

**JUSTIFICATION REVIEW DOCUMENT
FAR PART 16 EXCEPTION TO FAIR OPPORTUNITY JUSTIFICATION
For Actions Exceeding the Simplified Acquisition Threshold (SAT)**

Program/Equipment: Headquarters, Installation Management Command (IMCOM), Provost Marshal/Protection Directorate, immediately requires FirstNet Wireless Services in support of IMCOM first responders at (73) locations.

Authority: 10 U.S.C. 2304c(b)(2) as implemented by Federal Acquisition Regulation (FAR) Part 16.505(b)(2)(i)(B) – Only one awardee is capable of providing the supplies or services required at the level of quality required because the supplies or services ordered are unique or highly specialized.

Amount: Est. \$13M

Prepared by:

[Redacted]

Contracting Officer:

[Redacted]

Technical:

[Redacted]

Requirements:

[Redacted]

Reviews: I have reviewed this justification and find it adequate to support this exception to fair opportunity determination in accordance with FAR 16.505(b)(2)(i)(B).

Program Manager:

[Redacted]

DSN: [Redacted]

[Redacted]

Date: See Digital Signature

Small Business Specialist, Small Business Program:

[Redacted]

DSN: [Redacted]

[Redacted Signature]

Date: See Digital Signature

MICC Legal Counsel:

[Redacted]

DSN: [Redacted]

[Redacted Signature]

Date: See Digital Signature

Contracting Office Division Chief:

[Redacted]

DSN: [Redacted]

[Redacted Signature]

Date: See Digital Signature

Director, MICC-Fort Sam Houston:

[Redacted]

DSN: [Redacted]

[Redacted Signature]

Date: See Digital Signature

Assistant Director, Small Business Program:

[Redacted]

DSN: [Redacted]

[Redacted Signature]

Date: See Digital Signature

**FAR Part 16 Exception to Fair Opportunity Justification
Under Multiple Award Indefinite Delivery Contracts
For Actions Exceeding the Simplified Acquisition Threshold (SAT)**

1. Contracting Activity: U.S. Army Mission and Installation Contracting Command (MICC) - Fort Sam Houston, Installation Support Division, 2205 Infantry Post Road, Fort Sam Houston, TX 78234.

2. Description of Action: Headquarters, IMCOM, Provost Marshal/Protection Directorate requests a firm-fixed-price task order for FirstNet, a private public safety wireless service, under the NAVY Spiral 3, Contract Number N0024418D0001 with AT&T Mobility National Accounts, LLC, 7229 Parkway Drive, Hanover, MD 21076. The Task Order will provide AT&T First Net wireless devices and service to Army Public Safety Offices, first responders, and emergency officials at an estimated 73 Army locations within the United States to ensure communication capabilities during national emergencies, when emergency services are engaged, and the generally available wireless services may be impacted. The task order will be for base year and two option years. The Army projects award no later than September 2020. Initial contract award will be funded using fiscal year 2020, Operations and Maintenance, Army appropriations.

An acquisition plan is not required because this procurement does not meet the threshold at Defense Federal Acquisition Regulation Supplement 207.103(d)(i)(B).

3. Description of Supplies/Services: This requirement is for wireless services and devices within a specific frequency spectrum to support the First Responder Broadband Network commonly known as FirstNet. Using cellular devices with required accessories that are compatible with FirstNet, IMCOM will improve first responder communications interoperability, supported by priority and preemption during routine and critical incidents. This wireless service also includes unlimited data transmission for all Army/IMCOM first responders properly subscribed to this AT&T cellular/broadband network.

Base Period:	30 Sep 2020 to 29 Sep 2021	Value:	██████████
Option Period 1:	30 Sep 2021 to 29 Sep 2022	Value:	██████████
Option Period 2:	30 Sep 2022 to 29 Sep 2023	Value:	██████████

Total Value: \$ 13.0M

4. Authority Cited: 10 U.S.C. 2304c(b)(2) as implemented by FAR 16.505(b)(2)(i)(B) – Only one awardee is capable of providing the supplies or services required at the level of quality required because the supplies or services ordered are unique or highly specialized.

5. Reason for Authority Cited: The Army is required to obtain wireless services and devices from the Navy Spiral 3 MAS as a mandated strategic source. Navy Spiral 3 is a multiple award MATOC with multiple contractors to include AT&T. AT&T is the only MATOC Navy Spiral 3 contract holder with FirstNet devices and services because it was awarded an exclusive contract from the Government (FirstNet Independent Authority within U.S. Department of Commerce) to provide the national Public Safety Broadband Network known as FirstNet. Therefore, AT&T is the only Navy Spiral 3 holder that can provide the required service of a Public Safety Broadband Network known as FirstNet. This contractor is the only provider of the Public Safety Broadband Network known as FirstNet that provides guaranteed device priority, preemption and integration for first responders who utilize this network. Furthermore this network will be hardened as needed from the physical security perspective and will be resilient, secure and highly reliable from the network perspective. FirstNet will utilize (and provides) all available types of bandwidth and integration methods to provide connectivity during catastrophic or critical incidents. This lack of communications interoperability has been documented in numerous real world findings. Other services claim to have the same capability, but real world execution has proven these services don't provide first responders priority, preemption or a means to integrate that service with first responder land mobile radios, GIS tracking, asset tracking, Common Operating Picture and more.

a. Scope: To execute an enterprise fielding of FirstNet enabled devices with annual subscription to activate and operate the devices on the nationwide public safety broadband network at 73 locations throughout the Strategic Support Area (SSA). The devices would be provided with all the required accessories and already uploaded with five preferred FirstNet Apps for first responder utilization as listed in order: 1) ArcGis, 2) AskRail, 3) MutalLink Edge, 4) 10-21 Video on Demand, and 5) PocketCop. FirstNet is an independent authority within the U.S. Department of Commerce, not to be confused with the AT&T FirstNet devices and services. Authorized by Congress in 2012, FirstNet's mission is to develop, build and operate the nationwide, broadband network that supports first responders' mission to save lives and protect U.S. communities. FirstNet is developing the first nationwide public safety broadband network to provide first responders the advanced communication and collaboration technologies needed during critical emergencies, especially while working in a unified capability with multiple agencies responding to an event. On 28 March 2017, AT&T was awarded a 25 year exclusive contract through Department of Commerce for FirstNet services in the United States. The contract was awarded utilizing full and open competitive procedures which resulted in a single award to AT&T to provide Nationwide Public Safety Broadband Network (FirstNet memo, 16 April 2018). Under this contract, AT&T gave its Public Safety Broadband Network the name FirstNet. FirstNet wireless services in support of the Department of Defense (DoD) are only available from the U.S. Navy Spiral 3 contract awarded to AT&T as the mandatory source. On 28 September 2018 DoD Deputy Chief Management Officer signed into effect a policy that requires all DoD components, including Army, to procure unclassified wireless mobile devices and services utilizing the Department of the Navy's indefinite delivery/indefinite quantity, multiple award contract. On February 2019, the Army issued ALARACT 015/2019

directing all wireless contracts be processed through NETCOM IAW the DoD, CIO Policy using the Navy Spiral 3 Contract. The ALARACT has expired however the change has not been officially made in the Army Regulation (AR) 25-13. Per HQDA G6, ALARACT is still effective until change is published in AR 25-13.

b. Alternatives: There are no alternatives available to the federal government that comply with all (not some) of the capabilities that are provided in the Public Safety Broadband Network known as FirstNet. The Department of Commerce issued one contract award to AT&T for this capability to provide a comprehensive network solution to each of the 56 states and territories. The comprehensive network solution provides services that include the deployment and provisions of a Nation-wide Core, and Radio Access Network (RAN) services, backhaul, aggregation and the use of national transport networks and operation centers, deployable capabilities, use of operation and business support systems, an applications ecosystem, network services and the integration of maintenance, and ongoing evolution of these systems required to function fully as an operational wireless 3rd Generation Partnership program. The nationwide public safety broadband network (NPSBN) contract between FirstNet and AT&T has a period of performance of 25 years from the date of award (2017-2042). There is also no other alternative that satisfies this requirement under the Navy's Spiral 3 Multiple Award Schedule (MAS).

IMCOM will require FirstNet capabilities on each shift within its Fire, Police and Security forces, in addition its local first responder operations cell, supervisory positions and critical first responder sections at a minimum.

c. Impact if justification request not approved. Failure to rapidly execute and standardize wireless communications for First Responders will continue to exasperate the current inability to effectively respond to and mitigate critical emergencies throughout the Army, which increases the risk to government property, personnel injury and in the aforementioned cases, multiple deaths due to the inability to communicate, manage and effectively respond to emergencies. Implementation of FirstNet will allow the Army Installations to immediately enhance Force Security and Installation Readiness as it solves communications and coordination issue that have previously occurred between U.S. Army and public first responders.

6. Actions to Increase Competition: The Government will periodically check the FirstNet.gov website for updates, however market research has validated that AT&T has a 25 year exclusive agreement with the Department of Commerce to provide FirstNet wireless services in the United States.

7. Market Research: AR 25-13 (Army Telecommunication and Unified Capabilities), 11 May 2017; and ALARACT 015/2019-Army Procurement of Wireless Mobile Devices and Services, issued in February 2019 informing the Army of DoD Policy signed on 28 September 2018 directing all DoD Components including the Army, to procure Unclassified wireless mobile devices and services within the 50 United States by using

the Department of the Navy Indefinite Delivery, Indefinite Quantity, Multiple Award Contract (IDIQ MAC), Spiral 3 with Firm Fixed Price (FFP) Task Orders. Under Spiral 3, AT&T is the only service provider that is able to provide FirstNet Wireless services.

AT&T entered into a 25 year exclusive agreement on 28 March 2017 with the Department of Commerce to provide FirstNet services in the United States.

8. Other Facts:

a. Procurement History:

Contract number: FN130117CQ0008
Vendor: AT&T Mobility National Accounts, LLC
Award date: 28 March 2017
Competitive Status: Full and Open Competition

Contract number: N0024418D0001
Vendor: AT&T Mobility National Accounts, LLC
Award date: 8 November 2017
Competitive Status: Full and Open Competition
Note: On February 2019, the Army issued ALARACT 015/2019 directing all wireless contracts be processed through NETCOM IAW the DoD, CIO Policy using the Navy Spiral 3 Contract. Utilizing the Navy Spiral 3 contract allows the Army to place orders for FirstNet

b. Operational Impact: Communication system failures during recent critical incidents were due to network saturation, aged infrastructure, and limited or unavailable communication redundancies when responding to areas with Land Mobile Radio (LMR) coverage gaps. The fully functional FirstNet capability integrates with existing LMR capabilities by using additional available network capacity that minimizes the bandwidth restrictions and furthermore provides a redundant means of communications, especially since FirstNet can interface with LMR. General Public Wireless communication systems do not provide multiple network connections and do not interface and interoperate directly with the Army's Land Mobile Radio systems. Civilian community first responders have been using this interface already, but the Army has been slow to adopt and deploy the technology/ capability of FirstNet until now. The implementation of the FirstNet for local, state, and Federal first responders mitigates communication overload. Army Installations will immediately enhance Force Security and Installation Readiness with implementation of FirstNet as it solves communications and coordination issue that have previously occurred between U.S. Army and public first responders.

c. Mission Impact:

1) Reduced first responder communications capabilities delays Medical Evacuation, Fire, Emergency Medical Services, Security, and Police response to the entire installation to include training ranges due to communication gaps. An integrated, redundant FirstNet interface to LMR can mitigate this communications deficiency with improved coverage area, multiple means of connectivity, and direct interface with LMR that will improve response measures.

2) Installations are the Army's epicenter from where our military capabilities are projected to meet worldwide requirements. The strength of installations resides with our ability to create and project combat power to the tactical point of need. Installations are part of the Strategic Support Area (SSA), where military might is generated, projected and sustained during the fight. IMCOM installations require quality infrastructure to support operations, and to protect Soldiers, families, equipment, and our networks. The Army must be able to mitigate threats generated from our adversaries whether from land, sea, air or cyberspace within the SSA. Army installations must have the infrastructure, facilities, communication networks and equipment to meet future challenges that include the enemy obstructing the Army from deploying out of the homeland. Today's threats are changing. The National Defense Strategy explains that the homeland is no longer a sanctuary. Installations must be resilient to challenges facing our infrastructure and services, and our protection of the SSA must be updated to match the role of installations in the Strategic Support Area. Failure to implement first responder communications updates such as FirstNet may create mission failure in a "Contested Mobilization/Deployment" environment within the SSA. The enemy will seek to obstruct, cut or eliminate communications systems to stop deployment; therefore, the protection of these installations must include multiple and redundant means of first responder communications that integrate with existing communications systems, but yet can operate independently.

9. Technical Certification: I certify that the supporting data under my cognizance which are included in the justification are accurate and complete to the best of my knowledge and belief.

[Redacted Signature] _____
[Redacted Name]
Contracting Officer Representative

Date: See Digital Signature

10. Requirements Certification: I certify that the supporting data under my cognizance which are included in the justification are accurate and complete to the best of my knowledge and belief.

[Redacted Signature] _____
[Redacted Name]
Chief, Law Enforcement

Date: See Digital Signature

11. Fair and Reasonable Cost Determination: I hereby determine that the anticipated cost or price to the Government for this contract action will be fair and reasonable. The method for determining the price Fair and Reasonable will be made once the contractor has submitted its proposal and the adequacy of the price or cost data submitted has been evaluated. The solicitation will contain FAR clause 52.215-20 which will establish the requirements for certified cost or pricing data and data other than certified cost or pricing data.

This determination will be made using price analysis and comparison to the IGE that is created by reviewing existing Army contracts for this service at other DoD locations.

[Redacted Signature] _____
[Redacted Name]
Contracting Officer

Date: See Digital Signature

12. Contracting Officer Certification: I certify that this justification is accurate and complete to the best of my knowledge and belief.

[Redacted Signature] _____
[Redacted Name]
Contracting Officer

Date: See Digital Signature

Approval

Based on the foregoing justification, I hereby approve the procurement of FirstNet wireless services and devices using an exception to fair opportunity pursuant to the authority of Title 10 U.S.C. section 2304c(b)(2) as implemented by Federal Acquisition Regulation (FAR) Subpart 16.505(b)(2)(i)(B) – “Only one awardee is capable of providing the supplies or services required at the level of quality required because the supplies or services ordered are unique or highly specialized.” The estimated value of this contract is \$13 million for up to a three year period of performance consisting of a base year and two option years, from approximately 30 September 2020 through approximately 29 September 2023. The approval is subject to availability of funds, and provided that the services or supplies herein described have otherwise been authorized for acquisition.

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Digitally signed by
KUKES.SCOTT.DEAN
Date: 2020.07.21
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SCOTT D. KUKES
Alternate to the Command Advocate for Competition
U.S. Army Mission and Installation Contracting Command, JBSA Fort Sam Houston, TX