

JUSTIFICATION FOR OTHER THAN FULL AND OPEN COMPETITION

Requisition Number: 09243000020

1. The Bureau of Reclamation Mid-Pacific Region proposes to enter into a contract for the operation and maintenance of the Nimbus Fish Hatchery (NFH) with the California Department of Fish and Game (CDFG).
2. The authority for use of other than full and open competition for this transaction is 41 U.S.C. 253(c)(1) as implemented by FAR 6.302-1 (a) (2) - only one responsible source and no other supplies or services will satisfy agency requirements.
3. The cited authority must be used because only the proposed contractor possesses the following unique qualifications which are required for this acquisition:

The California Fish and Game Commission has been delegated in Article 4, Section 20 of the California State Constitution the authority to divide the State into fish and game districts and provide the general policies for the protection of fish and game within the State. The CDFG is responsible for administering the Department's activities in accordance with these policies. The salmon and steelhead trout raised in the NFH are classified as game species. There are no privately owned licensed facilities rearing salmon or steelhead trout within the State. All hatcheries that do rear salmon and steelhead are operated by CDFG. As a result, State regulations address only the regulatory requirements for privately owned facilities and are silent on the operations of publicly owned facilities. A CDFG leaflet describing the requirements for privately owned aquaculture facilities that includes applicable sections of Fish and Game Code and California Administrative Code is attached. It is assumed that the requirements for private facilities would apply should Reclamation not utilize CDFG to operate and maintain the hatchery. This would require Reclamation to require the contractor to obtain all the necessary permits from CDFG, request certain waivers to the regulations to allow the collection of fish eggs, enter into separate contract with CDFG to supervise the collection of adult fish, and require the payment of fees for disease testing that is currently provided as part of the existing relationship. It is unlikely that all the necessary permitting could be done prior to the time when adult salmon arrive in November. Non-use of CDFG would lead to considerable additional expense to obtain, maintain, and comply with permit requirements and would likely result in the loss of a year of production which fails to meet Reclamation's mitigation requirements.

CDFG is uniquely qualified to fulfill all requirements for the operation and maintenance of the NFH based on past performance, cost effectiveness, technical

expertise, and agency mission. Reclamation has funded CDFG for the operation and maintenance of the NFH continuously since 1955. During the past 52 years, CDFG has amassed a substantial amount of technical information and knowledge regarding the production of salmon and steelhead specific to the NFH. Technical nuisances such as run timing, egg take calculations, spawning and incubation techniques, temperature management, development of interagency relationships, and prevention and suppression of juvenile fish disease specific to the lower American River Basin are all critical factors that influence the successful operation and maintenance of the facility. Accumulation of this knowledge by CDFG has proven critical to accomplishing all performance criteria required by the contract.

CDFG is uniquely and expertly qualified to perform the required work. The CDFG is the principal resource agency for the State of California whose basic mission is to manage the state's biological resources. To that extent, CDFG operates eight salmon and steelhead hatcheries, and 14 trout hatcheries. Operating these facilities provides a large resource base for local expertise to assist in NFH operation and maintenance. Coordination between the various salmon and steelhead hatcheries is an invaluable resource for CDFG to make the NFH perform at higher standards and more efficiently in both fishery and fiscal aspects. This ability to tap into resources at other hatcheries managed by CDFG resulted in the successful transport and stocking of the entire production of NFH in less than 3 days during an emergency response in 2007 to a failure in the NFH water supply line.

A synopsis was posted from February 4 – February 14, 2009 stating that the Government intends to negotiate on a sole source basis with the CDFG. The synopsis requested that any interested parties respond to the synopsis. No responses were received.

4. Offers will be solicited from the following source:

California Department of Fish and Game
Business and Contracts Management Branch
1416 Ninth St, 12th Floor
Sacramento, CA 95814
Phone: (916) 651-8328

Attn: Lynne Shively, Manager
Email: lshively@dfg.ca.gov

Pursuant to FAR 5.101(a), a synopsis notice of the contract action was publicized in the Governmentwide Point of Entry (See #6 below).

5. The estimated cost of this transaction is \$7,740,000 for the period April 1, 2009 through March 31, 2014. The amount of any resulting contract action will be

determined to be fair and reasonable based on pricing techniques set forth in FAR 15.4. The contractor will be asked to submit certified cost or pricing data and a cost analysis will be performed.

6. As part of a market research effort, a combined sources sought/synopsis was posted from February 4 - 14, 2009 stating that the Government intends to negotiate on a sole source basis with the CDFG. The synopsis requested that any interested parties respond to the synopsis. No responses were received.

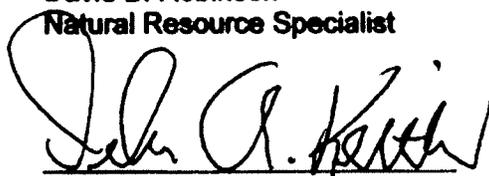
7. Additional facts to support this justification for other than full and open competition include:

None.

8. I certify that the information contained in and attached to this justification is accurate and complete to the best of my knowledge and belief.


David B. Robinson
Natural Resource Specialist

4/1/09
Date

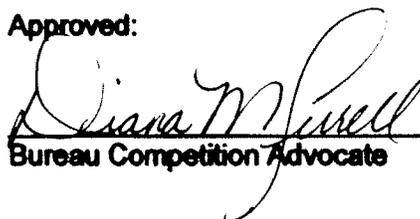

Debra A. Keith
Contracting Officer

4/6/09
Date


Robert Williams
Chief of the Contracting Office

4/6/09
Date

Approved:


Diana M. Sowell
Bureau Competition Advocate

4/9/09
Date