JUSTIFICATION FOR OTHER THAN FULL AND OPEN COMPETITION

U.S. Environmental Protection Agency

PART I - BACKGROUND

1. **Date:** 11/17/2020

2. **Program Office:** LSS-2 (Region 9 Laboratory)

3. **Contracting Officer's Technical Representative:** Barbara Bates

4. **Description of Services Required:** Renewal of the Region 9 Laboratory National Environmental Laboratory Accreditation Program (NELAP) accreditation including application and on-site assessment.

5. **Period of Performance:** Feb. 18, 2021 - Feb. 17, 2022

6. **Contract Amount:** $23,281.00

7. **Appropriation Data:** T-70%, B-30%

8. **Proposed Contractor:** Oregon Environmental Laboratory Accreditation Program (ORELAP), Oregon Department of Human Services, Public Health Division, a recognized NELAP accreditation body.

PART II - JUSTIFICATION

1. **Authority Cited:**

   The statutory authority permitting other than full and open competition is 41 U.S.C. 253(c) (2) in accordance with; [X] FAR 6.302-1, only one responsible source and no other supplies and services will satisfy Agency Requirements, [X] FAR 6.302-2, Unusual and compelling urgency.

2. **Nature and/or Description of the action being approved:** This action is to renew existing accreditation of the EPA Region 9 Laboratory's quality system accreditation through the National Environmental Laboratory Accreditation Program.

   A laboratory is only as good as its data. Laboratory accreditation uses criteria and procedures specifically developed to determine technical competence, thus assuring laboratory clients and the public that the test, calibration or measurement data supplied by the laboratory are accurate and reliable. Accreditation is a "credential" that designates the laboratory as qualified and competent to provide services in the field or fields in which it is accredited. Lapse of accreditation would exclude the laboratory from performing critical analyses for which

accreditation is required including analysis of drinking water samples for compliance monitoring.

Lab accreditation is so critical that EPA's Science Policy Council issued a new Agency Policy Directive, *Assuring the Competency of Environmental Protection Agency Laboratories* on February 23, 2004. The policy includes the following language: "To assure the quality of data generated by our laboratories, all the laboratories operated by EPA, including Agency owned, contractor operated facilities, will need to maintain a documented Quality System that at a minimum complies with the requirements of the EPA Quality System as defined by EPA Order 5360.1 A2 May 2000, *Policy and Program Requirements for the Mandatory Agency-wide Quality System....* In addition, where appropriate accreditation programs are available for one or more components of a given laboratory's operations (e.g., environmental sample analysis, animal husbandry, microbiology), the laboratory will seek accreditation for those components."

For the reasons discussed above it is therefore urgent and compelling that the Region 9 Laboratory continue accreditation by a qualified Accreditation Body.

3. **State why the proposed contractor's unique qualifications or nature of the acquisition requires use of the authority cited:** Although NELAP is a national program, state governmental agencies serve as Accreditation Bodies. NELAP accreditation is achieved through a recognized Accreditation Body and the process defined in the NELAP standards. The Region 9 Laboratory was initially accredited by NELAP in 2005 and has maintained accreditation annually through the State of Oregon's Oregon Environmental Laboratory Accreditation Program (ORELAP). The State of California is not a NELAP Accreditation Body and geographically Oregon is the Accrediting Body that is closest to the Region 9 Laboratory. Oregon also offers the fields of accreditation (matrix-method/technology-analyte/analyte group) of interest to the Region 9 Laboratory. A list of all recognized NELAP Accreditation Bodies is attached.

It is not common practice for a laboratory to change Accrediting Bodies. Changing to a different Accrediting Body would require a completely new application process along with new fee structures. The accreditation process is time consuming and complex. Initial accreditation requires the lab to submit extensive laboratory documentation (QA Plan, multiples SOPs, performance testing data, records, etc.) to the Accreditation Body. It may also require the laboratory to analyze additional proficiency test samples at significant additional cost to the Region 9 Laboratory. Accreditation Bodies are required to review all provided documentation and therefore may require additional costs for the initial application. In addition, the extensive knowledge of the lab's operation that is developed overtime by an accrediting body is critical to the ease and success of on-site assessment activities and the ongoing improvement of laboratory operations.

The fees charged by accrediting bodies are independently determined to recover the costs of administering the program. Attached is the fee structure for NELAP Accreditation Bodies. Note that California has subsequently dropped out as a NELAP Accreditation Body and not all Accrediting Bodies perform out-of-state accreditation or cover all the analyses for which the Region 9 Laboratory is seeking accreditation. Those accrediting bodies that do perform out-of-state accreditations will charge the Region 9 Laboratory the actual cost of travel for the initial on-site assessment. These costs will increase with the distance of the Accrediting Body from our facility.

For the reasons discussed above, it is therefore urgent and compelling that the EPA Region 9 Laboratory seek continued accreditation of its operations by ORELAP.

4. **Price reasonableness:** Based on the Accreditation Body Fee Structure Comparison posted on the TNI (The NELAC Institute) website, the cost for renewal with ORELAP is comparable with that of other Accrediting Bodies. Attached is the fee structure for NELAP Accreditation Bodies. Note that not all organizations listed will provide accreditation for out-of-state laboratories.

5. **Is this requirement a continuation of previous effort?** Yes, see PR-R9-19-00063 (68HE0919P0008); PR-R9-18-00058 (EP-18-9-000006); PR-R9-17-00097 (EP-17-9-000006); and, PR-R9-16-00078 (EP-16-9-000015). In 2020, re-accreditation fees were paid by credit card.

6. **Market Survey/Effort to Obtain Competition:** Fee assessments for all available NELAP accrediting bodies were evaluated for comparison purposes using the Accreditation Body Fee Structure Comparison posted on the TNI website. Attached is the fee structure for NELAP Accreditation Bodies. Note that California has dropped out as a NELAP Accreditation Body and not all organizations listed will provide accreditation for out-of-state laboratories.

PART III - CERTIFICATION/APPROVAL

1. **Program Office:**

I certify that this request to procure services using the authorities cited in FAR 6.3 (Other than Full and Open Competition) is made in good faith, that the supporting data and information are accurate and complete to the best of my knowledge and belief.

BARBARA BATES

Digitally signed by BARBARA BATES
Date: 2020.12.08 15:48:23 -08'00'

Program Officer

Date

2. **Contracting Officer:**

I certify that the justification is accurate and complete to the best of my knowledge and belief.

REDE SHIFFERAW

Digitally signed by REDE SHIFFERAW
Date: 2020.12.09 07:22:19 -08'00'

Contracting Officer

Date

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460
OFFICE OF MISSION SUPPORT

JUSTIFICATION FOR OTHER THAN FULL & OPEN COMPETITION FEDERAL ACQUISITION REGULATION SUBPART 6.302-1

This document is being prepared pursuant to the content requirements prescribed in Federal Acquisition Regulation (FAR) subpart 6.302-1.

Part I – Background

AGENCY INFORMATION:

Agency:	U.S. Environmental Protection Agency (EPA)
Contracting Officer:	Tia Gatling, Contracting Officer OLEM Emergency Response, Remedial & Laboratory Analysis Mission Support Branch Headquarters Acquisition Division (HQAD) Office of Acquisition Solutions (OAS)
Program Office:	Office of Land and Emergency Management (OLEM) Office of Superfund Remediation and Technology Innovation (OSRTI)
CORs:	COR: Crystal Mitchell, mitchell.crystal@epa.gov Alternate COR: Freya Margand margand.freya@epa.gov
Project Identification:	Technical Assistance Services for Communities (TASC) Contract
Contract Number:	EP-W-13-015: The current contractual vehicle is an Indefinite Delivery Indefinite Quantity Fixed-Price contract type. The current maximum value of the contract for the extension period is estimated at $1,553,627.57.

Part II –Justification

Pursuant to the requirements of the Competition in Contracting Act (CICA), FAR Subpart 6.302-1: Only one responsible source and no other supplies or services will satisfy agency requirements, permits contracting without providing for full and open competition.

a. Identification of the Agency and the Contracting activity

Agency: U.S. Environmental Protection Agency (EPA)

Contracting Activity: Office of Mission Support (OMS)/Office of Acquisition Solutions (OAS)/Headquarters Acquisition Division (HQAD)/Emergency Response, Remedial & Laboratory Analysis Mission Support Branch

Program Office: Office of Land & Emergency Management (OLEM)/ Office of Superfund Remediation and Technology Innovation (OSRTI)

1. Nature and/or description of the action being approved.
Nature/Description of Action(s):

The U.S. EPA's Office of Superfund Remediation and Technology Innovation (OSRTI) and Office of Environmental Justice (OEJ) require continued critical support services provided under the Skeo Solutions Technical Assistance Services for Communities (TASC) program, providing technical assistance to Superfund and environmental justice communities affected by EPA actions and decisions. The purpose of this Justification for Other Than Full and Open Competition (JOFOC) is to extend the current Technical Assistance Services for Communities (TASC) contract (contract number EP-W13-015) 6 months, from December 22, 2020 to June 21, 2021 with a 6-month option, from June 22, 2021 – December 21, 2021, in order to continue providing technical assistance to these communities while the new contract is being re-competed and complete non-severable projects that started prior to December 21, 2020. Only one responsible source and no other supplies or services will satisfy agency requirements as implemented by paragraph 6.302-1 of the Federal Acquisition Regulations (FAR).The new contract solicitation is expected to go to the Office of General Counsel for review by the end of December 2020. It is anticipated the solicitation will be posted by the end of January 2021.The new re-competed contract will combine two programs, TASC and Superfund Redevelopment (SR), under a single contract.

Public participation in Agency decision-making is central to EPA's mission and the guiding laws, regulations and policies. EPA depends upon community input in order to make the most appropriate cleanup decisions. Critical to participation is public understanding of environmental laws, policies and procedures, and the technical and scientific issues that affect EPA's decision-making process. The importance of community understanding of technical information for effective participation is the foundation for EPA's Technical Assistance Grant (TAG) and the Technical Assistance Plan (TAP)[1] programs. Both programs recognize not only the need for

[1] A Technical Assistance Plan (TAP) is a mechanism for communities to receive independent technical assistance at sites where a potentially responsible party (PRP) is responsible for site cleanup per a negotiated settlement agreement between EPA and the PRP. The TAP is one of a number of provisions that may be contained in the settlement agreement. The TAP provision obligates the PRP, at EPA's request, to arrange at its own expense for a qualified community group to obtain the services of an independent technical advisor to interpret site-related technical information. (For more information, see: http://www.epa.gov/compliance/resources/policies/cleanup/superfund/interim-tap-sf-settle-mem.pdf)

communities to understand site technical information, but that technical assistance should be available continuously throughout the cleanup process in order for the community to be effectively involved in the decision-making process. However, these programs have strict limitations in their availability to communities. Unlike the TAG and TAP, the TASC contract provides non-advocacy technical assistance services to communities affected by environmental issues and Agency actions to empower them to substantively participate in addressing these issues and actions through EPA's decision-making processes. However, as a contract-based vehicle, the TASC program, is available to a broader range of communities for a wider range of issues. The scope of support ranges from providing minor assistance reviewing technical documents, to providing more in-depth assistance that involves supporting communities in their efforts to become more aware of environmental issues and more effectively and sustainably engaged in all aspects of the environmental issues affecting them.

Community understanding of information related to EPA's decision-making is critical in enabling communities to provide the questions and comments that impact EPA's decision-making to the same degree as industry and other stakeholders with the technical means. However, the Agency often begins its work in communities where there are gaps in trust (of EPA) exacerbated by gaps in technical knowledge/understanding of issues related to the site. Such misperceptions or lack of technical understanding broadens trust gaps and can be detrimental to moving forward with Agency actions, such as Superfund site cleanups. Technical assistance support helps to build community technical knowledge about complex environmental issues and enables community's to more effectively state their concerns and preferences relative to decisions. Since the initiation of the TASC program in 2008, EPA has provided more than 230 communities with technical assistance support, across all 10 regions. Over the last seven years, there has been a steady increase in regional requests for these services. Many of the communities supported are at sites or in focus areas that are a priority for the Agency, and there is high visibility and political involvement, such as West Lake Landfill, Colorado Smelter and Diamond Alkali Superfund sites; the Philadelphia Energy Solutions (formerly Sunoco) Refining Complex site; and communities in Opportunity Zones.

The technical assistance support services provided through the TASC Program increases the effectiveness of Agency programs and perception of EPA in communities affected by hazardous waste contamination. Experience has shown if communities have the technical capacity to understand the information that EPA provides, then they will be able to engage with the Agency and, in doing so, provide the agency with ideas, comments and concerns that EPA can use to make protective and effective decisions and to further enhance our programs. Building capacity within communities is challenging and can be a long process. Disruptions and inconsistencies can prove extremely detrimental when shepherding communities through the site cleanup process. The types of assistance services provided through the TASC Program are a conduit for shaping the public perception related to the Agency's role and image. It is critical to provide long-term, uninterrupted consistency when engaging communities and providing support, in order to develop the relationships that will increase the effectiveness of the technical capacity-building assistance under the contract; this in tum will foster an informed public that informs the Agency.

In addition to providing technical support directly to communities, the contract provides a full range of support to assist EPA regions with developing site-specific Superfund Community Involvement Plans (CIPs) and updates to existing CIPs. A CIP is a site-specific strategy to enable meaningful community involvement throughout the Superfund cleanup process. The National Oil and Hazardous Substances Pollution Contingency Plan (NCP) requires the lead

agency to prepare a CIP "based on community interviews and other relevant information, specifying the community relations activities that the lead agency expects to undertake during the remedial response." A CIP is required to be in place before remedial investigation field activities start (NCP 40 CFR §300.430(c)(2) (ii)(A-C)); reviewed prior to initiating the remedial design (40 CFR §300.435(c)(1)); and prepared for removal actions lasting 120 days or more and prior to the completion of the engineering evaluation cost analysis (40 CFR §300.415(n)(3)(ii)).

The contract extension is needed to complete the technical assistance plans for communities. A number of communities are relying on this assistance to ensure they have an understanding of and voice in EPA actions and decisions. Such a break in community trust and relations could be detrimental to the Agency progress in moving forward in the decision-making process in actions that have been highly controversial and political. Lack of contract support would risk negative impacts communities' ability to participate in the cleanup processes and Agency decisions affecting their lives. Without the contract extension communities will be unable to participate effectively in the Superfund site cleanup process.

Without extended contract support, some regional offices will not be able to meet NCP requirements for CIPs. The lack of contract support could severely strain on Agency resources both in Headquarters and the regional offices and could lead to site cleanup delays and non-compliance with requirements and regulations.

2. Description of the supplies or services required to meet the agency's needs (including the estimated value).

This JOFOC request is to provide a 6-month extension, with a 6-month option, of the TASC contract with Skeo Solutions. The purpose is to continue providing support to EPA Regional offices with assisting affected communities in participating effectively in decision-making processes through providing information assistance and supporting Superfund CIP development/update as required by the NCP. The work to be performed under this contract remains consistent with the original statement of work for contract number EP-W-13-015. The general scope of services being procured involve providing supplemental, non-advocacy, technical assistance services at no cost to communities to empower them to substantively participate in addressing environmental issues and actions which impact their community. The specific types of technical support provided include but are not limited to the following: Information Assistance and Technical Expertise, Community Education, Technical Assistance Needs Assessment and Community Involvement Plan (CIP) Development, and TASC Program Coordination and Support Activities. (See attached Statement of Work)

The extension to the contract is for the purpose of allowing enough time to effectively complete the contract re-procurement, completing non-severable work and current projects while efficiently transitioning community support to the new contract. The TASC contract and SR contract requirements are being combined and re-competed under a single SR-TASC contract. It is anticipated that the solicitation for the SR-TASC contract will be posted in late January 2021. Extension of the current TASC contract will allow uninterrupted continuous support to the Superfund program and OEJ. The current TASC contractor has provided program support under the current contract since June 2013 and has the necessary skillset and the historical experience of providing technical assistance services directly to communities and developing Superfund site CIPs to adequately and immediately support the needs of this requirement.

OSRTI started the re-procurement process in early 2018, submitting the initial procurement package in December 2018. However, due to issues related to document revisions and staffing

changes, the re-procurement schedule has undergone multiple changes and the re-procurement did not occur prior to the end of the TASC contract, December 21, 2020. The new SR-TASC contract is expected to be awarded by July 31, 2021. This requested extension provides enough time for the Agency to receive and evaluate proposals, negotiate with offerors as needed, make an award decision, and complete non-severable projects under the current TASC contract. New tasks will be placed on the new contract.

The estimated value of this extension is $1,553,627.57. This figure is based on historical expenditures over the life of the contract. Please refer to the attached IGCE.

3. Identification of the statutory authority permitting other than full and open competition.

The statutory authority permitting other than full and open competition relative to this request is 41 U.S.C.253(c) (1). Only one responsible source and no other supplies or services will satisfy Agency requirements as implemented by paragraph 6.302-1 of the Federal Acquisition Regulations (FAR). The current contract was awarded competitively, and the follow-on contract will be re-procured in the same manner. Over time, the existing contractor has refined their requisite skill sets and cost-saving strategies to support the Superfund program and OEJ projects. As a result, they have learned to provide timely support that meets programmatic needs as well as mission-critical needs related to community involvement and CIP development. Delays in providing services puts the Agency at risk of not effectively meeting public participation needs at sites and not meeting requirements for CIPs (per NCP 40 CFR §300.430; §300.435; and NCP 40 CFR §300.415).

4. Demonstration that the proposed contractor's unique qualifications or the nature of the acquisition requires use of the authoritycited.

The current contractor, Skeo Solutions, is uniquely qualified to complete the work on the Superfund and OEJ community-based projects in progress, and provide technical assistance and CIP support until such time as a new vehicle is procured. It would be technically prudent and fiscally judicious to avoid a break in contract services, for a short-term contract situation.

The nature of the acquisition and Skeo's unique qualifications to meet programmatic requirements are as follows:

a. A number of projects currently supported by Skeo Solutions under the TASC contract are non-severable in nature. EPA nor the communities supported by the TASC contract will accrue a benefit from the support if it is discontinued prior to completion. The completion of community assistance priorities under technical assistance plans and CIPs are two examples of non-severable work under the contract. Skeo Solutions has the requisite knowledge of community issues and concerns by way of previous interactions with specific Superfund communities members about issues and technical assistance needs. This interaction with communities is essential to completing community priority technical assistance needs and CIPs. These projects cannot be picked up and completed by another vendor. A new vendor would result in the need to start projects over again which would be detrimental to EPA's relationship with communities and undermine EPA's community involvement efforts at sites.

b. Some of the upcoming support at will to be providing technical assistance support to communities affected by Superfund sites that have been highly political and/or contentious.

Knowledge of the site history and controversy, and with familiarity with these communities is essential for these projects. Skeo has previously provided technical assistance support to these communities. Their experiences as the incumbent have allowed them the unique ability to build specific expertise and knowledge to understand the nature and nuances of the work with these communities, and to successfully support these projects.

c. Many projects require support with little planning time and a short turnaround time for the deliverable. The program expects that support during the contract extension period to be delivered with the same efficiency and effectiveness as past short-term projects. As the incumbent, Skeo has evolved a community support process to a high level of efficiency and effectiveness, and at cost savings to the Agency. It would be very difficult for another vendor to match such a level of efficiency and effectiveness during the extension without negatively impacting technical support provided to communities and with that their ability to meaningfully participate in Superfund decision-making process. Additionally, unsuccessful projects impact EPA's working relationship with communities.

d. More than two-thirds of the community-based projects extend longer than 12 months in duration. Disruptions and inconsistencies in support can be detrimental to EPA's work with communities, in particular when shepherding communities through the Superfund site cleanup process. Disruptions in community support can erode community trust in the services being provided and can undermine EPA's efforts to effectively work with a community. Thus it is critical to provide, to the degree possible, uninterrupted consistency when engaging communities and providing support, in order to develop the relationships that will increase the effectiveness of the technical capacity-building assistance under the contract; this in turn will foster an informed public that informs the Agency. Skeo Solutions has been effectively working with communities, building trust and credibility in over 20 communities where there are currently on-going technical assistance support needs EPA risks loss of established trust and credibility switching to a new vendor for the extension period.

e. Technical assistance support provided to communities under the TASC contract helps communities to participate more effectively in Agency decision-making process. No other offeror could immediately step in and perform technical assistance services without incurring time delays. Site milestones and actions will not be delayed for a new contractor to get "up to speed." Delays in support due to contractor ability to start up projects immediately impact could impair the ability of the public to effectively participate in the cleanup decisions affecting them directly. This is especially true in the vulnerable and historically underserved communities with environmental justice issues supported by TASC services in the past. Skeo Solutions is the only source capable of continuing the required contract products and services on a timely basis without delay. Over the course of two contracts, the incumbent contractor has been performed these services; is extremely familiar with the required stakeholders, processes, products, services, and policies; and is able to support projects with little to no time delay.

5. 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.

The new SR-TASC solicitation is expected to complete legal review by the end of December 2020 and is expected to be posted in late January 2021. The development of the SR-TASC requirement was started by the program in 2018. The original contract was awarded

competitively in Fiscal Year 2013 (two-year base, one-year and two-year option periods, and two-year award term).

This is the first JOFOC request is for an extension on an existing contract vehicle rather than a new procurement. November 8, 2018 and October 29, 2020 EPA's Office of Land and Emergency Management (OLEM) held an Industry Day events for vendors interested in upcoming requirement. The SR-TASC requirement was featured in two sessions. However, no vendors attended these sessions. Offers were not solicited from any additional sources for these services.

Only one responsible source and no other supplies or services will satisfy agency requirements, per the authority in FAR 6.302-1. However, in accordance with FAR 6.302-1(d)(2), any bids, proposals, quotations, or capability statements that are received will be considered. Notice of this JOFOC will be published in Fed Biz Ops in accordance with the posting requirements in FAR 5.201 and as implemented in 6.305.

6. Determination by the contracting officer that the anticipated cost to the Government will be fair and reasonable

The contract rates were determined fair and reasonable based on a cost analysis of the proposal at the time of the original TASC contract award and have been adjusted in compliance with the Bureau of Labor Statistics data relative to the affected labor categories.

7. Description of the market research conducted (see Part 10) and the results or a statement of the reason market research was not conducted.

November 8, 2018 and October 29, 2020 OLEM held an Industry Day events to showcase OLEM requirements that are at a stage prior to receiving proposals. The SR-TASC requirement was featured in two 30 minute group sessions. Prospective contractors could meet with OSRTI leads and OAS staff assigned to the SRI-TASC requirement. These sessions were an opportunity for contractors to hear an overview of the requirement and ask question. As planned, these sessions were also seen by OLEM as an opportunity to determine market interest in the requirement and possible shaping of the acquisition strategy. However, in both events, there were no participants in the SR-TASC sessions.

Additionally, OSRTI staff have reviewed the GSA schedule and there are a few firms with the resources and experience to perform the required tasks in a broad sense. However, these firms do not have the community and site-specific knowledge needed to complete non-severable projects and currently on-going work requirements. With the added complexity due to COVID-19 limitations on how EPA interacts with community members it is not possible to bring an interim contractor "up to speed" to successfully complete requirements

8. Any other facts supporting the use of other than full and open competition:

Based on the authority cited and the information supplied by the program offices, no other source would be capable of performing the required without immediate impact to community involvement efforts at sites supported by the TASC contract. The national Superfund program and OEJ cannot afford to restart non-severable work, or enter a stop work situation due to the numerous commitments to stakeholders, affected communities,

and schedule impacts. Awarding to any other contractor while the competitive follow-on is being procured would negatively impact community involvement schedules and disrupt communities' ability to effectively participate in the site decision-making process, and leave the Agency vulnerable due to for non-compliance with CIP NCP requirements.

The many projects supported through the TASC program cannot be disrupted without causing a significant harm to the trust and communication levels between EPA and the communities. Continuity of support helps to build and sustain institutional knowledge in the community about complex Superfund site issues and over time facilitates the development of relationships with community stakeholders that assist the Agency in making better and more appropriate decisions.

9. Listing of the sources, if any, that expressed, in writing, an interest in the acquisition.

Once this JOFOC is publicized, in accordance with FAR 5.704 and FAR 6.305, a listing of interested sources will be added to the file for future reference.

10. 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.

The government is presently engaged in the active re-procurement of a five-year contract to provide support for the TASC program. For efficiency and cost-saving purposes, the TASC program will be combined under one contract with the Site Redevelopment (SR) program (currently under contract GS-10F-0309N, EP-G14S-00107). This contract will be a blanket purchase agreement (BPA) to is being procured competitively under FAR Part 15 requirements and is currently anticipated to be awarded by July 31, 2021.

The undersigned parties hereby acknowledge and understand upon execution, this JOFOC will serve as the final contract extension associated with OSRTI's contract EP-W-13-015. No further extensions to the period of performance shall be granted by the Office of Acquisition Solutions. Program officials and other OSRTI stakeholders have met and agree to the award timeline set forth in this document and agree to manage re-procurement activities based on this timeline, to the maximum extent practicable.

The replacement contract vehicle will comply with all the requirements of a competitive acquisition.

11. Contracting Officer Certification

I certify that Skeo Solutions is the only contractor capable of providing uninterrupted services to OSRTI and EPA Regional Offices.

PREPARED AND RECOMMENDED BY:

11/18/2020

Freya Margand, Contracting Officer Representative Date

CONCURRED AND APPROVED BY:

11/18/2020

Tia Gatling, Contracting Officer Date

11/18/2020

Claudia M. Armstrong, Branch Chief Date

12-18-2020

Tommie Madison, Competition Advocate Date

U.S. Environmental Protection Agency
Region 5
Office of Air and Radiation, Office of Enforcement & Compliance Assurance Division (ECAD)
Justification for Other than Full and Open Competition

a) **Identification of Agency and Contracting Activity:**

U.S. Environmental Protection Agency (EPA)
77 W. Jackson
Chicago, IL 60604

b) **Nature and/or Description of Action Being Approved:**

This justification for other than full and open competition (JOFOC) is made to document a Firm-Fixed Price (FFP) purchase order issued to FLIR Systems, Inc. of Nashua, New Hampshire as a sole source procurement.

c) **Description of Supplies/Services and Estimated Value:**

ECAD requires one FLIR GFx-320 infrared (IR) Infrared Optical Gas Imaging Camera that detects Hydrocarbons (VOC and HAP) emissions. Optical Gas Imaging camera is certified as intrinsically safe, explosion protected equipment, by the International Electrotechnical Commission. It is categorized as Class I Division I intrinsically safe optimal gas imaging camera. It is hand held and can develop violations at facilities, in addition to verifying compliance with Leak Detection and Repair standards, as meets the requirements of the Alternative Work Practice (i.e. General Provisions of 40 CFR Part 60, 61, 63, and 65) camera to use for determining compliance with Leak Detection and Repair (LDAR) provision in the Clean Air Act, including Reference Method 21 monitoring, and other investigative purposes. The total estimated cost of this item is $100,025.

d) **Identification of the Statutory Authority Permitting other than Full and Open Competition**

The statutory authority permitting other than full and open competition is 4.1 U.S.C. 1903 and FAR 13.50J(a) (1).

e) **Demonstration the proposed contractor's unique qualifications or the nature of the acquisition requires use of the authority cited**

EPA has determined that FLIR Systems, Inc. is the only source of IR gas-imaging cameras that can satisfy AECAB' s requirement. The required camera and lenses are specific to and compatible with EPA' s investigative procedures for air toxics and volatile organic compound (VOC) monitoring under EPA Reference Method 21, and for other VOC emissions investigations, including flare imaging and fence line monitoring. The needed items are only available directly from FLIR.

f) **The JOFOC will be posted in accordance with FAR.**

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

Th prices for the requested items have been determined to be fair and reasonable through comparison of similar items purchased under EP-15-5-00107 and determined fair and reasonable based on FLIR's published commercial prices as of September 2015.

h) <u>A description of the market research conducted and the results or a statement of the reason market research was not conducted.</u>

Market research was conducted in an attempt to locate manufactures that provide optical gas imaging cameras that detect hydrocarbon using internet searches. The following vendors were identified, but did not sell products that met all of the salient characteristics:

Sierra Olympic - does not have a camera that is handheld and needs to be mounted to a tripod. In addition, it is not intrinsically safe as is the GFx-320. Does not provide or offer a product that has a high-sensitivity mode used to detect smaller leaks or have a feature port for adding technology to quantify the imaged emissions.
<u>Sierra Olympic Sell Sheet</u>

OPGAL - does not have camera that is Class I Division I is what is categorized as intrinsically safe and does not require any permits. Does not provide or offer a product that has a high-sensitivity mode used to detect smaller leaks or have a feature port for adding technology to quantify the imaged emissions.
<u>OPGAL Products</u>

Request for Information was posted to GSA Schedules on 10/29/2020. Vendor asked if EPA would consider an alternate brand with the same capabilities indicating there may be products that could meet the salient characteristics. EPA posted RFQ1467762 using GSA E-Buy as a brand name or equal requirement. No quotes were received. EPA posted solicitation number 68HE0521Q001 posted for full and open competition. One quote was received. However, the price appeared unrealistically low. The CO notified the vendor the price appeared unreasonably low for the requirement and asked the vendor to provide descriptive literature such as illustrations, drawings, photographs of the proposed product to confirm it complies with the requirements. Vendor responded there was an error in submission and quoted a price of $111,122.78 for a FLIR GFx-320 IR camera. CO requested vendor confirmed they were an authorized reseller of FLIR. Vendor responded they were not, but intended to subcontract with an authorized FLIR reseller.

The quote received in response to solicitation 68HE0521Q001 was not from an authorized reseller. The vendor intended to subcontract with an authorized FLIR reseller. Per FAR Part 12.501 (b) "Nothing in this subpart shall be construed to authorize the waiver of any provision of law with respect to any subcontract if the prime contractor is reselling or distributing commercial items of another contractor without adding value. This limitation is intended to preclude establishment of unusual contractual arrangements solely for the purpose of Government sales".

As a result, no valid quotes were received in response to solicitation.

i) Any other facts supporting the use of other than full and open competition

For this procurement there are no other facts that support other than full and open competition

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

No other sources have expressed interest in providing a product equal to the salient characteristics the FLIR GF320 IR camera contains.

k) 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.

EPA will continue to conduct market research for subsequent similar requirements to determine if any additional viable sources become available.

I certify that the supporting technical data which forms the basis of this justification is complete and accurate.

Cognizant Technical Official

CONSTANTINOS LOUKERIS Digitally signed by CONSTANTINOS LOUKERIS Date: 2020.12.22 14:46:24 -06'00'

Constantinos Loukeris, Environmental Engineer
Enforcement & Compliance Assurance Division

I certify this justification is accurate and complete to the best of the contracting officer's knowledge and belief and the above information provided by the Division Director.

RHONDA FLYNN Digitally signed by RHONDA FLYNN Date: 2020.12.22 14:55:56 -06'00'

Rhonda Flynn, Contracting Officer
Mission Support Division

JUSTIFICATION FOR OTHER THAN FULLAND OPEN COMPETITION UNDER THE AUTHORITY OF FAR 13.501

1. **Identification of the agency and the contracting activity:** The U.S. Environmental Protection Agency (EPA) Office of Acquisition Solutions (OAS) intends to award a purchase order for the Office of Chemical Safety and Pollution Prevention (OCSPP) Office of Pesticide Programs (OPP) Registration Support Branch (RD).

2. **Nature and/or description of the action being approved:** This will be sole source procurement to BCGlobal, LLC, a Delaware limited liability company, a corporation organized under the laws of the United States of America with offices at 500 Union Street, Ste. 701, Seattle, WA 98101, U.S.A. for access to and updates of the pesticide maximum residue level (MRL) database. Orders for similar purchases from BCGlobal, LLC have been made in the past. The most recent order was under EP-16- H-000183 in the amount of $1,300,000.

3. **Supplies or services required to meet the agency's needs (including estimated value):** The Agency requires reliable, up- to-date MRL information. The MRL database allows EPA officials to quickly and easily access and compare foreign MRL standards via a web-based interface, which in turn assists in: the development of U.S. government pesticide policies with respect to international harmonization; responding to constituent inquiries (e.g., U.S. agricultural importers and exporters); developing official comments on foreign proposed standards; and identifying which foreign standards are inconsistent with international norms and may, therefore, be considered a trade barrier due to countries having different legal maximum levels of pesticide residues. In sum, EPA requires the ability to quickly search for international maximum levels of pesticide residues in/on agricultural commodities and BCGlobal's web-based database fulfills that need by providing a point-and-click user interface complete with pesticide, commodity, and international market picklists, making international comparisons extremely fast. Without a user friendly quick-search web database, addressing questions regarding international pesticide residue level comparisons would take days or weeks of research through international records and statutes. BCGlobal completes that work daily to maintain their up-to-date database. This also assists EPA with being in compliance with The Food Quality Protection Act which requires EPA to expedite its approval of pesticides meeting the FQPA definition of reduced risk and expedite the review of applications to register antimicrobial pesticide products. The maximum potential fixed price of this order is $1,437,500 for the total potential period of performance of a base period plus four one-year option periods. The chart below shows the price for each period of performance:

Period of Performance	Price
Base Period	$287,500
Option Period 1	$287,500
Option Period 2	$287,500
Option Period 3	$287,500
Option Period 4	$287,500

4. **Statutory authority permitting other than full and open competition:** FAR 13.501 (a), "Sole Source Acquisitions," in accordance with 41 U.S.C. 190I.

5. **A demonstration that the proposed contractor's unique qualifications or the nature of the acquisition requires use of the authority cited:** BCGlobal, LLC is the sole producer of a database that contains the level of detail and frequency of updating required by EPA. BCGlobal, LLC's database in part derives from work that EPA once performed in house but ultimately needed to outsource because of the volume of work needed to perform successfully. BCGlobal's web-based, interface-style database uses picklists and various radio-button options to allow users to search for international maximum pesticide residue levels across a variety of different variables (e.g., by agricultural commodity or commodity groups, by international market, by status of proposed regulation, etc.). Oftentimes EPA staff are queried by constituents (e.g., agricultural stakeholders, other domestic regulatory agencies, etc.) regarding commodity-specific maximum pesticide residue that EPA establishes and how those EPA-established maximum pesticide residue levels compare with other countries' pesticide levels. Due to both the time-consuming nature of researching other countries' regulations, as well as the intricacies of comparing (non-standardized) crop names and crop groups across the globe, not to mention language translation, EPA needs a quick and easy way to do these comparisons. By performing all of the up-front research on a daily basis and providing a simple user-friendly web-based database, EPA can respond to inquiries in a matter of minutes or hours instead of days or weeks. No other database exists with the same web-based capabilities, level of international information, level of detail, and reporting output capabilities.

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:** The agency conducted market research seeking contractors that can replicate the unique expertise which BCGlobal, LLC possesses (and the agency requires) and did not find any. The Agency did a web-based search for companies that offer MRL databases. The findings of the search failed to identify any companies that could address all of EPA's requirements. No other web-based database exists that can quickly and easily compare U.S. maximum pesticide residue levels to levels set by other countries, nor do they have the query report download options offered by BCGlobal . EPA also posted a sources sought notice on FedConnect and FBO looking for vendors that provided a MRL database similar to BCGlobal. No companies responded to the sources sought notice regarding this requirement.

7. **Determination by the Contracting Officer that the anticipated cost will be fair and reasonable:**
In accordance with FAR 15.402(a)(2)(ii)(A), the price of this procurement can be considered reasonable based on the similar pricing of the same items procured in the past. (See purchase order EP-16-H-000183 in the amount of $1,300,000.00 for the same

items procured. The current award is for a base of nine (9) months and four (4) one year options for a total award period of four years and nine months).

BCGlobal, LLC provided supplemental pricing documentation to support the increased prices under this new contract. Changes to the establishment of pesticide regulations by more countries have resulted in adding considerable complexity to the database including additional research and analysis and more complex system development to ensure proper displaying of MRLs in the system Therefore, based on the above rationale and pursuant to **15.402(a)(2)(ii)(A),** the cost is considered 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:** A web-base search was done to identify third party vendors who could provide the required information. Through this search a number of vendors were found. The vendors that were identified in the search provide MRL-type databases internationally; however, due to the structure and programming of their database they reference one particular nation's or collection of nations standards at a time rather than providing standards for many nations, as required by EPA and as provided by BCGlobal, LLC's database. The kind of database upgrade necessary for other companies would be on a longer time scale than EPA's need to be able to compare many nations simultaneously. It should also be noted that aggregators and other sites that reference US sources routinely list EPA' s or United States Department of Agriculture's (USDA) MRL database as a primary source and in both cases those references lead to BCGlobal, LLC's database.

A Sources Sought Notice was posted on 11/12/20 on FedConnect and FedBizOpps. Responses were requested from any other contractors with the technical expertise to complete the work needed. On the closing date, there was a total of 0 responses received.

9. **Other Factors Supporting the Use of Other than Full and Open Competition:** N/A

10. **A listing of the sources, if any, that expressed, in writing, an interest in the acquisition:** There has been no interest from any additional parties other than BCGlobal, LLC for this procurement. In addition, no companies expressed any interest in the sources sought notice that was posted for this requirement.

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.:** The Agency will continue to monitor the marketplace and engage with the market to review if any companies will be able to meet all of the Agency's requirements. The Agency will also issue another Sources Sought notice before a new award will be issued. The COR will also review the Agency's requirement to ensure that the needs of the Agency have not changed.

Program Office Certification: It is hereby certified that the information contained herein is accurate and complete to the best of my knowledge and belief, and it is requested that approval be granted to proceed with award to BCGlobal, LLC in accordance with FAR 13.501(a), "Sole Source Acquisitions", in accordance with 41 U.S.C. 1901.

12/30/20

Technical Representative
Office of Pesticide Programs

Date

Contracting Officer Certification: It is hereby certified that the information contained herein i acc urate and complete to the best of my knowledge and belie f, and it is requested that approval be granted to proceed with award to BCGlobal, LLC in accordance with FAR 13.50I(a) ·'Sole Source Acquisition in accordance with 41 U S.C 190I.

PCunningham

12-30-20

Patrice Cunningham
Contracting Officer/Team Lead

Date

Review

Dawn N. Roman

12/31/2020

Dawn Brown
Branch Chief

Date

APPROVAL

Approval of the Sole Source Acquisition for access to and updates of the pesticide maximum residue Level (MRL) database with BCGlobal, LLC under the authority of FAR 13.501(a), "Sole Source Acquisitions", in accordance with 41 U.S.C. 1901 is granted.

Tommie Madison

Tommie Madison
Agency Advocate for Competition

12-31-2020

Date

Procurement Request / Solicitation Number: PR-ORD-21-00384

LIMITED-SOURCES JUSTIFICATION FOR FEDERAL SUPPLY SCHEDULE PROGRAM

Upon the basis of the following justification, prepared in accordance with Federal Acquisition Regulation (FAR) 8.405-6(c), I, as Contracting Officer, hereby approve the use of sources limited to fewer than those required in FAR 8.405-1, FAR 8.405-2, and FAR 8.405-3 pursuant to the authority of 41 U.S.C. 251 as implemented by FAR 8.405-6(a)(1)(i)(B). This acquisition is conducted under the authority of the Multiple-Award Schedule Program (41 U.S.C. 251, et seq, and 40 U.S.C. 501).

1. **Identification of the agency and the contracting activity.**
   Agency: U.S. Environmental Protection Agency
   Contracting Activity: Cincinnati Acquisition Division

2. **Nature and/or description of the action being approved.**
   The Cincinnati Acquisition Division intends to award a new contract on a limited source basis to Government Scientific Source, Inc. for the supplies and related incidental services described in Paragraph 3. Government Scientific Source, Inc. is the only approved distributor of GERSTEL and, as described below, GERSTEL is the only product that will meet the Government's requirements. The estimated cost for the supplies and related incidental services is $26,716.94.

3. **A complete description of the supplies and/or services required to meet the agency's needs.**

   Government Scientific Source, Inc. will provide an GERSTEL autosampler (A) for a third generation GERSTEL thermal desorption system (TDS3) that is interfaced currently to a gas chromatography-mass spectrometry (GC-MS) instrument. The TDS-A is a robotic automated sampling system capable of introducing 7in glass and stainless-steel tubes to the TDS3 system. The TDS3 is heated to desorb or extract particle hydrocarbons, which are vaporized and then directed to a GC-MS for identification and quantification. Particulate matter (PM) is a regulated EPA criteria pollutant, and these compositional data support EPA's mission to better understand the toxicological, atmospheric, and climate impacts of carbonaceous PM emissions. The TDS-A must be compatible with the existing and functional TDS3 and Agilent GC-MS system machine procured earlier. The TDS-A shall be installed, and performance tested on-site at EPA-RTP laboratories. EPA personnel shall be instructed on the proper operation of the new TDS-A equipment.

4. **An identification of the LSJ rationale, and if applicable, a demonstration of the contractor's unique qualifications to provide the required supply or service.**
   - FAR 8.405-6 (a)(1)(ii)(B) – Only one source is capable of providing the supplies or services required at the level of quality required because the supplies or services are unique or highly specialized; or

GERSTEL is the only source capable of providing the supplies and related incidental services required because they are the only manufacture that produces an autosampler which is compatible with the existing systems. The autosampler that the Government requires must be compatible with the existing TDS3 and Agilent GC-MS system machine. These existing systems were previously procured and function appropriately. Relying on market research, the Government has determined that a GERSTEL TDS-A is the only automated sampler compatible with the TDS3 and Agilent GC-MS system machine. Therefore, this is the only item that will fulfill the Government's requirement. Government Scientific Source, Inc. is the only approved distributor of GERSTEL.

5. **A determination by the ordering activity Contracting Officer that the order represents the best value consistent with FAR 8.404(d).**
   The contracting officer anticipates pricing will be in accordance with Government Scientific Source, Inc. GSA Contract and determines that because Government Scientific Source, Inc is the only source capable of performing the work due to the specialized nature of the work, the pricing will represent the best value consistent with FAR 8.404(d).

6. **A description of the market research conducted among schedule holders, and the results of the research, or a statement why market research was not conducted.**
   Market research was conducted using the phone, internet, and face-to-face meetings with vendors/colleagues at international conferences. This research has revealed no other source can meet the government minimum specifications.

7. **Any other facts supporting the limited source justification.**
   N/A.

8. **A statement of the actions, if any, the agency will take to remove or overcome any barriers that led to restricted consideration before any subsequent acquisition for supplies and services is made.**
   EPA will continue to review the marketplace to determine if other competitors create a product which might be compatible with existing systems.

9. **The ordering activity Contracting Officer's certification that the justification is accurate and complete to the best of the Contracting Officer's knowledge and belief and evidence that the supporting data that forms a basis for the justification have been certified as complete and accurate by technical/program personnel.**

Certification

Project Officer:

I certify that the facts and representations under my cognizance, which are included in this justification and which form a basis for this justification, are complete and accurate.

MICHAEL HAYS Digitally signed by MICHAEL HAYS Date: 2021.01.05 08:18:57 -05'00'	01/05/2021
Signature	Date

Contracting Officer:

I certify that this justification is accurate and complete to the best of my knowledge and belief.

CHARLES HARTKEMEYER Digitally signed by CHARLES HARTKEMEYER Date: 2021.01.14 12:39:33 -05'00'	1/14/2021
Signature	Date

Reviews and Approvals

Team Lead or Higher:

I have reviewed this justification and find it to be accurate and complete to the best of my knowledge and belief.

HAROLD HINCKS Digitally signed by HAROLD HINCKS Date: 2021.01.04 17:18:47 -05'00'	1/4/2020
Signature	Date

Courtesy copy sent by email to Agency Advocate for Competition (per EPAAG 1.6.1)

SOLE SOURCE JUSTIFICATION

1. Agency and Contracting Activity. US EPA, Center for Environmental Measurements and Modeling, Air Quality Measurements Division, Air Quality Branch.

2. Nature/Description of Action(s). Sole source new contract for the acquisition of one new Dynamic Dilution Calibrator/Ozone Generator.

3. Description of Supplies/Services. Acquisition of one new Teledyne T700U dynamic Dilution Calibrator with ozone generator and three mass flow controllers for use in ongoing research related to the Congressionally mandated Reference and Equivalent Methods Designation Program.

4. Identification of Statutory Authority.

   This sole source acquisition is supported by FAR 13.106-1(b)(1)(i), wherein the Agency may solicit from only one source upon the Contracting Officer's determination that only one source is reasonably available to satisfy agency requirements.

   The research objectives for which the equipment will be used requires that specific concentrations of NAAQS gaseous pollutants be generated with known accuracy using a dynamic diluter. In addition, the diluter must be capable of generating ozone concentrations within user-definable ranges.

   Currently, Teledyne API is the only manufacturer that produces a dynamic diluter/ozone generator which employs an ozone generator using three mass flow controllers. The research objectives for which the calibrator will be used require that the calibrator employ three mass flow controllers to obtain trace level ozone and other gaseous test atmospheres.

   In addition, the calibrator must be based upon identical principles of existing EPA owned equipment to eliminate any calibration biases in the Agency's research. Currently, Teledyne API is the only manufacturer that produces a dilution calibrator/ozone generator employing three mass flow controllers and is compatible with existing EPA owned calibration equipment.

5. Demonstration of Contractor's Unique Qualifications.

   The JJ Wilbur Co., serves as the official distributor in the Eastern United States for the manufacturer Teledyne API.

   Teledyne API is the only manufacturer of a dynamic dilution calibrator/ozone generator employing three mass flow controllers which is compatible with existing EPA owned calibration equipment.

JJ Wilbur Co. is also the only Teledyne authorized distributor which can provide location support during the instrument's installation and functionality verification.

6. Government-wide Point of Entry (GPE)/ FedBizOps Announcement/Potential Sources. N/A

7. Determination of Fair and Reasonable Cost. Based on the historic cost information currently available, the Contracting Officer has adequate information to ensure that the cost to the government for this acquisition will be fair and reasonable.

8. Description of Market Research.

   As the Agency lead on formally designating Federal Reference and Equivalent methods, the undersigned Aerosol Research Engineer routinely interacts with instrument manufacturers on all FRMs and FEMs.

   For the dynamic dilution calibrator (Teledyne-API T700U), the undersigned Engineer has surveyed all manufacturers of calibration equipment, and found that most commercially available calibrators employ only two mass flow controllers (thus not meeting critical research requirements).

   The calibrators acquired will be used to interface with existing Teledyne instruments at EPA's facilities in Research Triangle Park, NC. As such, all calibration equipment must be identical in each laboratory in order to prevent calibration biases due to another calibrator type.

   EPA currently owns identical calibrators to those being procured which, along with the newly acquired calibrators, will be used in the new mobile laboratories. Therefore, no other calibrator commercially available will meet the Agency's research requirements as outlined above.

9. Any Other Supporting Facts. N/A

10. Listing of Interested Sources. N/A

11. Actions Taken to remove Barriers to Competition. The Government will continue to work with industry in an effort to seek qualified sources that remove existing barriers to competition.

12. Statement of Delivery Requirements. To be determined.

13. Total Estimated Dollar Value of the Acquisition. The total estimated value of this award is $54,290.00

Certification

Project Officer:

I certify that the facts and representations under my cognizance, which are included in this justification and which form a basis for this justification, are complete and accurate.

Signature _____ Date 1/7/2021

Contracting Officer:

I certify that this justification is accurate and complete to the best of my knowledge and belief.

KEITH PFEFFER Digitally signed by KEITH PFEFFER Date: 2021.01.07 13:23:09 -05'00'

Signature _____ Date _____

Reviews and Approvals

Team Lead or Higher:

I have reviewed this justification and find it to be accurate and complete to the best of my knowledge and belief.

HAROLD HINCKS Digitally signed by HAROLD HINCKS Date: 2021.01.07 16:26:11 -05'00'

Signature _____ Date _____

Courtesy copy sent by email to Agency Advocate for Competition (per EPAAG 1.6.1)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
JUSTIFICATION FOR OTHER THAN FULL AND OPEN COMPETITION

Program Office:	Superfund Resource & Scientific Integrity Branch Superfund & Emergency Management Division Region 4
Project Officer:	Katrina Jones Resource Management Section Resource Management and Scientific Integrity Branch Superfund & Emergency Management Division Region 4
Contracting Officer:	Geoffrey Krieger Acquisition Management Section Facilities, Grants and Acquisitions Management Branch Mission Support Division Region 4
Address:	U.S. Environmental Protection Agency 61 Forsyth Street, SW Atlanta, GA 30303
Mail Code:	14th Floor
Telephone No.:	(404) 562-8058
Email:	krieger.geoffrey@epa.gov
Project Identification:	Emergency and Rapid Response Services (ERRS) Contract Extensions

Nature and/or Description of Action to be Approved

The United States Environmental Protection Agency (EPA or Agency) Region 4 intends to extend the Emergency and Rapid Response Services (ERRS) contracts numbered EP-S4-15-03 (Environmental Restoration, L.L.C.), EP-S4-15-04 (CMC, Inc.), and EP-S4-15-05 (Kemron Environmental Services, Inc.) for an extended period of performance of three months. Additionally, one three-month option, which will be exercised only if necessary, is being added for a new potential period of six months. Currently, the period of performance for all three contracts expires on February 23, 2021. This extension is required to ensure continuity of services and completion of activities performed by the ERRS contractors.

Under the authority of Section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980 or Superfund, as amended by the Superfund Amendments and Reauthorization Act (SARA); Section 311 of the Clean Water Act (CWA), as amended by the Oil Pollution Act (OPA) of 1990; and Subtitle I of the Resource Conservation and Recovery Act (RCRA); and pursuant to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) (40 CFR Part 300); Presidential Decision Document (PDD) # 39; the Robert T. Stafford Natural Disaster Act; the Homeland Security Act of 2002; Homeland Security Presidential Directive 5 (HSPD-5) and the Federal Response Plan (FRP); and in accordance with any reauthorizations or amendments to any of the above named statutes, as well as new response legislation, the EPA has been delegated the responsibility to undertake response actions with respect to the release or threat of release of oil, petroleum products, hazardous substances, or pollutants and contaminants, that pose an actual or potential threat to human

health or welfare, or to the environment. The EPA is responsible for conducting evaluations and cleanups of uncontrolled hazardous substance disposal sites.

In addition, the EPA has the authority pursuant to Emergency Support Function (ESF) #10 and other laws to help and/or mitigate endangerment of the public health, welfare, or environment during emergencies or natural disasters; to support states and communities in preparing for responses to releases of oil, petroleum products, and hazardous substances; and to provide response and removal services in response to incidents resulting from natural and manmade disasters, weapons of mass destruction, acts of terrorism, and chemical, biological, radiological and nuclear incidents, and to Federally Declared Disaster incidents.

The purpose of the ERRS contracts is to provide fast, responsive environmental cleanup services for release of hazardous substances/wastes/pollutants and contaminant/materials and petroleum products/oil for the EPA Region 4. Environmental cleanup in response to natural and manmade disasters, terrorist activities, weapons of mass destruction, and chemical, biological, radiological, and nuclear incidents may also be required under these contracts.

The Government intends to extend the three Fixed-Rate, Indefinite Delivery/ Indefinite Quantity (ID/IQ) contracts, with work ordered through the issuance of task orders on primarily a time-and-materials basis. This justification is for a three-month extension with one (1) additional three-month option that will be exercised only if necessary. The total estimated value for these contract extensions, if the entire period of performance is exercised, is $21 million or $7 million per contract.

Description of Supplies or Services Required for the Reference Contracts

The ERRS contracts to be extended have the following periods of performance, and additional authorized total potential obligation per contract if the base and option are exercised.

Contract Number	Contractor Name	Contract Start Date	Current Expiration Date	Additional Authorized Amount
EP-S4-15-03	Environmental Restoration	8/22/2015	2/23/2021	$7,000.000
EP-S4-15-04	CMC Inc	8/22/2015	2/23/2021	$7,000.000
EP-S4-15-05	Kemron Environmental	8/22/2015	2/23/2021	$7,000.000

In order to determine the scope of contract coverage necessary to preclude a lapse in emergency response services until the ERRS replacement contracts are awarded, Region 4's Superfund and Emergency Management Division conducted an extensive analysis of every project currently underway under each ERRS contract. This division closely examined the status and the anticipated completion date of each project. Due to the nature of the contracts, it is not possible to accurately predict the need for emergency response services in the future. To ensure continuity of services for each ongoing project, the division explored options to either conclude work at a logical stopping point or to transfer projects to other EPA contracts (e.g., other Regions' ERRS, Environmental Services and Operations (ESO), Remedial Environmental Services (RES) or site-specific contracts). Based on this review, thirteen (13) sites were identified that are currently in the process of remediation that will not be completed before February 23, 2021. The projects must remain in operation to ensure the EPA continues to address and mitigate endangerment to the public health, welfare or environment and support States and communities in preparing for responses to the release of hazardous substances, pollutants or contaminants.

The ERRS contracts provide Region 4 response support services for emergency and time critical removal

actions to mitigate or eliminate any hazard or damage to the environment resulting from a release or threat of release of hazardous substances, oil and other contaminants of pollutants to the environment. If these projects were to stop or see significant delays, human life and communities throughout the southeast would be negatively impacted.

Identification of Statutory Authority Permitting Other Than Full and Open Competition

The statutory authority permitting other than full and open competition relative to this request is 41 U.S.C §3304(a)(1). Only one responsible source and no other suppliers will satisfy agency requirements as implemented by the Federal Acquisition Regulation (FAR) 6.302-1.

A statement demonstrating the unique qualifications of the proposed contractor or nature of the acquisition requiring the use of the authority cited

Region 4 has three contractors currently providing emergency and time critical response services. While each of the companies have comparable capabilities, when awarded a site the contractors develop a deep understanding of the technical issues as well as the community concerns surrounding the site that in turn makes them integral to the success of the project. The ERRS contractors work closely with EPA employees and other EPA contractors to develop a first-hand knowledge of the history of the Superfund sites, understand the heightened sensitivity to the evolving relationship of EPA with the affected communities, and frequently have involvement within the litigation process surrounding the clean-up of certain sites. Because of this, only the contractor identified for each site is capable of performing the work described at this time.

The projects identified below are in a critical stage in the clean-up process and a break in contract coverage would result in a significant impact to human health and the environment, as previously stated. The contractors currently at each site are the only source that can continue the existing work and support projects that are necessary for mission critical work without unacceptable delays until such time as the ERRS replacement contracts are awarded, for the following reasons:

a. The contractors have the necessary knowledge, staff, and experience to complete the work included in these extensions in the most cost effective and efficient manner for the EPA.

The time critical projects being performed at the Superfund sites require a significant amount of time and resources for the contractor to understand the extensive project background information and become familiar with the sites. This institutional knowledge makes the contractors uniquely qualified to complete the current tasked activities. For example, Kemron is responsible for water treatment at the Mississippi Phosphate site. Without constant treatment of water, and the knowledge of methods refined over the past four (4) years, the potential for an untreated release of contaminated water into the Gulf of Mexico or Grand Bay Estuary represents a catastrophic threat to the ecosystem. At the 35th Avenue site, CMC has built relationships since the start of the task order with the community and affected homeowners that are extremely critical in allowing EPA to remediate contaminated properties. A new contractor would need to rebuild the trust and confidence that has been developed over the years, causing delays to cleanup actions which would further endanger the community health and safety. In addition to the threats to human health and the environment, if a project had to be completed by another contractor, EPA would expend substantial duplicative costs in the form of mobilization and other startup costs that would be needed for a new contractor to become familiar with the site and challenges faced (like hurricanes at the Mississippi Phosphate site), the selected remedy, and the draft design deliverables completed to date. Once this was completed, assuming there were no significant changes recommended, the new contractor would be able to complete the project. This situation would result in increased cost to the government and result in

delaying the implementation of the remedy.

Extending the current contracts to maintain continuity of services is the only alternative to meet the Government's need without causing significant financial harm, creating unnecessary breaks and delays in services, and damaging ongoing enforcement and community engagement actions. Continuity of services will result in significant cost savings and more efficient project performance. The projects listed below are long term work sites. This means the contractors have mobilized trailers and other equipment for a more permanent presence. In many cases, longer term housing/rental agreements have been negotiated for personnel, leading to cost savings when compared to per-diem or above per diem rate hotels. Local hiring has been utilized to reduce costs and eliminate per diem completely. Equipment rates, negotiated by each contractor at the time of contract award, can change based on subcontract agreements or usage rate discounts. The existing contracts contain a clause (B-2 Fixed Rates for Labor, Equipment and Other Items) that requires new negotiated usage rates when the average purchase price is reached for a particular piece of equipment. This discount can be up to half the usual rate for equipment. If the current contracts are not extended, mission critical projects such as, but not limited to, the Mississippi Phosphate water treatment, Westside Lead, Ore Knob, Davidson Asbestos and 35th Avenue will be negatively impacted.

Environmental Restoration, CMC and Kemron all have past performance records that indicate acceptable performance and are able to be determined responsible contractors.

b. These services are needed on an ongoing basis while the Agency completes the procurement process of the new ERRS contracts.

Region 4 is dependent on the ERRS contracts to meet mission critical work related to cleanup of Superfund sites. EPA does not have in-house resources or expertise to perform the cleanups work required under the ERRS contracts. Region 4 did explore the potential to shift long term sites to other contracts; however, the ESO and RES contracts do not provide all the same services or have the capabilities that ERRS contracts have. The pre-priced labor and equipment rates in ERRS contracts allow for rapid changes when site conditions dictate a new approach, or the addition of new equipment or personnel. Another possibility explored was a regional crossover (i.e., using another region's ERRS contract). This is not an acceptable solution, as two of the contractors do not currently hold ERRS contracts in other regions, meaning that many of the most pressing sites would need to transition to a new contractor and lead to significant delays as described above. Additionally, the other EPA regions cannot provide the potentially significant contract capacity that Region 4 requires to maintain work at existing sites while also responding to unplanned emergencies.

Specific task orders needing extensions are identified in the following tables. This is not a complete list of task orders that are in existence at the time of this document but is a listing of critical sites that will require contractor support after the current ERRS contracts expires on February 23, 2021.

Site Name	Contractor	Current Cost	Task Order Initiated
35th Avenue	CMC	$22,847,092.87	8/25/15
Southside Chattanooga	CMC	$16,369,629.45	2/22/19
Westside Lead	CMC	$7,272,000.00	12/2/19

35th Avenue Site, Birmingham, AL - As a result of contamination from a coke manufacturing facility, high levels of benzo (a) pyrene and arsenic have impacted the surrounding communities. This site has been active as a removal action since 2014 (continued with CMC under EP-S4-15-04 beginning August

25, 2015) addressing different phases based on a tiered approach for those residents and properties considered as the most critical in nature. The current phase brings the total properties to 670. Under the most current action, access was granted on a volunteer basis by the owners to continue the excavation of contaminated soil. Many of these access agreements would not have been reached, if not for the long-term trust built by the contractor with community members. There is an urgent need to continue work on this project to protect the community from contamination located on their properties and prevent the spread of additional contamination. Continuing these efforts with another contractor or interruption of removal activities is not in the best financial interest of the government nor the community. Coordination with many residents has already been established between the EPA contractor and the owners detailing the cleanup of their property. This process would have to be repeated if another contractor is to assume the work. New access agreements may need to be signed with each homeowner, which could amount to an approximate 15% increase per property cost due to additional hours on the part of the contractor and EPA to confirm each location has a valid access agreement. This change would also incur an additional mobilization cost for the new contractor. The purchase price has been reached for many pieces of equipment. A new contractor would potentially charge the full contract price, meaning the cost of each location could rise dramatically and impact the number of properties that could be remediated.

Southside Chattanooga, Chattanooga, TN – This site consists of residential and child high impact properties (playgrounds, parks, daycare centers, etc.) where lead-bearing material from past foundry operations were used as fill and topsoil. A total of 1,894 properties have been sampled and cleanup has occurred on 233 properties. Removal activities addressed the known properties in the higher tier category (above 1,200 mg/L). Remedial actions are planned for 620 properties in the second tier (400 – 1,200 mg/L). However, at any point a property may come up that is in the higher tier. These are prioritized and immediately addressed. Coordination between the EPA contractor and the owners has occurred on many properties detailing the cleanup process and obtaining the necessary access and timeline. If there is a change in the contractor, this process would be repeated, and an approximate 10% cost increase would occur per property. An additional mobilization cost for new equipment to be delivered, subcontracts to be negotiated and signed, and per diem costs would also be incurred for the overall site in order to change contractors.

Westside Lead, Atlanta, GA - As a result of various metal smelting processes possibly from foundries, slag was utilized as fill in various residential areas. These neighborhoods were developed during the first half of the 20th century, and prior to the implementation of the Resource Conservation and Recovery Act (RCRA), when there were no prohibitions against using industrial waste products as fill material. This has resulted in elevated lead levels in the soil greater than 4,000 mg/kg. Removal activities involving the excavation of the contaminated soil began on January 6, 2020. The Site boundary quickly expanded from 368 to 1,068 residential parcels in February 2020. Continuation of these actions are necessary to address the imminent threat to human health. If the JOFOC is not approved, continuing these efforts with another contractor or interruption of these large-scale removal activities would not be in the best financial interest of the government nor the community. Coordination between the EPA contractor and the owners has been established on many properties detailing the cleanup process. This process would have to be repeated and would result in an approximate 10% cost increase per property. Another contractor would have to be tasked with continuing the work, resulting in unnecessary additional mobilization costs, and project delays.

Site Name	Contractor	Current Cost	Task Order Initiated
Alaric Groundwater Plume	ER	$3,689,048.00	9/17/15
JJ Seifert Machine Shop	ER	$900,000.00	9/17/15

Anniston Lead	ER	$1,000.000.00	4/17/17
Montco Research	ER	$560,000.00	12/20/19
Davidson Asbestos	ER	$250,000.00	11/13/20
Picayune Wood Treating	ER	$66,200.00	2/5/20
Galey & Lord Sludge	ER	$56,000.00	2/11/20

Alaric Groundwater Plume, Tampa, FL – In 2000, EPA placed this site on the National Priorities List (NPL) because of contaminated groundwater and soil resulting from facility operations. It is approximately 1.7 acres in a mostly commercial and industrial area. The site is secure and site contamination does not currently threaten people living and working near the site. However, the continual groundwater monitoring, panning additional treatment of contaminated soils, and conducting the required Five-Year Reviews is necessary to protect the public and the environment. The actual monitoring is important to continue without interruption. This is to ensure the effectiveness of the onsite vapor mitigation system. Changing contractors at this point will incur additional costs. Additional funding would be required to compensate for the added expense to change all duties and allow time for the new contractor to take over the duties. This is estimated as a 10% increase to the project.

JJ Siefert Machine Shop, Ruskin, FL – The JJ Seifert Machine Company operated until 2011, making products such as electronic components, tools, dies, jigs and fixtures. As a result, soil and groundwater contamination were found. Cleanup at the site involved the injection of biodegradable material into the subsurface to facilitate the biological degradation of the volatile organic contaminants (VOCs) in the groundwater. Currently, there is a long-term groundwater monitoring program in process to evaluate the effectiveness of the biological treatment of the VOCs. Interruption of this process is not possible. Another contractor replacing the existing one would incur costs of approximately $25,000 in startup costs for the new contractor to review the reports and data, set up new testing schedules and laboratories to perform the tests, and site visit costs for the new company to familiarize themselves with the needs of this particular site

Anniston Lead, Anniston, AL – The Anniston Lead Site has been a long-term action addressing lead contamination in residential and commercial areas of Anniston, AL resulting from the cities long history of foundries. In the most recent years additional properties have been identified that required immediate removal actions. Some of this has been hindered by access. The process continues to address the necessary properties as they are identified. It is anticipated that the cost to change contractor is approximately $50,000. This site does not have continual operations, but it is critical that the contractor can respond immediately when a property is identified.

Montco Research, Palatka, FL – The Montco Research Products Site was a chemical manufacturing facility that ceased operation due to a fire in 2018. This resulted in the abandonment of the facility and a variety of leaking vessels, containers, storage tanks, drums and soil contamination. Records and a site evaluation revealed 20,000 gallons of spent hydrochloric acid, 185,660 gallons and 78,000 pounds of spent zinc chloride, and 3,750 gallons of spent ethylbenzene. Additionally, hydrochloric acid, zinc chloride, and ethylbenzene remain at the facility. An emergency response action addressed the immediate issues to control the active releases. The current actions involve treating the liquid wastes, decontamination of the tanks and drums, bulk and disposal of all liquid wastes and possible soil excavation. These actions have just begun in the last few months and is expected to be 90% complete by February 23, 2021 when the existing contract expires Changing contractors at this point would incur unnecessary mobilization costs to complete a project that will be in its final completion stage. It is estimated, the site would incur an approximate 5% increase to the overall site cost.

Davidson Community Asbestos, Davidson, NC - This Site involves property that once operated as an asbestos mill from the 1930s to 1960s. It consists of both residential and commercial properties. The surrounding area was used by the former manufacturing facility to dispose of asbestos containing waste. It was also used as a fill material for low-lying areas and to supplement residential properties. Surface soil containing asbestos has been detected at or above .25% in various residential properties and a park. Current removal actions are addressing this threat to human health and the environment as a time-critical action. The urgency of this project is to immediately protect the community from contamination located on their properties that is in a range considered to be of a time-critical nature. Transitioning these activities to a different contractor is not in the best financial interest of the government nor the community. Depending on the progress of the site, these actions could be 90% - 100% complete by 2/23/20. Additional costs to bring in another contractor at this point would incur an additional mobilization cost to finalize the site. The site would incur an additional $20,000 in costs.

Picayune Wood Treating, Picayune, MS - A 5-Year Review performed as part of a remedial action at the Picayune Wood Treating Site noted a 2012 change in the dioxin toxic equivalency factor (TEQ). Previous removal and remedial response actions were based on pre-2012 dioxin TEQs. Therefore, a removal action has be deemed necessary for one additional residential property. Mobilization and removal actions are expected to begin 1/4/21. It is expected this site will be 90% - 100% complete by 2/23/21. Changing contractors at this point incurs additional mobilization costs to complete a project that will be in its final site cleanup stage. The additional costs are estimated to be $7,000.

Galey & Lord Sludge, Darlington, SC - The Galey & Lord Sludge Site consists of approximately 304 acres of a separate agricultural field that received treated sludge from the former Galey & Lord Plant Site industrial waste treatment plant (WTP) from 1993 until 2013. The current focus is on six residential properties with ground water wells contaminated with several per- and polyfluoroalkyl substances (PFAS), notably perfluorooctanoic acid (PFOA) and perfluorooctane sulfonate (PFOS) significantly above both current EPA Advisory concentrations. The source of the contamination is suspected of being connected to the land farming of the WTP sludges from the former Galey & Lord textile mills. Under a National Pollution Discharge Elimination System (NPDES) permit, WTP sludge was land applied during the plant's operational years. Current removal actions are in process to mitigate well water contamination on six residential properties. The removal actions at this site are expected to be 90% - 100% complete by 2/23/21. Replacing the contractor at this point to complete the actions would incur an unnecessary mobilization and change in duties cost of approximately $10,000.

Site Name	Contractor	Current Cost	Task Order Initiated
Mississippi Phosphate	Kemron	$60,917,005.74	9/21/16

Mississippi Phosphate Corporation (MPC), Pascagoula, MS – The former MPC facility is a diammonium phosphate (DAP) fertilizer plant that went into bankruptcy and has subsequently been the cause of various releases that EPA has responded to over the years. Most of the water from this site has a very low pH and contains high levels of ammonia and other contaminants such as phosphorus and fluoride. These pollutants pose a significant threat to the surrounding surface water bodies and ecosystems. The current efforts by EPA have been to address the gypsum stack, wastewater treatment system, wastewater ponds and runoff. These efforts cannot be interrupted or stopped due to the threat to the surrounding area of a release and spread of additional contamination. Transitioning these activities to a different contractor would take months as this has become a complex site while addressing and attempting to control the wastewater. Local hires have been made that not only have saved the government money for per diem and travel, but in the case of a local hire maintenance worker, significant costs for repair of equipment that can be done on site compared to off-site. Additional independent contracts have also been set in place

with the same ERRS contractor in order to satisfy the many components of this site. The cost to make a change on a site this complex could incur approximately $500,000 in additional costs to the overall site. Changing the contractor at this location, for a short period of time until a new contract can be put in place, and task order awarded, would likely negatively impact site operations and planned remediation while also resulting in higher costs.

Awarding new short-term bridge contracts, instead of extending the current contracts, was also considered. This alternative would result in significant adverse impacts (e.g., significant delays and duplicative costs as indicated previously) on these current complex projects. The follow-on ERRS contract has been advertised on beta.SAM.gov and is expected to close January 25, 2021. A bridge contract(s) would require additional time to develop, advertise, and compete. With the level of interest received during market research it is highly probable that a bridge contract would receive significant levels of interest, leading to an extended period of review before an award decision could be made. This likely would result in the bridge contract(s) not being ready for award before the new ERRS contract or before the current ERRS contracts' expiration date. The significant cost and time required for EPA to compete ongoing projects, and vendors to compete for numerous short-term project specific contracts, would not provide commensurate benefit that might be realized by competing these requirements only for the requirements to be competed again and potentially change contractors within the span of a few months. The current contractors would need to de-mobilize from the site and new contractors would need to mobilize. This pattern could be repeated again when the ERRS competition is complete and new contracts are awarded, meaning there could be multiple contractors and points of contacts in a short period of time. Keeping the current ERRS contracts in place until the new ERRS contracts are awarded allows EPA to leverage the incumbent contractors that already have the organization, institutional knowledge of the sites, resources and staff in place to provide these services without any negative impact related to transition. It is not cost effective and would potentially cause unacceptable delays on mission critical remediation projects, that are essential to protect human health and the environment, for the EPA to negotiate and award a new short-term contract(s) with other source(s).

Description of Efforts to Ensure that Offers are Solicited from as Many Potential Sources as Practicable

As noted throughout the justification, the only viable way to continue mission critical activities while conducting the new ERRS procurement is to extend the three existing contracts with Environmental Restoration, CMC and Kemron. The follow-on ERRS contract(s) will be for a five-year period (three-year base and one two-year option), which gives potential new contractors the time to amortize startup costs across multiple months or years, and time for the contractors to acclimate to the conditions unique to each project. Two or more contracts are anticipated under the new ERRS award, meaning new task orders will be subject to the fair opportunity process (i.e., competition). The solicitation was released on 12/01/2020 with a planned date for receipt of proposals of 1/25/2021. Award of the contracts is planned for April 2021. Once this occurs, a fair opportunity process will need to be conducted between the new awardees, which could take anywhere from 2-3 months for some of the sites. Extending the current contracts will allow for a careful procurement process and a reasonable transition period for the new contracts.

As required by FAR 5.201 and 6.305, this JOFOC will be published on the Federal Business Opportunities website. In accordance with FAR 6.302-1(d)(2), any bids, proposals, quotations, or capability statements that are received will be considered.

Determination of Fair and Reasonable Cost

In accordance with FAR 15.404, the contract rates under the ERRS contracts being extended will be

determined fair and reasonable at the time of the award; option rates will also be determined fair and reasonable at that time. Contract rates have, and will, only be adjusted in compliance with the Bureau of Labor Statistics data relative to the affected labor categories. The Contracting Officer hereby determines that the anticipated cost to the Government will be fair and reasonable.

Market Research

In accordance with FAR Part 10, the Agency performed market research as part of the re-procurement of the ERRS contracts. A Sources Sought notice was issued on October 24, 2019 and closed on November 8, 2019. A total of seven (7) responses from interested sources were received. Five (5) out of seven (7) respondents, were registered under the NAICS 562910 as a Small Business in the System for Award Management (SAM). The new ERRS V procurement is based on this market research and ensures maximum competition.

Additional Supporting Facts

One of the fundamental requirements for the ERRS contracts is to provide EPA the ability to respond to unplanned releases of chemicals or oil anywhere in the Region 4 area of Kentucky, Tennessee, North Carolina, South Carolina, Georgia, Florida, Alabama, and Mississippi. Each ERRS contract has a requirement to be capable of responding anywhere in the region on a 24 hour a day basis. The contractors are required to have personnel and equipment en route within two hours of notification, and on site within eight hours. These contract requirements necessitate a pool of personnel, equipment and subcontractors on-standby across the region that are available at short notice. Each of the contractors have built up their capacity within the region since the initial award of the contracts. The phone duty On-Scene Coordinator, who changes on a weekly basis, has access to information on each of the existing contractors, their key personnel, equipment, and subcontractors that allow them to make a fully informed decision about what contractor to task for emergencies depending on the location. If Region 4 were to award new contracts, extensive effort would need to be expended to review key personnel to ensure they meet the minimum requirements, the locations of equipment and personnel to ensure they can respond anywhere in Region 4 within the timeframe required, and capabilities of a new contractor to fully perform the statement of work prior to awarding task orders. This would create unacceptable delays, additional costs to the Government, and could potentially prevent the Superfund and Emergency Management Division from responding to releases of hazardous chemicals, which in turn would produce unacceptable threats to community health and safety.

Listing of Sources

In accordance with FAR 6.302-1(d)(2), any bids, proposals, quotations, or capability statements that are received will be considered. A listing of interested sources will be compiled and kept on file for future reference.

Proposed Actions to Overcome Barriers to Competition

None. This is a short-term solution to the Agency's immediate and ongoing needs for emergency and rapid response services. Each new task order requirement will continue to be subject to the fair opportunity process described in the contracts. Once the new ERRS contracts have been awarded and post award documentation is complete (quality plans, key personnel approval, etc.), sites will be transitioned into the new awards and the existing contracts closed.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
JUSTIFICATION FOR OTHER THAN FULL AND OPEN COMPETITION

Technical Certification

I hereby certify that the supporting technical data in this justification is accurate and complete to the best of my knowledge and belief and meets the Government's minimum needs.

CAROL MONELL Digitally signed by CAROL MONELL Date: 2021.01.15 19:06:22 -05'00'

01/15/2021

Carol J. Monell
Director, Superfund & Emergency Management Division
Region 4

Date

Contracting Officer's Certification

I hereby certify that this justification is accurate and complete to the best of the Contracting Officer's knowledge and belief.

01/19/2021

Geoffrey Krieger
Contracting Officer
Region 4

Date

Review

MICHAEL PIGRAM Digitally signed by MICHAEL PIGRAM Date: 2021.01.19 08:20:03 -05'00'

01/19/2021

Michael A. Pigram
Regional Acquisition Manager
Region 4

Date

TOMMIE MADISON Digitally signed by TOMMIE MADISON Date: 2021.01.19 11:26:22 -05'00'

01/19/2021

Tommie L. Madison Jr.
Agency Advocate for Competition
Office of Acquisition Solutions

Date

Approval

KIMBERLY PATRICK Digitally signed by KIMBERLY PATRICK Date: 2021.01.21 15:22:34 -05'00'

Kimberly Y. Patrick
Senior Procurement Executive and Director
Office of Acquisition Solutions

Date

Environmental Protection Agency – Region 5

JUSTIFICATION FOR EXCEPTION TO FAIR OPPORTUNITY
BRAND-NAME JUSTIFICATION
UNDER IDIQ CONTRACTS
SOLICITATION # TBD
DELIVERY ORDER # TBD

The Environmental Protection Agency (EPA) makes this Justification for the issuance of an Exception to Fair Opportunity order pursuant to Federal Acquisition Regulation (FAR) 16.505(a)(4)(i), and in accordance with the format prescribed at FAR 16.505(a)(4)(ii).

a) Identification of Agency and Contracting Activity:

U.S. Environmental Protection Agency (EPA)
77 W. Jackson
Chicago, IL 60604

b) Nature and/or Description of Action Being Approved:

This brand-name justification for an exception to fair opportunity is made for the solicitation and award of a Firm Fixed Price (FFP) delivery order using the National Aeronautics and Space Administration (NASA) Solutions for Enterprise-Wide Procurement (SEWP) V contract vehicle, Group A. This delivery order will provide for brand-name Cisco network products for use by the EPA Great Lakes National Program Office.

The total estimated value of the overall requirements of this procurement is $94,000.00.

c) Description of Supplies/Services and Estimated Value:

This procurement will provide the EPA's Great Lakes National Program Office's (GLNPO) research vessels, the RV Lake Guardian and RV Mudpuppy II, with network switching hardware, software, and product maintenance to refresh existing IT equipment and grow the existing networks.

Cisco Products

Part Number	Description	Qty
C9500-16X-A	Catalyst 9500 16-port 10Gig switch, Advantage	4
CON-SNT-C95K16XA	SNTC-8X5XNBD Catalyst 9500 16-por	4
C9500-NW-A	C9500 Network Stack, Advantage	4
PWR-C4-950WAC-R	950W AC Config 4 Power Supply front to back cooling	4
PWR-C4-950WAC-R/2	950W AC Config 4 Power Supply front to back cooling	4
CAB-TA-NA	North America AC Type A Power Cable	8
C9500-DNA-16X-A	C9500 DNA Advantage, Term licenses	4
C9500-DNA-L-A-3Y	Cisco Catalyst 9500 DNA Advantage 3 Year License	4
PI-LFAS-T	Prime Infrastructure Lifecycle & Assurance Term - Smart Lic	12
PI-LFAS-AP-T-3Y	PI Dev Lic for Lifecycle & Assurance Term 3Y	12
NETWORK-PNP-LIC	Network Plug-n-Play Connect for zero-touch device deployment	4
C9500-NM-8X	Cisco Catalyst 9500 8 x 10GE Network Module	4
S9500UK9-1612	Cisco Catalyst 9500 XE 16.12 UNIVERSAL	4
GLC-TE++=	1000BASE-T SFP, TAA Compliant.	12
C9500-ACC-KIT-19I=	Accessory kit for Catalyst 9500 Series - 19" rack	4
CAB-C15-CBN=	Cabinet Jumper Power Cord, 250 VAC 13A, C14-C15 Connector	10

d) <u>Identification of the Exception to Fair Opportunity and Rationale:</u>

This brand-name justification is being prepared as required by FAR 16.505(a)(4)(i), and in accordance with the format prescribed by FAR 16.505(a)(4)(ii). FAR 16.505(a)(4)(i) states:

The following is a justification for the brand-name products required:

Rationale for Cisco Products:

Current EPA network setup consists of a substantial investment in Cisco routers and switches all along their current networks. EPA's network switches provide the links which permit communications between EPA's staff and the desired IT resources. Nearly all collaborative tools, including email, text messaging, file sharing, and voice communications, are dependent upon network switches. Most administrative processes have also been automated as well as many scientific research tools. The agency recognized a need for network switch standardization to ensure a consistent and reliable system and selected a Cisco solution as documented in the Technical Reference Model of the agency's Enterprise Architecture. The standard architecture ensured that offices implementing new network environments would have compatibility and integrate with the connectivity solution available throughout EPA. GLNPO's research vessels' Cisco switch upgrade conforms to the Agencies compatibility, integration and connectivity solution. GLNPO's research vessels will interface with EPA's national network through its satellite Internet connection and an IPSEC VPN Trusted Internet Connection (TIC) connection to RTP, NC. The responsibility for network switch support is distributed across the agency with leadership and standards provided by the Office of Mission Support (OMS).

GLNPO's research vessels require a refresh of a large percentage of its existing core-level local area network (LAN) switching infrastructure. These network switches are obsolete, no longer supported by the manufacturer, and are vulnerable to both reliability and cybersecurity failures. In order to ensure the compatibility and reliability of the research vessels' networks, only Cisco products can be used to allow for specific functionalities on EPA's Cisco-provided network. These functionalities are Smart Operations for switches; Auto Configurable Switch Port allows for automatic interface of each directly connected end device; EXQoS to centrally set up enterprise wide Quality of Service policies and deployment; and Enhanced Interior Gateway Routing Protocol (EIGRP) which allows for a protocol to determine shortest path to a network. Use of another brand would not allow for these functionalities to be available, which are essential to network compatibility and reliability, and also would invalidate the existing warranties with the remaining infrastructure. GLNPO's research vessels and EPA cannot risk losing warranty coverage on existing network equipment. Losing manufacturer warranties would result in a lack of consistency, dependability, and compatibility. Using another manufacturer would require purchases of new routers and switches to maintain complete system reliability. Transitioning to a different environment would not be cost effective due to the heavy investment in Cisco hardware and software already provided by the Agency. GLNPO's research vessels nor does EPA have the expertise in the design and operation of a multi-manufacturer network environment so use of multiple manufacturers' products would not be feasible.

e) <u>Determination That the Anticipated Cost is Fair and Reasonable:</u>

The government will compete this Brand Name action through the NASA SEWP vehicle. The Contracting Officer will perform a price analysis to ensure fair and reasonable pricing. Award of the resulting NASA SEWP V Delivery Order will not be made until the CO has determined that all prices offered to the Government are fair and reasonable.

f) Other Facts Supporting the Justification

All supporting facts have been described above.

g) Statement of Actions:

While the current requirements provide unique capabilities to EPA, all available sources will continue to be reviewed in order to ensure that requirements for future competitive acquisitions will be addressed according to EPA and FEDSIM directives and acquisition guidelines.

h) Certification by Technical or Requirements Personnel

Evidence that any supporting data that is the responsibility of technical or requirements personnel (e.g., verifying the Government's minimum needs or requirements or other rationale for an exception to fair opportunity) and which form a basis for the justification have been certified as complete and accurate by the technical or requirements personnel.

I hereby certify that the supporting data is complete and accurate and complete.

David Drisko

David Drisko

EPA COR

i) Signature of Authorized Officials:

I hereby certify that the Justification is accurate and complete to the best of my knowledge and belief, and determine on the basis of the findings above that the exception to fair opportunity is in accordance with the requirements, and is in the best interest of the Government.

Rhonda Flynn 01/25/2021

Rhonda L. Flynn

EPA Contracting Officer