

**JUSTIFICATION FOR OTHER THAN FULL AND OPEN COMPETITION****Solicitation No.: R15PS00115****Project Name: ROW Agent for Allotted Lands**

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In accordance with FAR 6.302, the proposed contractual action is pursuant to the statutory authority of 41 U.S.C. 253(c)( 5 )

**1. Agency and Contracting Activity.**

Bureau of Reclamation Four Corners Construction Office  
Upper Colorado Region – Sole-source 8a Contract

- 2. Nature/Description of Action.** FY2015 Funds for an 8a Contractor based on Technical factors with an estimated value of \$164,218.08. Reclamation must gather approximately 240 consents to ROW from Individual Indian Allottees who hold ownership shares in the nineteen Navajo Indian Allotments that the NGWSP will cross. While Reclamation possesses the staff and expertise to address the ROW acquisition needs on Tribal Trust and Tribal Fee Lands, BLM Lands, State Lands, and Private lands, ROW acquisition on Individual Allotted Land entails gaining the consent of Individual Indian Allottees and requires extensive knowledge of the lands and residents of specific project areas. Reclamation has limited expertise in this area.

**3. Description of Supplies/Services.**

The proposed services to be performed under the contract are as follows:

1. Comply with procedures for the handling of “For Official Use Only” (FOUO) documents as described in section 5 titled “Information Security”.
2. Provide Reclamation’s Four Corners Construction Office Realty staff with weekly updates of activities and progress reports.
3. Coordinate with Realty staff from Reclamation’s Four Corners Construction Office to identify Allottees who have yet to be contacted, or who have not indicated whether or not they are going to give their consent.
4. Locate Allottees via interviews with relatives, chapter officials, district grazing officials, government agencies, social service agencies, safe ride services, etc.
5. Conduct follow up calls and site visits to Chapter Houses and individual Allottees’ homes to seek consent to a BIA grant of ROW.

6. Locate and contact out-of-area Allottees to seek consent to a BIA grant of ROW.
7. Prepare letters, consent forms, and project information and mail to Allottees.
8. Prepare and organize detailed documentation of unsuccessful attempts to contact individuals for submittal to Bureau of Indian Affairs (BIA) for consideration of “Whereabouts Unknown” status.
9. Work closely with other government agencies (OST, BIA, HHS, Navajo Nation) that interact with Allottees and that may possess information about the location of, or contact information for non-responding Allottees.
10. Meet with Chapter House officials, Allottees, and other interested chapter members to explain the need for access and ROW.
11. Coordinate with Realty staff from Reclamation’s Four Corners Construction Office to schedule, coordinate and conduct small group meetings with individual Allottees and Allottee groups who request informational meetings.
12. Coordinate with Reclamation staff and management, Bureau of Indian Affairs staff, and Navajo Nation staff to arrange for their attendance at small group meetings as requested by Allottees.
13. Prepare organized consent “packages” which shall include completed consent forms, documentation of attempts to contact each Allottee, and a calculation of the percentage of consents collected. Deliver the packages to Reclamation ready for submission to BIA.
14. Make any revisions to submittal packages as may be necessary following BIA’s review and re-submit the revised package (or portions thereof) to Reclamation.
15. The timely completion of this work is vital to the success of the overall Navajo Gallup Water Supply Project (NGWSP) slated for completion in 2024. This information is considered baseline for the planning and pre-design phase of the NGWSP.

**4. Statutory Authority Permitting Other than Full and Open Competition. (Check one)**

	<b>Authority</b>	<b>FAR Coverage</b>	<b>Application</b>
<input type="checkbox"/>	41 U.S.C. 253(c)(1)	FAR 6.302-1	Only one responsible source and no other supplies or services will satisfy agency requirements
<input type="checkbox"/>	41 U.S.C. 253(c)(2)	FAR 6.302-2	Unusual and compelling urgency
<input type="checkbox"/>	41 U.S.C. 253(c)(3)	FAR 6.302-3	Industrial mobilization; engineering, developmental or research capability; or expert services

<input type="checkbox"/>	41 U.S.C. 253(c)(4)	FAR 6.302-4	International Agreement
<input checked="" type="checkbox"/>	41 U.S.C. 253(c)(5)	FAR 6.302-5	Authorized or required by statute
<input type="checkbox"/>	41 U.S.C. 253(c)(6)	FAR 6.302-6	National Security
<input type="checkbox"/>	41 U.S.C. 253(c)(7)	FAR 6.302-7	Public Interest

#### 5. **Demonstration of Contractor's Unique Qualifications.**

It is necessary for Reclamation to complete the NGWSP within the time frame mandated by the authorized legislation (PL 111-11). Reclamation proposes to contract for the services of a ROW agent(s) who has experience working with Navajo Allottees, in order to ensure that ROW is secured in a timely and efficient manner. Review of the planned acquisition revealed that the services could be acquired through the 8a program.

Diné Development Corporation (DDC) is an 8a small business that has vast knowledge on ROW acquisition from private allottees on the Navajo reservation and has performed these services for the past 10 years. Their knowledge of the Navajo culture and Navajo language helps to effectively communicate the needs of Reclamation as well as understand the needs of the individuals. DDC's has the specialized qualifications of speaking the Navajo language which makes them capable of obtaining the necessary information from the Allottes that Reclamation cannot otherwise obtain.

#### 6. **Description of efforts made to maximize competition.**

Several firms in the surrounding areas deal with ROW acquisition, however very few deal with obtaining ROW from individual allottees on the Navajo Reservation. A notice will not be published as required by FAR 5.2, citing the exemption applied under FAR 5.202(a)(4).

#### 7. **Determination of Fair and Reasonable Cost.**

A Technical Proposal Evaluation Conference will be held to determine the fairness and reasonability of the Contractor's proposal in relation to the proposed hours, material and labor categories. The Contracting Officer will make a determination of price reasonableness in accordance with FAR 15.404-1(b) Price Analysis and 15.404-1(g) Unbalanced pricing.

#### 8. **Description of Market Research Conducted.**

Market research determined that several companies perform ROW acquisition work on public, state, and federal lands but do not have knowledge of ROW acquisition on individual allottees of the Navajo Reservation. The State of New Mexico has a limited source of ROW acquisition firms. 8a small businesses that specialize in this type of work is also very limited and DDC meets the 8a small business and has the inherent ability to perform the work.

**9. Any Other Supporting Facts.**

ROW is needed on these allotted lands in order to design and construct these areas of the NGWSP. Without ROW consent, delays in design will impact the project completion goals. Utilizing an 8a small business sole-source will allow for a much quicker acquisition process and will also allow a small business to perform Governmental work that they otherwise may have not had the opportunity to perform. *Diné Development Corporation* has experience working with Navajo Allottes, which will ensure that ROW is secured in a timely and efficient manner. *Diné Development Corporation* has performed these services for the past 10 years and has specialized knowledge of the Navajo culture to effectively communicate Reclamations needs in addition to understanding the needs of the individuals.

**10. Listing of Interested Sources.**

*Diné Development Corporation*  
609 Broadway Blvd NE - Suite 125  
Albuquerque, NM 87102  
Phone: (505) 862-3543

**11. Actions Taken to Remove Barriers to Competition.**

This particular acquisition is not a recurring requirement and there were no barriers to competition to overcome or remove.

**REQUESTING OFFICE REPRESENTATIVE CERTIFICATION:** PURSUANT TO FAR 6.303-2(c) ALL SUPPORTING DATA PROVIDED AND THE CONTENTS OF THIS JUSTIFICATION ARE COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

(All Justifications > SAT Level)

**TIMOTHY GONZALES**

Digitally signed by TIMOTHY GONZALES  
DN: c=US, o=U.S. Government, ou=Department of the Interior, ou=Bureau of Reclamation,  
cn=TIMOTHY GONZALES, 0.9.2342.19200300.100.1.1=14001000657800  
Date: 2014.12.17 11:04:02 -0700

Signature

Date

**CONTRACTING OFFICER (CO) CERTIFICATION:**

(Non-competitive actions ≤ \$25K) (DIAPR 2008-10)

*Claire M. Roberson*  
CLAIRE M. ROBERSON

Signature

*12/17/14*

Date

**CHIEF of the CONTRACTING OFFICE CERTIFICATION (CCO):**

(New Awards ≥ \$25K) (DIAPR 2008-10)

*[Signature]*

Signature

*12/30/14*

Date