

JUSTIFICATION FOR AN EXCEPTION TO FAIR OPPORTUNITY

PR No: 0040312876

Solicitation No.: R17PS00924

Project Name: Law Enforcement and Security/Surveillance Patrol Service, Montana Area Office, Marias/Milk Field Division, Tiber Dam, Chester, Montana

In accordance with FAR 6.302, the proposed contractual action is pursuant to the statutory authority of 41 U.S.C. 253(c)(1)

1. Agency and Contracting Activity.

| <u>Requiring Agency</u> | <u>Contracting Activity</u> |
|----------------------------|------------------------------|
| Montana Area Office | Great Plains Regional Office |
| Marias/Milk Field Division | Acquisition Services |
| Tiber Dam | Billings, Montana |
| Chester, Montana | |

2. Nature/Description of Action.

Provide law enforcement and security/surveillance patrol services through the award of a service contract using fiscal year 2017 (FY17) security funds. The contract will be a firm fixed price and include 4 1-year option periods.

3. Description of Supplies/Services.

Reclamation has security management responsibilities for Tiber Dam and the lands that immediately surround Lake Elwell Reservoir. Reclamation has increased the level of surveillance and patrols of the dam since the terrorist attacks on September 11, 2001. Reclamation's authority to administer lands and waters at Tiber does not include law enforcement authority. However, Reclamation has authority to establish contracts with law enforcement agencies to enforce state and local regulation as appropriate. The Liberty County Sheriff's Office (Sheriff) has the responsibility for enforcement of state and local laws within Liberty County, which includes the Tiber Dam, Recreation Complex, Lake Elwell Reservoir, and lands surrounding.

In order to allow for reimbursement to the Sheriff, Reclamation cites 42 U.S.C. § 1962d-19 allowing the Secretary of the Interior to cooperate with state and local law enforcement entities in the enforcement and/or ordinances of the State; subject to the availability of appropriations.

Patrols will be completed by uniformed and armed peace officers in clearly marked vehicles [REDACTED]. The period of performance is July 1, 2017 through June 30, 2022.

The needed services for the contract are required for the foreseeable future; therefore, the contract will include a base year period, and 4 1-year option periods. The estimated value of this service is [REDACTED] annually, resulting in a total contract aggregate of

4. Statutory Authority Permitting Other than Full and Open Competition. *(Check one)*

| | Authority | FAR Coverage | Application |
|-------------------------------------|----------------------|---------------------|--|
| <input checked="" type="checkbox"/> | 41 U.S.C. 253(c)(1) | FAR 6.302-1 | Only one responsible source and no other supplies or services will satisfy agency requirements |
| <input type="checkbox"/> | 41 U.S.C. 253(c)(2) | FAR 6.302-2 | Unusual and compelling urgency |
| <input type="checkbox"/> | 41 U.S.C. 253(c)(3) | FAR 6.302-3 | Industrial mobilization; engineering, developmental or research capability; or expert services |
| <input type="checkbox"/> | 41 U.S.C. 253(c)(4) | FAR 6.302-4 | International Agreement |
| <input type="checkbox"/> | 41 U.S.C. 253(c)(5) | FAR 6.302-5 | Authorized or required by statute |
| <input type="checkbox"/> | 41 U.S.C. 253(c)(6) | FAR 6.302-6 | National Security |
| <input type="checkbox"/> | 41 U.S.C. 253(c)(7) | FAR 6.302-7 | Public Interest |
| <input type="checkbox"/> | 41 U.S.C. 3304(a)(1) | FAR 6.302-1(c) | Application for brand-name descriptions |

Reclamation and the Liberty County Sheriff's Department (Sheriff) have successfully worked cooperatively over the past 14 years to provide law enforcement, support, and emergency response at Tiber Dam, Lake Elwell Reservoir, and the surrounding lands. The Sheriff has primary jurisdiction in Liberty County, is the primary source for law enforcement, and is empowered by the State of Montana with full arrest authority in Liberty County. As a result, the Sheriff is the only law enforcement agency with full arrest authority that is able to meet the requirements of the contract. Reclamation's security program requirements mandate that armed law enforcement personnel be readily available to respond to any intrusion alarm, terrorist or domestic threat, or other criminal activity on a 24/7 basis. [REDACTED]

The Sheriff has expert knowledge of Reclamation's security policies and regulations through many years of practical application and experience. It requires a significant effort of time and resources to ensure that Reclamation's law enforcement partners understand Reclamation's security program requirements.

The Sheriff is significantly experienced with a variety of investigations performed on or near Reclamation lands such as: homicides, suicides, accidental drowning, thefts, vandalism, illegal drugs, etc. The Sheriff's Office has a working relationship with the

County Attorney's Office which is responsible for the prosecution of criminal offenses committed in the County.

5. Description of efforts made to maximize competition.

A Notice of Intent to award to the Liberty County Sheriff was posted to FedConnect and FedBizOpps on May 9, 2017. As of today, no responses to the posting have been received. Any responses received will be addressed by Reclamation. A redacted version of this justification will be publicly posted within 30 days after award.

6. Determination of Fair and Reasonable Cost.

The estimated cost of this procurement is [REDACTED] in FY17. Since 2002, Reclamation has worked cooperatively with the Sheriff for security surveillance and law enforcement patrols. The estimated price for this security contract is consistent with what Reclamation has previously paid for these services while considering an increase in cost due to inflation and the cost of living. The rates from the Sheriff will be compared to other contracts for the same services, and compared to established pricing; to include GSA mileage rates. No award will be made without a determination of fair and reasonable cost by a warranted Contracting Officer.

7. Description of Market Research Conducted.

Market research was conducted within the past 12 months by the Contracting Officer. Market research included contact with the Marias/Milk Field Division, the Sheriff, contract R17PC0007, R17PC00010, R17PC00014, and other contracts for similar services. The market research shows that the full arrest authority for deputies is territorial, and that a deputy's authority does not transfer to different counties. As a result, the Sheriff's jurisdiction is restricted to Liberty County, and other counties would not have jurisdiction in Liberty County.

8. Any Other Supporting Facts.

None

9. Listing of Interested Sources.

No sources have expressed an interest in this contract action in response to the public posting of the Notice of Intent. If any sources express interest, it will be addressed by Reclamation and attached to this justification.

10. Actions Taken to Remove Barriers to Competition.

No prior award has been accomplished using full or open competition. Future competition for this work is not anticipated due to the fact that the Sheriff is the only law enforcement entity legally capable of providing the required services.