

**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 acquisition to be awarded for a 12-month base period, and four 12-month option periods from the date of award for National Studies List (NSL) Project No. AK-12-02 "Satellite Tracking of Bowhead Whales: Habitat Use, Passive and Acoustic and Environmental Monitoring". This requirement will be a continuation of an existing BOEM contract for the satellite tracking of bowhead whales for investigation of habitat use and acoustic and environmental monitoring in bowhead whale habitats.

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

This acquisition will provide expert scientific services for the improvement and deployment of current satellite tracking technology on bowhead whales to document year-round movements. In addition, the study will also provide key information on year-to-year variation of bowhead use of feeding areas, characterize bowhead vocal behavior, and measure environmental conditions as needed to interpret habitat use and call behavior collected on multiple passive acoustic recorders currently and concurrently deployed throughout the study area.

<b>3. Requisition No.</b> 0040037121	<b>5. Name of Proposed Source(s)</b> Alaska Department of Fish and Game P. O. Box 115526 Juneau, AK 9981-5526
<b>4. Cost Estimate (including options)[FAR 6-303-2(a)(3)]</b> \$2,700,000	

**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.

<b>Requesting Office Rep. (Name &amp; Title)</b> Jeffrey Denton, WL Biologist	<b>Signature:</b> FOIA Exemption (b) (6)	<b>Phone No:</b> 907-334-5262	<b>Date:</b> 06/07/2012
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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.

<b>Contracting Officer (Name)</b> Lisa A. Algarin	<b>Signature:</b> FOIA Exemption (b) (6)	<b>Phone No:</b> 703-787-1120	<b>Date:</b> 6/7/2012
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I certify that this justification is accurate and complete to the best of my knowledge and belief.

<b>Chief of the Contracting Office (Name)</b> Douglas M. Marr	<b>Signature:</b> FOIA Exemption (b) (6)	<b>Phone No:</b> 703-787-1324	<b>Date:</b> 6/7/2012
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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 and 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 JOFOP 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 need)

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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 study requires an unusual degree of coordination between Federal and State agencies, the North Slope Borough (NSB), and Native Subsistence whaling organizations and boat captains. ADF&G leads a collaboration of established participants and has acquired the unique experience in the region's logistics and tag methods. The (AEWC) has consistently and formally approved their involvement of their members in the proposed study. The AEWC and subsistence whalers are uniquely qualified to provide expertise, labor and equipment to deploy tags on free-swimming bowhead whales. The ADF&G team, including Native whalers, have successfully tagged 57 bowhead & 7 gray whales during the previous 6 years of study. Pis, Quakenbush and Small, both senior marine mammal biologists, have extensive publication records and considerable experience using satellite tracking technology many species, including bowhead and beluga whales. Please refer to the attached continuation page for more information.

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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]

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.

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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]

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

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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]

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 the Alaska Department of Fish and Game (ADF&G), their proven experience and in-depth knowledge of the study make ADF&G the only source capable of developing and implementing the satellite tagging technology and methodology for the continuation of the study. The ADF&G has created and leads a collaboration of experts necessary to accomplish this research which is a continuation of an ongoing study. Full an open competition is not planned for this study, however, publicizing the notice through the GPE will inform the general public of the Government's Intent.

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(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 unique expertise in the technology, as well as the ability to successfully capture, manage, and analyze the data in order to provide the continued development and analysis of the study data. 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 ADF&G possesses. The team at ADF&G is the only organization that has the unique mix of knowledge and expertise required to conduct this study successfully, that can provide the ongoing public outreach and continuity of database management between current and future data. Please refer to the attached continuation page for additional information.

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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 any interest in this 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 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.

**APPROVALS (FAR 6.304)**

Over \$550,000	16. Competition Advocate (Name & Title) <b>MARY ECKL</b> <b>CHIEF ACS. MGMT. DIV.</b>	<input checked="" type="checkbox"/> <b>APPROVE</b>	(Signature)	(Phone No.) <b>203-787-1020</b>
		<input type="checkbox"/> <b>DISAPPROVE</b>		FOIA Exemption (b) (6)
Over \$11.5 million	17. Head of the Contracting Activity (Name & Title)	<input type="checkbox"/> <b>APPROVE</b>	(Signature)	(Phone No.)
		<input type="checkbox"/> <b>DISAPPROVE</b>		(Date)
Over \$7 million	18. Departmental Senior Procurement Executive (Name & Title)	<input type="checkbox"/> <b>APPROVE</b>	(Signature)	(Phone No.)
		<input type="checkbox"/> <b>DISAPPROVE</b>		(Date)

## **Continuation Sheet**

### **JOFOC for New Bowhead Whale Contract AK-12-02 Satellite Tracking of Bowhead Whales: Habitat Use, Acoustic and Environmental Monitoring**

**Continuation of Block 15(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 ADF&G PIs have an excellent rapport with the North Slope Borough (NSB) and Alaska Native community established over decades of close cooperation. A substantial cost increase in the study, in addition to lost time related to further tag development and a potential missed field season in FY13 are imminent without continuity provided by ADF&G.

The initial contract produced information on movements and habitat use by bowhead whales throughout their range in all seasons of the year. Satellite tags used were basic location tags and location with limited (binned) dive data. The project was successful in improving the satellite tag attachment to bowhead whales through the ADF&G collaboration with the Greenland Institute of Natural Resources and the Alaska Native whaling community. By the end of the contract, tags regularly functioned for several months to over 12 months instead of for a few days or weeks. Many of the original questions about bowhead migration routes, timing, important areas, and even inter-annual variability in movements and timing have been answered by the basic tags available. Important remaining questions that cannot be answered by the current tags include 1) what are the sound levels encountered by bowhead whales in the vicinity of seismic and drilling operations and ship traffic, and what is bowhead behavior relative to these sound levels, 2) how do bowhead whale vocalization rates change with behavior (e.g., migrating, feeding, proximity to seismic and exploration drilling operations), 3) are there oceanographic features that are consistent with bowhead feeding areas, and 4) how do bowheads use the water column during diving. For these questions an acoustic tag and an oceanographic tag and location tag combination are necessary.

ADF&G and the Greenland Institute of Natural Resources have already had discussions with Wildlife Computers and Sea Mammal Research Unit (SMRU) about how to improve existing tags with appropriate acoustic and environmental sensor configuration so they can be used with the attachment system developed specifically for these bowhead whale studies. Improvements to the existing tags are necessary as acoustic information and more detailed diving and oceanographic data are harder to transmit to satellites because of the increase in data that needs to be transmitted. The existing Argos system is limited in data processing, and whales do not spend enough time at the surface for the required transmissions.

Tagging bowhead whales is a sensitive issue as bowheads are an incredibly valued resource by Alaska Native whaling communities. The team that worked together under the initial contract has developed an unparalleled working relationship that could not be re-established in less than 2 years, if at all. Without the involvement of ADF&G, there would be substantial time lost and potential termination of the study. The timing of this study is crucial in that initial exploration drilling and exploration oil and gas activity is to occur during the proposed study period (2012-2016) and the opportunity to meet the objectives of the new contract relative to such activity in a timely manner would become limited without the involvement of ADF&G.

The new contract will continue to collect location and movement data to add to existing sample sizes which is critical for data continuity and integrity of the study, but it will also take the next step by using the tagging methods developed over the past 6 years to develop and deploy tags that record sound (i.e., passive acoustic tags) and tags that record oceanographic data (i.e., temperature and salinity) with a more detailed dive record.

**Continuation of Block 15(e) Describe any other documentation to support the JOFOC. [FAR 6.303-2(a)(9)]. [Prepared by Program Office]**

The ADF&G has a long history of working with subsistence hunters to jointly conduct marine mammal research. Current ADF&G projects include bio-monitoring of ice seals and satellite tagging of seals, belugas, and walrus(es). The collaborative relationship with the whalers is unique in that they are directly involved in identifying important questions, designing the tag attachment shafts, modifying deployment methods, approving study plans, and participating in publications and presentations. ADF&G also engaged Native Alaskan and Canadian partners and many others by providing maps of bowhead tracks on a weekly basis to individuals by e-mail prior to their posting to the ADF&G website. This encouraged a regular dialogue about what the whales were doing, how it compared with what people knew from traditional knowledge, and allowed questions to be answered on a regular basis. Thus, the primary investigators of the first contract possess the knowledge, skills, communication and coordination infrastructure resources required for implementation of additional bowhead whale tagging. Their experience and success with bowheads during the first contract in addition to their experience with other species and their ability to work with Native and research entities on an international level in this challenging regional environment is proven.

The BOEM did anticipate the use of follow-up contracts because in addition to the general movements and habitat use questions it was recognized that information regarding bowhead interactions with industry would depend on the number of tagged whales and the level of industrial activity. It was recognized that accumulating data on these interactions would require additional years and more sophisticated acoustic and environmental data beyond the initial contract. Data will also be submitted to NODIC.

The data, owned by BOEM, but collected, archived, managed, analyzed and published by ADF&G under the previous contract will be combined with additional data from the new contract to augment the much needed sample sizes of tagged whales by sex and size/age composition. Information from the previous tagging project is essential to avoid repetition of the efforts that resulted in minimal tag duration and function. Experience gained under the previous contract will allow a seamless transition from the old project to the new as trusting relationships with the Alaskan community have been formed, and coordination/communication pathways have been established. In addition, skills have been honed and state of the art equipment has been developed that would require a large duplication of cost if another entity were considered for this study.

The Greenland Institute of Natural Resources (GINR), an ADF&G collaborator in this effort is the only entity, albeit international, with at least some of the knowledge necessary to carry out this program, but it does not have the long term cultural understanding and trusting working relationship with the Alaska Native whalers, a critical element of this study, nor does GINR have access to manage and analyze the existing data bases. There are no known legal or potential legal issues the Government is aware of at this time.

There would be substantial additional costs related to relearning what worked during the first 6 years of the project. These costs would largely be unrecoverable through competition. More tags would be deployed with less longevity. Given that the Alaska Native whalers are protective of bowheads it would be very difficult to maintain their approval of the project leadership changes and the tagging effort would be less successful. It will be challenging enough to get new acoustic and oceanographic tags to work well and stay attached to the whales, but by not taking advantage of the experience gained under the first contract, the chances of success are greatly diminished. If the contract were awarded to another entity, it would cause multiple years of time delays to get another organization to the level that ADF&G has progressed to date, and with this time delay, the partnership with the Alaska Native whalers would be lost, along with meeting the objectives of this study.