

JUSTIFICATION FOR OTHER THAN FULL AND OPEN COMPETITION

Solicitation No.	R10PS34163	Contract Specialist:	Myra Cordero
Solicitation Title: Cold Storage of Reverse Osmosis Membranes			

Introduction: As required by Federal Acquisition Regulation 6.303-2, this Justification for Other Than Full and Open Competition (JOTFOC) is prepared to document the facts and rationale justifying the authority cited in Paragraph 4 to negotiate with a sole offeror for the above requirement. This JOTFOC follows the format and contains all the information required under FAR 6.303-2.

1. Identification of Agency, Contracting Activity and Document.

Bureau of Reclamation, Yuma Area Office, Justification for other than Full and Open Competition.

2. Nature and/or Description of Action Being Approved.

Approval to issue contract to Michael Romano Construction (MRCI), a Small Business, on a sole source basis in accordance with the authority of FAR 6.302-2 Unusual and Compelling Urgency. Acquisition under the authority of the test program for commercial items (section 4202 of the Clinger-Cohen Act of 1996).

3. Description of the Supplies or Services Required to Meet Agency's Need

The Bureau of Reclamation, Yuma Area Office, has a continuous requirement for the cold storage of (RO) reverse osmosis membranes. The cold storage of the RO membranes also requires Insurance of \$3.0 million or \$2,025 per Membrane to protect the Governments interest. The cold storage services are critical to maintain the RO membranes in "ready to use" conditions as the cold storage retards the natural deterioration of the cellulose acetate component of the membranes. The cold storage services are now being furnished by MRCI under a verbal Purchase Order (Purchase Order No. R10PX34163) which was determined to be essential and critical as stated in this Justification and Determination. Services were to be completed in May 31, 2010 as the Option Year 2 was not exercised due a market analysis which did not support the exercise of Option Year 2 which would have commenced on June 1, 2010.

The market analysis showed that the prices for the impending Option Year 2 were not fair and reasonable. Thus, the requirement under FAR 17.207, Exercise of Options, Paragraph: "(d) The contracting officer, after considering price and other factors, shall make the determination on the basis of one of the following: (2) An informal analysis of prices or an examination of the market indicates that the option price is better than prices available in the market or that the option is the more advantageous offer" was not satisfied.

At this time the Government will enter into a 10-month contract with the Option to Extend Services with MRCI to provide the aforementioned services. The Government requested a proposal from MRCI on June 9, 2010, for pricing to cover the 10-month period.

By allowing MRCI to continue providing the cold storage services, the Government will:

--Avoid the financial risk should the membranes be exposed to an environment which would lead to damage and render the membranes as unusable resulting in costly replacement of approximately \$1.5 million not including the disposal and repurchase associated costs.

--Be in a better position to work on a new solicitation for this requirement; and mitigate the price/cost impacts that would otherwise be burdened by MRCI and/or be passed on the Government. The mitigation efforts are the Governments best effort to avoid the impacts to MRCI (Small Business) as MRCI entered into a lease for the cold storage services and associated insurance in March 2010 when the Government revised the cold storage services in March 2010. By allowing MRCI to continue with the cold storage services we are allowing the costs to be distributed to over a 12 month period versus the costs being allocated into a 3 month period (minimum to allow for a new contract to be put in place) which would not be in the best interest of the Government as the Government would still absorb the costs regardless of whether over a 12-month or 3-month period.

4. Statutory Authority Permitting Other Than Full and Open Competition.

The statutory authority for use of other than full and open competition for this transaction is as follows:

FAR 6.302-2 Unusual and compelling urgency (10 U.S.C 2304(c)(2) or 41 U.S.C 253(c)(2)). **(This justification may be made and approved after contract award when preparation and approval prior to award would unreasonably delay the acquisition.)**

5. Proposed Contractor's Unique Qualifications/Nature of Acquisition Requiring Use of Cited Authority.

At this time, it is not practical to solicit for an amount less than the 10-months, as stated above the costs would be distributed by the contractor, MRCI, either between the 3-month or 10-months. If MRCI is asked to only perform for 3 months, the costs would need to be recovered over just a 3-month period which would result in very high pricing to the Government.

Since MRCI already has the membranes in their facility and carries the required Liability Insurance, MRCI is uniquely qualified to satisfy this interim requirement until a new contract is put in place. MRCI is the only company capable of meeting the Government's urgent need for copier services at this time and is able to do so at a fair and reasonable price. Given the above, it has been determined that it is in Reclamation's best interests to attain the required cold storage services by issuing a 10-month contract to MRCI.

6. Efforts Made to Ensure That Offers are Solicited From as Many Potential Sources as Possible.

Pursuant to FAR 5.202(a), a synopsis was not posted on the FedBizOpps website; "(2) The proposed contract action is made under the conditions described in 6.302-2"

7. Determination of Fair and Reasonable Price.

The proposed rates by MRCI were evaluated and negotiated at time of contract award and re-evaluated when the prices were reduced in March 2010; thus, the prices are determined to be fair and reasonable. The decision to not exercise the Option Year was a result of not being able to support the determination of fair and reasonable prices, however, the Government will issue a solicitation to ensure that competitive prices are obtained versus going with a non-competitive program such as the 8(a) Program and will also consider the transportation of the membranes as a separate contract to allow for competition to be on an even playing field.

MRCI has submitted a price proposal to provide the 10-month services at the rate less than that which would have been in effect had the Option Year 2 under Order No. 08PG340153 been exercised; the rates proposed are the same as those used in Option Year 1 which ended May 31, 2010.

	Proposed Rate for 10-months	08PG340153 Option Year 1 Rates	08PG340153 Option Year 2 Rates	Difference
Storage	\$12,383.48	\$12,383.48	\$12,841.85	\$458.37
Insurance	\$ 3,275.29	\$ 3,275.29	\$3,373.54	\$98.25
Monthly Combined Rate	\$15,658.77	\$15,658.77	\$16,215.39	\$556.62
10-Month Total	\$156,587.70		Savings of:	\$5,566.20

8. Market Survey. See Attached.

9. Additional Supporting Facts for Use of Other Than Full and Open Competition. None.

10. Listing of Sources Expressing Interest in Acquisition. Not Applicable.

11. Action Taken to Remove and Overcome Barriers to Competition. Not Applicable.

12. Approvals. The supporting data, which is the responsibility of the Bureau of Reclamation technical personnel and forms basis for this justification, have been certified as complete and accurate by means of the below signature on this document. As required by FAR 6.303-2(a)(12) and 6.304(1), (a) the Contracting Officer certifies that the justification is accurate and complete to the best of her knowledge and belief and (b) the signatures demonstrate the certifications and approvals necessary for this Justification for Other Than Full and Open Competition.

Certified Complete and Accurate by:

Prepared by:  _____
Signature Contract Specialist Date 

Concurred/Approved by:


Signature

Contracting Officer

6/25/10

Date

Approved by:


Signature

Chief of the Contracting Office/Asst. Competition Advocate

7/14/10

Date