

Department of the Interior  
Minerals Management Service

**JUSTIFICATION FOR OTHER THAN FULL AND OPEN COMPETITION**

(JOFOC for Acquisitions > SAT)

(Optional for Acqs. ≤ SAT)

I recommend that the **MINERALS MANAGEMENT SERVICE** 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)]

The study will involve the continuation of an ongoing project to determine the migratory patterns and movements of Long-tailed ducks along the New England coast, particularly within and around Nantucket Sound. The project was initiated by the Massachusetts Audubon Society in response to the potential impacts of future offshore wind projects on this species. The project involves the use of satellite telemetry to track the birds. Some birds were initially tagged and successfully tracked. This project will increase the number of tagged birds and therefore increase the understanding of the movements of these birds.

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

The project will involve the continuation of field work in and around Nantucket Sound. The birds will be tagged and monitored. In addition, feather and blood samples will be taken for DNA testing, which will be used to determine whether there are distinct populations that migrate and settle in certain areas.

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| 3. Requisition No.<br><br>00100005812 - \$80,000                        | 5. Name of Proposed Source(s)<br>Massachusetts Audubon Society<br>208 Great Road<br>Lincoln, MA 01773-4816 |
| 4. Cost Estimate (including options)[FAR 6-303-2(a)(3)]<br><br>\$80,000 |  |

**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.

|   |                                      |                           |                    |
|---|--------------------------------------|---------------------------|--------------------|
| Requesting Office Rep. (Name & Title)<br>Mary C. Boatman, Oceanographer | Signature:<br>FOIA Exemption (b) (6) | Phone No:<br>703-787-1662 | Date:<br>1/29/2009 |
|---|--------------------------------------|---------------------------|--------------------|

**7. PROCUREMENT OFFICE CERTIFICATION**

I certify that this justification is accurate and complete to the best of my knowledge and belief.

|  |                                      |                           |                  |
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| Contracting Officer (Name)<br>Debra Bridge | Signature:<br>FOIA Exemption (b) (6) | Phone No:<br>703-787-1814 | Date:<br>1/30/09 |
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I certify that this justification is accurate and complete to the best of my knowledge and belief.

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| Chief of the Contracting Office (Name)<br>Celeste Rueffert | Signature:<br>FOIA Exemption (b) (6) | Phone No:<br>703-787-1324 | Date:<br>1/30/09 |
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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 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.

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**15. JUSTIFICATION** (Attach additional pages if needed)

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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 Contractor, Massachusetts Audubon Society, has been conducting this research for several years and has already demonstrated the ability to capture and tag long tailed ducks successfully. The change to a new contractor would require that this experience be relearned. Discussions with another Federal agency (FWS) with expertise in Seabirds and current research activities indicate that there are no other potential contractors with this type of experience or with the foundation of data already collected. Therefore, this research would most efficiently and cost effectively be conducted by continuing with Massachusetts Audubon Society rather than establishing an agreement with some other source.

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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 notice of intent has been prepared to inform the public of this action.

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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]

As stated in the FAR, the Contracting Officer is required to procure all supplies and services from a responsible source at a fair and reasonable price. The proposed costs of this project will be analyzed to determine reasonableness.

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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]

The Program Office contacted Fish and Wildlife Service and specifically, the East Coast team that is studying seabirds with the objective of identifying researchers that would be capable of conducting this type of research. While other research is being conducted, it does not include the use of satellite tags, which requires special skills and expertise to be successful. No other researchers were identified with the specific skill set and with the established foundation of research, i.e. long-tailed ducks already tagged.

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

The MMS has a draft final report prepared by Massachusetts Audubon Society describing the previously funded work, which will serve as the foundation for the proposed study. The work thus far has demonstrated their ability to conduct the research and provide timely products.

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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]

None

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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]

Market research, surveying the market, identifying new or other possibilities, will be ongoing, for the conduct of this type of study.

**APPROVALS (FAR 6.304)**

|                        |  |   |             |             |
|------------------------|--|---|-------------|-------------|
| Over<br>\$550,000      | 16. Competition Advocate (Name & Title)                      | <input type="checkbox"/> <b>APPROVE</b><br><input type="checkbox"/> <b>DISAPPROVE</b> | (Signature) | (Phone No.) |
|                        |  |   |             | (Date)      |
| Over<br>\$11.5 million | 17. Head of the Contracting Activity (Name & Title)          | <input type="checkbox"/> <b>APPROVE</b><br><input type="checkbox"/> <b>DISAPPROVE</b> | (Signature) | (Phone No.) |
|                        |  |   |             | (Date)      |
| Over<br>\$57 million   | 18. Departmental Senior Procurement Executive (Name & Title) | <input type="checkbox"/> <b>APPROVE</b><br><input type="checkbox"/> <b>DISAPPROVE</b> | (Signature) | (Phone No.) |
|                        |  |   |             | (Date)      |