

U.S. ENVIRONMENTAL PROTECTION AGENCY  
JUSTIFICATION FOR OTHER THAN FULL AND OPEN COMPETITION

PART I – BACKGROUND

1. Date: 03/02/2012
2. Program Office: Superfund
3. Project Officer: Bryant Burnett, Project Officer  
913-551-7742, Mobile 620-719-7072  
[burnett.bryant@epa.gov](mailto:burnett.bryant@epa.gov)
4. Project Identification: Cherokee County OU 06, EP-R7-09-02
5. Description of supplies or services required: Remediation Services
6. Period of Performance (Base year and options) or Date of Delivery: 03/09/2012-06/03/2012
7. Estimated Amount for this Action: [REDACTED]  
Total Amount for this contract action: \$201,000
8. Proposed Contractor: Grisham Grading & Excavating, Inc,  
18975 HWY 371  
Platte City, MO. 64079  
816-858-4786

PART II – JUSTIFICATION

1. Agency, Contracting Activity.

The Environmental Protection Agency, Region 7 Superfund Division, proposes a Justification for Other than Full and Open Competition (JOFOC) for remediation

2. Action being approved. Contract #EP-R7-09-02

The action to be approved is the sole source award of additional remediation work under the Change Order - Differing Site Condition clause of the contract, to Grisham Grading & Excavation, for the removal and disposal of mine waste contamination recently discovered less than ½ mile from current contract activities of the same nature.

3. Description of Services (and estimated value of the acquisition)

Additional work effort for the Badger/Lawton Contract (Old Hiway 96 site).

The proposed work is located in the Spring River Flood Plain.

This area is part of the OU-6 Badger/Lawton Subsite mining activities, located less than 1/2 mile from other mining areas currently being remediated under the current Grisham contract, and was only recently identified due to loss of vegetation around the site. This work would have been included in the current scope of the contract, but the need to remediate this specific area was concealed by vegetation. Therefore, differing site conditions are applicable.

This site lies in the flood plain for the Spring River and; therefore, it is critical to have the waste removed as soon as possible. The site was most recently investigated and poses several environmental and potential safety and health hazards. This mining site was involved during the Badger/Lawton mining so it contains the same contaminants of concern as that currently being addressed under this contract.

Because the current haul route and waste disposal sites are established under the Grisham contract, the Government will benefit from additional cost savings.

If the mine waste is not remediated under the Grisham contract, work at this small additional site will require the transport of waste approximately 30 miles for disposal and, at a minimum, this would triple the cost of this small site clean-up, causing lengthy delays, and posing an increased risk to the environment and human health.

Grisham is fully mobilized, currently working less than 1/2 mile from this additional area, and can perform the clean up quickly and efficiently resulting in a significant cost savings to the Government.

4. Statutory Authority.

The statutory authority permitting other than full and open competition relative to this FAR 6.303-2 (a)(b)(1)(2) Unusual and Compelling Urgency. *Unusual and compelling urgency precludes full and open completion, and delay in award of a contract would result in serious injury, financial or other, to the Government.*

In this case, the urgency is the need to complete the site clean up before the Spring flood which could potentially spread the contaminated soil and increase the risk to human health and the environment. Additionally, the Government will be harmed financially if the work is not performed while the recommended contractor currently mobilized on site does not perform the work. The financial harm would be in costs for delay through a new procurement action, and in remobilization costs on the site to perform the work.

5. Contractor's Unique Qualifications.

Grisham Grading & Excavating is uniquely qualified to perform the work proposed under this Change Order – Differing Site Conditions, as they have a unique knowledge of the contamination in the contaminated area, and are currently working less than ½ miles from the site at issue.

The site was concealed by vegetation which resulted in an unforeseen need to include this site in the current remediation work being performed by Grisham under this contract.

This site is in a flood plain and requires an expedited clean up action to avoid risk to human health and the environment. Grisham is currently fully mobilized, is familiar with the mine waste, has approved plans for accomplishing clean-up work in the site area, and has established haul routes/dump sites in place.

The increase of scope to add the site at issue requires minimal efforts to implement clean-up activities, and will result in a significant savings to the Government both in cost and time.

As noted above, the statutory authority for issuing this action is 41 U.S.C. 253 (c) (1), Only One Source and no Other Supplies or Services will Satisfy Agency Requirements, as implemented by FAR 6.302-1. Use of this authority may be appropriate in situations such as the following as stated in FAR 6.302-1

6. Efforts Made to Obtain Competition.

There is no other competition available under the circumstances that would afford the same time and cost savings needed by the Government.

7. Determination of Fair and Reasonable Price.

The CO has determined the price is fair and reasonable based on the costs associated with similar work performed under this contract which was placed through competition.

Therefore, it is determined that the cost proposed for the remediation services described herein is fair and reasonable.

8. Market Survey

No Market Survey was conducted due to the urgent and compelling need and justification herein.

9. Additional Information

None

10. Other Sources Expressing an Interest

N/A

11. Removing Barriers to Competition

This is the final remaining area of contamination that needs to be cleaned up in this part of the county. Therefore, no further work is anticipated.

PART III – PROGRAM OFFICE CERTIFICATION

I certify that any supporting data which forms the basis for the Justification for Other than Full and Open Competition is complete and accurate.

  
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Bryant Burnett  
Project Officer

03/09/2012  
Date

CERTIFICATION

Contracting Officer's Certification as required by FAR 6.303-2 (a)(b)(1)(2)

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



Melissa A. Witcher,  
Contracting Officer, Region 7

3-5-2012

Date

APPROVALS

Reviewed By:

*Lee Thomas*

Lee Thomas

Section Chief, Acquisition & Contracts Section

*3/5/12*

Date