension as soon as possible in order to meet required notice requirements established by the FAR. Additionally, a recent revision to Kuwaiti labor laws requires an employer to provide three months notice to its employees prior to termination. If PWC is not notified of the extension to the contract prior to June 2010, PWC will be required to notify its employees that they will be terminated by 31 August 2010. This may trigger a mass exodus of PWC employees from DDKS that would severely impact operational productivity until a new contract is awarded and through transition.

4. If the funding is not added and the current contract is not extended, on continued support in the CENTCOM AOR. DDKS
provides a strategic receive, storage, and issue mission in addition to operating the
DDKS currently supports Operation Iraqi Freedom (OIF) and Operation Enduring Freedom (OEF) operational units with ALOC, dedicated truck, and surface container shipments. Additionally, Army drawdown in Iraq requires a fully functioning operation to ensure that serviceable returns continue to be efficiently processed in the AOR for reissue to the warfighter.

5. There are no realistic alternatives to continuing this critical support other than modifying the current PWC DDKS contract in support of these requirements. DDC has insufficient personnel and no facilities available to provide support organically within the required timeframe. The relatively short time period between the present date and anticipated award of a new contract along with the massive scale of the DDKS operation make it impossible to use an alternate commercial source. Until the new contractor is prepared to meet full operational capability, it is vital to mitigate of risk that these services be performed at the current DDKS site under the existing contract with PWC.

6. The Commander, DDC, has been briefed and endorses this request and it has been reviewed and concurred in by the DDC Office of Counsel.

7. As the Contracting Officer, I hereby certify that the facts supporting this request are accurate and complete to the best of my knowledge and belief.

29 Apr 2010  Medard R. Kowalski, III  Contracting Officer

I hereby certify that the requirements which form the basis of this request are accurate, that these supplies meet the Government’s minimum needs in accordance with applicable specifications, and this request is accurate and complete to the best of my knowledge and belief.

3 May 2010  WILLIAM H. BUDDEN, SES  Deputy Commander
MEMORANDUM FOR COMMANDER, DLA DISTRIBUTION

SUBJECT: Compelling Reasons Determination, Contract SP3100-05-C-0020

Public Warehousing Company, Inc. (PWC), is the contractor at DLA Distribution Kuwait, Southwest Asia, providing storage and distribution facilities and performing distribution support services within the CENTCOM AOR under contract SP3100-05-C-0020. On November 16, 2009, PWC was suspended from Government contracting and placed on the Excluded Parties List System. Pursuant to Federal Acquisition Regulation 9.405-1(b)(3), the DLA Distribution contracting officer has requested permission to modify the existing contract to extend the contract for a period of six months, for an estimated amount of $20,572,061.

For the reasons specified by the contracting officer, I find compelling reasons for DLA Distribution to modify contract SP3100-05-C-0020 to extend services and allow continued performance under the contract for up to six months from March 1, 2011, through August 31, 2011, and to increase funding by $20,572,061.

A. S. THOMPSON
Vice Admiral, SC, USN
Director