

EXHIBIT J

Attachments: Waiver_DLA SPE8EJ18R0001_Redacted_produced.pdf

From: Hulme, Carol-Ann J. [<mailto:Carol-Ann.Hulme@sba.gov>]
Sent: Wednesday, November 28, 2018 9:07 AM
To: Hughes, William <William.Hughes@huschblackwell.com>
Subject: RE: NMR Waiver for Special Operations Equipment solicitation

[EXTERNAL EMAIL]

Good Morning,

I apologize for the delay in getting back to you. I was out of the office on Monday, but sent out the document via FOIAonline yesterday. I have attached it just in case you are unable to access it online. Please let me know if you have any questions.

Thank you,

Carol

Carol J. Hulme
Program Analyst
GCBD
U.S. Small Business Administration
409 3rd Street, S.W. Suite 7112
Washington, D.C. 20416
Telephone: (202) 205-6347
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carol-ann.hulme@sba.gov



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From: Hughes, William [<mailto:William.Hughes@huschblackwell.com>]
Sent: Monday, November 26, 2018 10:24 AM
To: Hulme, Carol-Ann J.
Cc: Davis, Bryan; Robinson, Mark
Subject: RE: NMR Waiver for Special Operations Equipment solicitation

Carol,

I hope you had a good Thanksgiving holiday. I'm just following up on our FOIA request for the NMR Waiver for the Special Operations Equipment Solicitation. We would very much appreciate it if you would email that to me today.

Thank you,

William E. Hughes
Partner

HUSCH BLACKWELL LLP
555 E. Wells Street, Suite 1900
Milwaukee, WI 53202
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Fax: 414.223.5000
William.Hughes@huschblackwell.com
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From: Hughes, William
Sent: Wednesday, November 21, 2018 1:24 PM
To: 'Hulme, Carol-Ann J.' <Carol-Ann.Hulme@sba.gov>
Cc: 'Davis, Bryan' <Bryan.Davis@supplycore.com>; 'Robinson, Mark' <Mark.Robinson@supplycore.com>
Subject: FW: NMR Waiver for Special Operations Equipment solicitation

Hello Carol,

Thank you for finding the NMR Waiver. If you could email that to me today, I would very much appreciate it. We'll wait for the rest of the documents mentioned in our FOIA request until the agency produces them.

We appreciate your assistance.

William E. Hughes
Partner

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From: "Hulme, Carol-Ann J." <Carol-Ann.Hulme@sba.gov>
Date: November 21, 2018 at 11:59:44 AM CST
To: "Davis, Bryan" <Bryan.Davis@supplycore.com>
Cc: "christine.haber@dla.mil" <christine.haber@dla.mil>, "michael.mccall@dla.mil" <michael.mccall@dla.mil>
Subject: RE: NMR Waiver for Special Operations Equipment solicitation

Good Afternoon,

Yes, there is a waiver. However, I believe the request was for all supporting documents. As the documents originated from another agency, I submitted them to that agency for review last Friday. I have not received a response. If your request is limited to the letter granting the NMR waiver, please let me know.

Thank you,

Carol

Carol J. Hulme

Program Analyst

GCBD

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From: Davis, Bryan [<mailto:Bryan.Davis@supplycore.com>]

Sent: Wednesday, November 21, 2018 12:45 PM

To: Hulme, Carol-Ann J.

Cc: christine.haber@dla.mil; michael.mccall@dla.mil

Subject: NMR Waiver for Special Operations Equipment solicitation

Carol,

I understand you could not find the NMR Waiver for the Special Operations Equipment solicitation, DLA Troop Support. Mike McCall, Director of Small Business Program Office at DLA advises there is indeed a waiver. Please advise if you need assistance finding that. Thank you.- Bryan Davis SupplyCore, p.s - see below

Bryan,

Got your voice mail also – have been in and out of the office – yes there is a waiver to the non-manufacturer rule for the subject acquisition.

Thanks,
Mike McCall

Sent from my iPhone



U.S. Small Business
Administration

Office of Government Contracting and Business Development | 409 3rd Street NW | Washington DC 20416

August 22, 2018



Ex. 6

Procurement Analyst
DLA Troop Support
700 Robbins Avenue
Philadelphia, PA 19111-5092

RE: SOLICITATION SPE8EJ18R0001

Dear Ms. Beller:

This letter is in response to your request of August 14, 2018, for an individual waiver of the Nonmanufacturer Rule (NMR) under NAICS Code 339999 (Miscellaneous Equipment) to allow a set-aside for small business for the proposed acquisition. This acquisition is a follow-on contract with the previous individual waiver granted on August 28, 2012. Based on the justification below, a waiver of the NMR is hereby established for a one-time purchase of diving and safety equipment.

The request for an individual waiver of the NMR is approved. An explanation of the determining factors follows.

The waiver of the NMR on an individual procurement is provided for in section 8(a)(17) of the Small Business Act, 15 U.S.C. § 637(a)(17), and section 121.406(b)(5) of title 13 of the Code of Federal Regulations, 13 CFR § 121.406(b)(5). At a minimum, an individual NMR waiver request must include the specific item to be waived, why the specific item is required, the proposed solicitation number, the NAICS code, the dollar amount of the procurement, a brief statement of the procurement history, and a Statement of Work (for contracts expected to exceed \$500,000). 13 CFR § 121.1204(b)(1).

In addition, the contracting officer must provide a determination that no small business manufacturer can reasonably be expected to offer the product(s) required under the solicitation. This determination must be supported by a narrative of market research and supporting documentation. 13 CFR § 121.1204(b)(1)(iii).



Ex. 4 & 5

In this instance, the waiver, under solicitation number SPE8EJ18R0001 and NAICS code 339999, has been requested for the purchase of diving equipment and related supplies. The solicitation is valued at [REDACTED]. As you provided in your request, this special operations equipment is necessary to support and protect troops.

The items to be procured were previously obtained under an individual waiver granted to solicitation SPM8EJ-12-R-0002. For this follow-on procurement, you conducted market search to determine whether any small business concerns had entered the marketplace. Your market research included a posting a Sources Sought notice from July 16, 2018 through July 31, 2018. There were no responses to that posting. As such, you demonstrated that there are no small businesses capable of meeting the requirements of the solicitation.

Thus, an individual waiver of the NMR is justified.

This waiver applies only to this one-time award and does not apply to modifications outside the scope of the contract or other procurement actions. The effect of this waiver is to allow an otherwise qualified small business to supply the product of an other-than-small manufacturer or processor on this intended small business set-aside contract. However, it must be emphasized that this waiver of the NMR **does not waive other legal requirements** applicable to Government procurements, such as the Buy American Act and the Trade Agreements Act.

Please also note that this individual waiver will expire on August 30, 2019. If you need an extension, please contact our office.

If you have any questions or require any additional information, please contact Carol J. Hulme of my staff at (202) 205-6347.

Sincerely,



David Loines
Acting Director
Office of Government Contracting

