

**Department of the Interior
Minerals Management Service**

JUSTIFICATION FOR OTHER THAN FULL AND OPEN COMPETITION

(JFOFC 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)]

This requirement will be accomplished by a Sole Source, Cost Reimbursement contract to Centro de Investigación Científica y Educación Superior de Ensenada (CICESE) Ensenada, México, and Dr. Julio Sheinbaum. This 42 month project will be incrementally funded over two years with no-year funds. CICESE will contribute ship time and data and analyses from their larger oceanographic study which is going on at the same time.

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

MMS requires the deployment of oceanographic instrumentation in the Mexican waters of the Gulf of Mexico over a 24 month period to collect a long term data set of ocean current and circulation. These observations and data are needed to provide a more complete picture, and data for analysis of the dynamics of the Gulf Loop Current. This information is needed by MMS for oil spill modeling and to develop a better description of the environment for environmental analyses in Environmental Impact Statements prepared for Oil and Gas Leasing in the Gulf of Mexico. The anticipated period of performance is 42 months.

<p>3. Requisition No. 0010005798</p>	<p>5. Name of Proposed Source(s) Centro de Investigación Científica y Educación Superior de Ensenada (CICESE)</p>
<p>4. Cost Estimate (including options)[FAR 6-303-2(a)(3)] \$1,200,000.00</p>	

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) James Cimato, Chief, ESB	FOIA Exemption (b) (6)	Phone No: 703-787-1721	Date: 2-5-09
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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.

Contracting Officer (Name) OLIVIA F. ADRIAN	FOIA Exemption (b) (6)	Phone No: 703-787-1151	Date: 5 Feb 2009
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I certify that this justification is accurate and complete to the best of my knowledge and belief.

Chief of the Contracting Office (Name) Celeste H Kueffner	FOIA Exemption (b) (6)	Phone No: 703-787-1324	Date: 2/5/09
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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.

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.

15. JUSTIFICATION (Attach additional pages if needed)

(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]

Cicese was established by the government of Mexico in 1973 as a public research center funded through the Mexico National Council for Science and Technology. As such it is a public agency. It is the only known institution in Mexico with the oceanographic expertise and experience to design the oceanographic arrays, construct the moorings, deploy, maintain, and recover deepwater moorings after an extended period of time, and perform the subsequent data analysis. Funded by the Mexican government, CICESE has the permission to conduct research in Mexican waters. In considering other options, a non government entity or US entity would need permission from the Mexican government which takes a very long time (years) and those delays would make it impossible to coordinate with key ongoing research activities critical to the success of the overall study. In addition, the Mexican government would still require the participation of Mexican scientists resulting in increased costs. If not approved, the MMS will have incomplete data for developing coherent models of the Loop Current Dynamics in the Gulf of Mexico. This will have a significant impact on the safe management of offshore oil and gas operations in the Gulf of Mexico.

(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]

MMS personnel spent a significant amount of time researching possible sources for providing this service in the time frame required by MMS, and has been unable to locate any provider with similar experience that can study the Loop Current in Mexican waters. The only known source to meet MMS requirements is CICESE. MMS conducted a joint US-Mexican workshop to determine interest and capabilities for such work, and MMS also discusses general program interests at national and international conferences, utilizes web searching techniques, and professional journals to determine capabilities that might be available.

(c) Demonstration that the anticipated cost to the Government will be fair and reasonable [FAR 6.303-2(a)(7)].
[Prepared by Contracting Officer]

The Contracting Officer will examine the budget to be submitted by CICESE to conduct a cost analyses. The budget to be submitted will provide for purchasing the expendable materials. In addition to renting of equipment for proposed eight (8) moorings, CICESE will contribute ship time and analysis efforts plus data from these moorings. MMS has extensive experience with conducting the required activity and knowledge of costs for such efforts. Importantly, CICESE is contributing about \$1M in ship time and analytical effort to the overall project, making this an extremely cost effective advantageous acquisition.

15. JUSTIFICATION CONTINUED (Attach additional pages if needed)

(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]

MMS conducted a joint US-Mexican workshop to determine interest and capabilities for such work, and MMS also discusses general program interests at national and international conferences, utilizes web searching techniques, and professional journals to determine capabilities that might be available. Discussion with several expert researchers from various institutions and government bureaus pointed to CICESE as the only and best provider of the service that is required by MMS.

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

The Program Office has worked with CICESE in two previous successful contracts and they have performed in an outstanding manner to meet MMS requirements. CICESE is the only group in Mexico currently carrying out deepwater measurements and they are the group most familiar with the area, and with knowledge of flow dynamics and current circulation in the study area which they have been measuring since early 1990's. Additionally, if needed, CICESE can work in Cuban waters, an activity which the US cannot do. CICESE and the Mexican government has expressed a strong desire to collaborate with MMS to conduct scientific studies of the Loop Current because it is such a dominant physical phenomena affecting circulation in the Gulf and part of the north Atlantic. To reiterate, CICESE is significantly engaged in deepwater research and the combined programs and leveraging this particular activity represents an estimated contribution of about \$1 million.

(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 group or company have expressed an interest in working with MMS to measure such deepwater currents in Mexican water.)

(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 Bureau, through the Environmental Studies Program, will incorporate any subsequent and/or related services needs into the annual studies development process, which includes public meetings, a federal advisory committee, and opportunity for stakeholder input. Through the public planning process others with capabilities will have the opportunity to learn about and discuss capabilities with MMS.

APPROVALS (FAR 6.304)

Over \$500,000	16. Competition Advocate (Name & Title)	<input checked="" type="checkbox"/> APPROVE <input type="checkbox"/> DISAPPROVE	(Signature) FOIA Exemption (b) (6)	(Phone No.) 713-787-1020
				(Date) 2/6/09
Over \$10 million	17. Head of the Contracting Activity (Name & Title)	<input type="checkbox"/> APPROVE <input type="checkbox"/> DISAPPROVE	(Signature)	(Phone No.)
				(Date)
Over \$50 million	18. Departmental Senior Procurement Executive (Name & Title)	<input type="checkbox"/> APPROVE <input type="checkbox"/> DISAPPROVE	(Signature)	(Phone No.)
				(Date)