

**Department of the Interior
Bureau of Ocean Energy Management, Regulation and Enforcement
JUSTIFICATION FOR OTHER THAN FULL AND OPEN COMPETITION**

(JOFOC for Acquisitions > SAT)

(Optional for Acqs. ≤ SAT)

I recommend that the **BUREAU OF OCEAN ENERGY MANAGEMENT, REGULATION AND ENFORCEMENT** 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 a sole source action to be awarded as a hybrid type of contract for a period sixty (60) months from the date of award. The majority of the line items are fixed price with a time and materials line item for program support. The contract is to be awarded to Bercha International, 2926 Parkdale BLVD NW Calgary AB, Canada T2N 3S9. This requirement will be a continuation of an existing BOEMRE contract for the application of fault tree methodology to develop spill occurrence rates for size ranges of crude and diesel spills for oil-and-gas-lease sales and any development projects.

2. Description of Supplies or Services [FAR 6.303-2(a)(3)]

This procurement will provide a continuation of study that applies fault tree methodology that develops spill occurrence rates for size ranges of crude and diesel spills for oil-and-gas-lease sales and any development projects in the Chukchi and Beaufort Sea OCS Planning Areas proposed under current BOEMRE and industry planning. This requirement for statistical analysis services will further refine the in-place model and allow for the consistency in methodology with that developed under prior Alaska OCS Region fault tree analyses in contracted studies.

3. Requisition No. 0040007454	5. Name of Proposed Source(s) Bercha International, Inc.
4. Cost Estimate (including options)[FAR 6-303-2(a)(3)] \$201,530	

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) Richard Prentki, Oceanographer	FOIA Exemption (b) (6)	Phone No: 907-334-5277	Date: 7/29/11
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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) Lisa A. Algarin	Signature: FOIA Exemption (b) (6)	Phone No: 703-787-1120	Date: 7/29/2011
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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) Celeste Rueffert	Signature: FOIA Exemption (b) (6)	Phone No: 703-787-1324	Date: 7/29/11
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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.

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.

15. JUSTIFICATION (Attach additional pages if needed)

(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]

Bercha International, Inc. has been involved with this study for over 10 years, serving as the principle model architect in developing the in-place assessment methodology into the current statistical model, in addition to updating and maintaining this statistical model and providing comprehensive statistical analysis of the model results. Data consistency problems typically arise during or following recapture situations when reproduction of data sets or processes are used in place of original ones. Bercha International's unique relationship to the project and involvement with the original data is critical in providing the continued development of the study data due to the need for consistency in variance required to maintain the accuracy and relevance of the data, and to insure the interrelationship between all of the data components and data sets. Competing for this requirement would lead to substantial duplication of cost to the government and delays in refining the in-place model and adapting the model to the Chukchi and Beaufort Sea OCS Planning Areas.

(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]

A pre-solicitation notice will be published announcing the Government's intent to issue a sole source contract. In addition, the justification will be published to ensure that the public is aware of the intended activity.

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

In accordance with FAR 15.404-1 BOEMRE will obtain sufficient pricing details from the offeror to allow a thorough evaluation and cost analysis of the proposed pricing in order to make a determination that the costs are fair and reasonable.

15. JUSTIFICATION CONTINUED (Attach additional pages if needed)

(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]

As a result of discussions with the subject matter experts in the Program Office and Headquarters personnel as to the reputation and unique capability of Bercha International, its proven experience and in-depth knowledge of the study model, the program code, and subroutines and modules of the model make Bercha International the only source capable of applying the necessary fault tree methodology for the continuation of the study in the Chukchi and Beaufort Sea OCS Planning Areas.

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

The ability to conduct this study requires expertise in the technology, as well as the ability to successfully capture and analyze the data in order to provide the continued development of the study data in the Chukchi and Beaufort Sea OCS Planning Areas. The statistical analysis involved in this study requires knowledge and experience with the particular interrelated data components and data sets that require consistency in order to maintain the accuracy and relevance of data that Bercha International possesses. The team at Bercha International have the unique mix of knowledge and expertise to conduct this study successfully.

(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 any interest in this acquisition to date.

(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 BOEMRE Environmental Studies Program will incorporate any subsequent and related services needs into the annual studies development process, which includes public meetings, a federal advisory committee, and the opportunity for stakeholder input.