

Department of the Interior  
 Minerals Management Service  
**JUSTIFICATION FOR OTHER THAN FULL AND OPEN COMPETITION**  
 (JOFOC for Acquisitions > SAT)  
 (Optional for Acqs. ≤ SAT)

I recommend that the MINERALS MANAGEMENT SERVICE use other than full and open competition for the acquisition of the following supplies or services. If this acquisition is to be made with only one source or a limited number of sources, negotiations will be conducted with the indicated proposed supplier(s).

1. Nature/Description of the Acquisition (FAR 6.303-2(a)(2))  
 This is an annual Class Justification that supports the issuance of Firm Fixed Price Purchase Orders on a sole source basis to holders of permits on the Outer Continental Shelf for the reimbursement of reproduction costs for Geological and Geophysical (G&G) data and information. This Justification covers all awards during the 12-month period beginning October 1, 2011 through September 30, 2012, with the total dollar amount of all actions estimated at a not-to-exceed amount of \$1M. Awards will be made by the Bureau of Safety and Environmental Enforcement (BSEE), on behalf of the Bureau of Ocean Energy Management (BOEM).

2. Description of Supplies or Services (FAR 6.303-2(a)(3))  
 The Outer Continental Shelf (OCS) Lands Act requires permittees to provide G&G data and information to the Federal Government at the cost of reproduction. Oil and gas permittee requirements are encoded in 30 CFR 251 while 30 CFR 280 covers permits and authorization for other minerals. The contractual actions covered by this Justification will be issued to reimburse permittees reasonable costs of reproduction of proprietary material in accordance with the Federal Acquisition Regulations (FAR).

3. Requisition No. Requisition Numbers assigned individually	5. Name of Proposed Source(s) Multiple Sources
4. Cost Estimate (including options) (FAR 6.303-2(a)(3)) Funds allocated for FY12-estimated \$1,000,000	

**6. REQUESTING OFFICE CERTIFICATION**

I certify that this recommendation contains the information required by FAR 6.303-2 and its contents are accurate. I request the Contracting Officer's (CO's) assistance in conducting market research to identify potential sources.

Requesting Office Rep. (Name & Title) George Dellagiarino	FOIA Exemption (b) (6)	Phone Nos 703-787-1526	Date: 12/20/2011
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**7. PROCUREMENT OFFICE CERTIFICATION**

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

Contracting Officer (Name) Pamela Diliberto	FOIA Exemption (b) (6)	Phone No: 504-736-2626	Date: 12/20/2011
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I certify that this justification is accurate and complete to the best of my knowledge and belief.

Chief of the Contracting Office (Name) Lisa A. Algarin (Acting)	FOIA Exemption (b) (6)	Phone No: 703-787-1120	Date: 12/20/2011
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Identify one statutory authority for this acquisition to be conducted under "other than full and open competition" procedures [FAR 6.303-2(a)(4)]. Provide narrative justification associated with the respective stated authority in block number 15.

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**THE COMPETITION IN CONTRACTING ACT OF 1984 (P.L.98-369)**

8.  **41 USC 253(c)(1) – Only one responsible source**

This authority shall be used in preference to the Public Interest justification. It shall not be used when any of the other circumstances are applicable. (Explain what makes this contractor the only responsible source: i.e., does this proposed contractor have facilities or equipment that is specialized and vital to the effort? Is the proposed contractor the only one that can meet critical schedules? Does the proposed contractor have prior experience of a highly specialized nature vital to the effort? Why won't any other product or service satisfy the need? Is the acquisition the result of an unsolicited research proposal [see FAR 6.302-1(a)(2)(i)]? Describe market survey and analysis efforts leading to this conclusion.)

9.  **41 USC 253(c)(2) – Unusual and compelling urgency**

This authority applies in those situations where (1) an unusual and compelling urgency precludes full an open competition and (2) delay in award of contract would result in serious injury, financial or other, to the Government. (Explain why the agency's need for the supplies or services is of such an unusual and compelling urgency that the Government would be seriously injured unless it limited the number of sources. Solicitation from as many potential sources as is practicable under the circumstances is required.)

10.  **41 USC 253(c)(3) – Industrial mobilization; engineering, developmental, or research capability; or expert services**

This authority applies when it is necessary to award the contract to a particular source or sources in order (1) to establish or maintain an essential capacity for theoretical analyses, exploratory studies, or experiments in any field of science or technology, or (2) to establish or maintain an essential engineering, research, or development capability to be provided by an educational or other nonprofit institution or a federally funded research and development center, or (3) to acquire the services of an expert for any current or anticipated litigation or dispute. (Does the proposed contractor have facilities and equipment that are vital in the event of a national emergency? Is the proposed contract to maintain properly balanced sources of supply for meeting the requirements of acquisition of programs in the interest of industrial mobilization? Is the proposed contract to create or maintain the required domestic capability for production of critical supplies by limiting competition to items manufactured in the United States or Canada?)

11.  **41 USC 253(c)(4) – International agreement**

This authority may be used when the acquisition is to be reimbursed by a foreign country that requires the product to be obtained from a particular firm as specified in official written direction such as a Letter of Offer and Acceptance; or, when services are to be performed, or supplies are to be used in the sovereign territory of another country and the terms of a treaty or agreement specify or limit the sources to be solicited. (Cite the international agreement or treaty between the United States and the foreign government or international organization that precludes full and open competition. Provide the written directions of the foreign government reimbursing the agency for the cost of the acquisition, which precludes full and open competition.)

12.  **41 USC 253(c)(5) – Authorized or required by statute**

This authority may be used when a statute expressly authorizes that the acquisition be made through another agency or from a specified source. (Cite the authority that expressly authorizes that the acquisition be made through another agency or from a specified source, and attach a copy of the statute.) Note: While this statutory exception includes the small disadvantaged business 8(a) set-aside program, a JOFOC is not required for this type of procurement.

13.  **41 USC 253(c)(6) – National Security**

This authority may be used for any acquisition when disclosure of the Government's needs would compromise national security. It will not be used merely because the acquisition is classified, or merely because access to classified matter will be necessary to submit a proposal or to perform the contract. (Explain why the disclosure of the Government's needs would compromise the national security or violate security requirements.)

14.  **41 USC 253(c)(7) – Public Interest**

This authority may be used when none of the other authorities above apply. Individual justification, Secretarial approval, and Congressional notification 30 days before award of contract are required.

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**15. JUSTIFICATION** (Attach additional pages if needed)

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(a) Demonstration that the proposed contractor's unique qualifications or the nature of the acquisition requires use of the authority cited [FAR 6.303-2(a)(5)]. [Prepared by Program Office]

The Act provides for competitively awarded leases for exploration, development and production of oil and natural gas and other minerals. The Act, at 30 CFR 251.13, required that permittees provide the BOEM access to, and copies of, G&G data and information gathered pursuant to pre-lease and post-lease activities. The data and information is available to the Government at no cost, but the Act provides that the permittee shall be reimbursed for the costs of reproducing such data and information at the lowest market price. Therefore, the Act creates a statutory mandate for the BOEM to pay for reproduction costs from the permittees when the Government desires copies of the data. G&G data and information are proprietary to each company that collects the data. Companies that collect the data retain the sole right to license the data for others use, but G&G data and information can only be purchased and obtained legally from the company that collects the data in the OCS, or the third party to whom the data was licensed.

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(b) Describe the efforts taken to ensure offers were solicited from as many potential sources as is practicable, including whether a Government-wide point of entry (GPE) notice was or will be published as required by FAR 5.2 and, if not, which exception under FAR 5.202 applies. [FAR 6.303-2(a)(6)]. [Prepared by Program Office]

An annual GPE notice will be published on the FedBizOpps GPE site that describes the intent of the BOEM to enter into contracts to pay for the reproduction costs of G&G data. If any interested party responds, the BOEM will consider any alternative approaches suggested.

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(c) Demonstration that the anticipated cost to the Government will be fair and reasonable [FAR 6.303-2(a)(7)].  
[Prepared by Contracting Officer]

The implementing regulation at 30 CFR 251.13 directs the Government to reimburse the reproduction costs at reasonable rates. It also states that the costs must be at either the permittee's lowest rate or at the lowest commercial rate in the geographic area. The Contracting Officers issuing the purchase orders will conduct price analysis to ensure that the reproduction costs meet those criteria. The BOEM will ensure that only the costs of reproduction, pursuant to the requirements of the OCS Lands Act will be reimbursed, and any ancillary costs of gathering or analyzing the data, or any costs not specifically authorized by the OCS Lands Act will not be allowed.

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**15. JUSTIFICATION CONTINUED** (Attach additional pages if needed)

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(d) Describe the market research that was conducted and the results of that survey. If actions were taken by procurement personnel to satisfy this requirement such as a GPE sources sought synopsis, please specify. [FAR 6.303-2(a)(8)]. [Initiated by the Program Office and finalized in collaboration with the Contracting Officer]

Market research was conducted in accordance with FAR Subpart 10 to analyze and gather information on standard commercial rates for reproduction costs. No survey was required to conduct market research since the sole source nature of this requirement is pursuant to 41 USC 253(c)(5) – Authorized or required by statute. The BOEM maintains a database of G&G data acquisition companies and operators who are issued permits. The BOEM reviewed the International Association of Geophysical Contractors (IAGC) website and the Industry Code of Practice for the Use of Licensed Geophysical Data <<http://www.iagc.org/en/cms/?113>> to determine the exclusive sources.

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(e) Describe any other documentation to support the JOFOC. [FAR 6.303-2(a)(9)]. [Prepared by Program Office]

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(f) List sources, if any, that expressed, in writing, an interest in the acquisition. [FAR 6.303-2(a)(10)].  
[Prepared by Program Office]

No other sources have expressed interest in the acquisition to date.

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(g) List the actions the Bureau will take to promote competition on any subsequent acquisitions for similar supplies or services. [FAR 6.303-2(a)(11)]. [Prepared by Contracting Officer]

The BOEM will conduct an annual review to ensure that competition conditions are unchanged. Should additional qualified offerors be identified or conditions change, the BOEM will reconsider competing these actions.

**APPROVALS (FAR 6.304)**

Over \$550,000	16. Competition Advocate (Name & Title)	<input checked="" type="checkbox"/> <b>APPROVE</b> <input type="checkbox"/> <b>DISAPPROVE</b>	(Signature) FOIA Exemption (b) (6)	(Phone No.) 703-787-1070
	Mark Eckl			(Date) 12/20/11
Over \$11.5 million	17. Head of the Contracting Activity (Name & Title)	<input type="checkbox"/> <b>APPROVE</b> <input type="checkbox"/> <b>DISAPPROVE</b>	(Signature)	(Phone No.)
				(Date)
Over \$57 million	18. Departmental Senior Procurement Executive (Name & Title)	<input type="checkbox"/> <b>APPROVE</b> <input type="checkbox"/> <b>DISAPPROVE</b>	(Signature)	(Phone No.)
				(Date)