



DEPARTMENT OF THE NAVY

NAVAL RESEARCH LABORATORY
4555 OVERLOOK AVE SW
WASHINGTON, DC 20375-5320

IN REPLY REFER TO:

4200

Ser 3200/3246

25 FEB 2011

JUSTIFICATION FOR OTHER THAN FULL AND OPEN COMPETITION

1. The Department of the Navy, contracting through the Naval Research Laboratory, proposes to enter into a contract on other than a full and open competitive basis with Air Products Inc.

2. Nature and/or description of the action being approved.

The Naval Research Laboratory (NRL) utilizes gas/liquid nitrogen in multiple research projects including as coolants for charge-coupled devices; to store cells at low temperature; in cryogenics; for cooling high-temperature superconductor to a temperature sufficient to achieve superconductivity; as a coolant for vacuum pump traps and in controlled-evaporated processes in chemistry. Contract Number N00173-06-D-2003 was awarded to Air Products, Inc for procurement of bulk delivery of liquid nitrogen, leasing of contractor-supplied tanks; purchase of contractor-supplied tanks, and services for adjustments, installation, removal, or addition of contractor-supplied tanks. The contract included a 'Total Not To Exceed Amount' of \$3,000,000 over a five year period, 10/1/2006 through 9/30/2011. Because this is a continuing NRL requirement, a new contract is currently being processed. However, because of unexpected tank changes and services under CLIN 0001AD to support ongoing research projects, the "Total Not To Exceed Amount' under the basic contract will be reached prior to award of the new contract. A contract modification is required to increase the total amount to enable continued procurement of the nitrogen gas and tank services through to award of the new contract.

3. Description of the supplies or services required to meet the needs of the Naval Research Laboratory including the estimated value.

This action is to increase the total not to exceed amount of contract N00173-06-D-2003 to allow additional procurement of bulk liquid nitrogen, leasing of contractor-supplied tanks; and services for adjustments, installation, removal, or addition of contractor-supplied tanks. This increase will provide a continuity of this product and support services until solicitation and award of a new contract.

3.1. A statement of delivery requirements.

The minimum delivery requirement is three times per week. However, emergency situations arise from time to time requiring additional weekly deliveries. This modification will not change the current ordering period which is through 30 September 2011.

3.2. The total estimated dollar value for the acquisition(s) covered by the justification.

The estimated value of the overall increase to the basic contract is expected to be \$900,000.00, which increases the Not-to-Exceed Amount to \$3,900,000.00.

4. Identification of the statutory authority permitting other than full and open competition.

10 U.S.C. 2304(c)(1) Only one responsible source

5. Demonstration that proposed contractor's unique qualifications or nature of the acquisition requires use of the authority cited.

The current contract is a result of a competitive award. A new full and open competitive solicitation for a follow-on contract is in process. The action covered under this J&A is only an interim measure to cover essential requirements before the new award is in place. Only the current contractor has sufficient personnel in-place, developed procedures and processes, and awareness of the relevant issues to continue the effort via a bridge until the new contract can be competitively awarded. In addition, since the contract covers 12 tanks leased from Air Products, if the contract ceiling is reached the tanks would be removed from the laboratory with no immediate substitution available to support NRL's various ongoing research projects. Even if an alternate source could be found and retained prior to removal of the tanks, the cost to transport, install and connect new tanks while ensuring no lapse in nitrogen to the laboratories and equipment, is prohibitive both in dollars and risk to equipment and experiments. The proposed ceiling increase would allow uninterrupted services until solicitation, and selection/award, of the follow-on contractor. The current contractor is Air Products & Chemicals Inc., 7201 Hamilton Blvd., Allentown, PA 18195.

6. A description of efforts made to ensure offers are solicited from as many potential sources as is practicable including whether a synopsis notice was or will be publicized.

The initial requirement was issued using Full and Open Competitive procedures. The follow-on requirement will also be issued utilizing Full and Open procedures.

7. Determination by the Contracting Officer that the anticipated cost to the Government will be fair and reasonable.

The Contracting Officer will perform a price analysis in accordance with FAR 15.404-1(b) to determine whether the price is fair and reasonable.

8. Description of the market research conducted and results or statement of the reasons a market research was not conducted

This is a one-time modification to an existing contract.

9. Any other facts supporting the use of other than full and open competition:

The action covered under this J&A is only an interim measure to cover essential requirements before the new award is in place. Only the current contractor has sufficient personnel in-place, developed procedures and processes, and awareness of the relevant issues to continue the effort via a bridge until the new contract can be competitively awarded. The increase would allow uninterrupted services until solicitation, and selection/award, of the follow-on contractor.

10. A listing of the sources, if any, that expressed, in writing an interest in the acquisition.

None.

11. A statement of the actions, if any, the agency may take to remove or overcome any barriers to competition before any subsequent acquisition for the supplies or services required.

NRL intends to solicit a new contract under Full and Open Competitive procedures.

12. Certification and Approval signatures.

TECHNICAL AND REQUIREMENTS CERTIFICATION
REQUIRED BY FAR 6.303-2(b)

I certify that the facts and representations under my cognizance which are included in this justification which form a basis for this justification are complete and accurate.

Requirements Cognizance

(Signature) Lynette Brown Col 3453 2-8-10
Name and Title Code Date

CONTRACTING OFFICER CERTIFICATION REQUIRED BY FAR 6.303-2(a)(12)
I certify that this justification is accurate and complete to the best of my knowledge and belief.

(Signature) Blender J. Burk 3220 2/15/11
Name and Title Code Date

REVIEW BY COUNSEL (NMCARS 5206.303-90)

(Signature) [Signature] 1008.1 2/10/11
Name and Title Code Date

APPROVAL BLOCK REQUIRED BY FAR 6.304 (see FAR 6.304 and DFAR 206.304 for Approving Official):

APPROVED:

(Signature) Robert M. Breda 3200 2/15/11
Name and Title Code Date