

## **JUSTIFICATION AND APPROVAL**

### **Justification for Other than Full and Open Competition (FAR 6.3) Requisition No. 9-3210-5022**

#### **1. Contracting Agency and Activity**

The Department of Interior, United States Geological Survey (USGS), Office of Acquisition and Grants plans to contract by means other than full and open competition. This document sets forth the justification and approval for use of one of the exceptions to full and open competition allowed under the Competition in Contracting Act (CICA) of 1984.

#### **2. Nature of Action to be Approved**

The action being approved is for a new contract. The proposed awardee is NatureServe. This is a follow on contract to Contracts 08HQC�0026 & 08HQC�0008.

#### **3. Description of Supplies and Services**

The Biological Resources Discipline at USGS requires certain services from NatureServe. NatureServe owns a unique set of databases on threatened and endangered species that contain cumulative data dating back decades, collected from numerous sources. The database contains extensive range maps and species profiles. NatureServe has established agreements with State agencies to collect data on threatened and endangered species. The NatureServe databases cannot be duplicated and are not open to the public or to vendors due to the sensitive nature of the information. The services listed below are needed to support USGS's biological research and monitoring efforts. The services required from NatureServe include:

- Taxonomic nomenclature expertise to compare species names in NatureServe's databases and the Integrated Taxonomic Information System;
- Species occurrence information for specific areas of the country; and
- Specialist expertise in phenology, which will support the National Phenology Network.

#### **4. Estimated Dollar Value**

The estimated dollar value for the proposed contract is \$ [REDACTED]. This is a one year contract.

#### **5. Statutory Authority**

Executive agencies are authorized, under certain conditions, to contract for goods and services without providing for full and open competition (41 U.S.C. 253(c)). Subpart 6.3,

Section 6.302-3 of the Federal Acquisition Regulations provides the circumstances for less than full and open competition when it is necessary to award a contract to a particular source or sources in order...

“(ii) 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...”

Section 6.302-3(b)(1) indicates that this authority may be appropriate when it is necessary to:

“(ii) Keep vital facilities or suppliers in business... (ii) ... prevent the loss of a supplier’s ability and employees’ skills; or maintain active engineering, research, or development work...”

Section 6.302-3(b)(2) also indicates that this authority is appropriate when necessary to:

“(i) Establish or maintain an essential capability for theoretical analyses, exploratory studies, or experiments in any field of science or technology; (ii) Establish or maintain an essential capability for engineering or developmental work calling for the practical application of investigative findings and theories of a scientific or technical nature...”

The limitation that is cited on this circumstance is that the contracts awarded using this authority shall be supported by a written justification and approvals described in Sections 6.303 and 6.304, respectively. The justification for less than full and open competition is discussed in the section below.

## **6. Rationale Supporting use of Citation in No. 5**

In FY 2007 the President’s budget included funding for NatureServe to improve the delivery and access of information to DOI Bureaus. Since USGS operated under continuing resolution during FY 2007, the Office of Management and Budget instructed USGS to fund this activity. In the President’s FY 2008 budget, only certain activities were changed and the funding for NatureServe was retained. While the Omnibus Appropriations Bill was silent on the issue, this indicates acceptance of that aspect of the President’s budget. (See further discussion below.) The following information is provided to demonstrate the proposed contractor’s unique qualifications, per Section 6.303-2 (5) of the Federal Acquisition Regulations:

- The proposed contractor (NatureServe) is a non-profit conservation organization that serves as a leading source of information about rare and endangered species and ecosystems. NatureServe owns a set of unique, proprietary databases that cannot be duplicated and are not open to the public or to other vendors. NatureServe also has established agreements with States to collect this data.

- The information in NatureServe's databases is essential to USGS research capabilities and to DOI's ability to make natural resource decisions.
- No other vendors would be given access to NatureServe's databases to perform the work outlined in the Statement of Work. No other vendors have: 1) previously made investments in a database of this nature, 2) are recognized as experts in the management of information on threatened and endangered species, and 3) can facilitate access to the best available comprehensive data set. Even if another vendor wanted to start from scratch to build the infrastructure and capability, the data in these databases has been acquired over decades and cannot be duplicated.
- DOI does not want to build a comparable set of databases due to the prohibitive costs, upkeep and coordination with States for updating, but only needs access to the data to support research and resource management decisions.

• [REDACTED]

USGS has been directed by Congress to provide funding to NatureServe in FY 2007, 2008, and 2009 to keep this expertise and data available for government use. [REDACTED]

[REDACTED]

[REDACTED] Thus, this contract is needed to maintain an essential capability that supports analyses, studies and science research for USGS.

- [REDACTED]

## 7. Other Information

As noted above, USGS was directed to provide funding the NatureServe through the FY 2009 budget process.

A Statement of Work for full and open competition for these services was not developed because the work requested requires access to NatureServe's databases. Since NatureServe controls access to their databases, a full and open competition is not feasible.

## 8. Efforts to Identify Additional Sources Including the Market Research Conducted

NatureServe will not provide access to their databases to a third party vendor. It is essential that the work be done to interface USGS and its partners with the NatureServe databases. The acquisition will be synopsisized in Fedbizopps as required in FAR 5.201.

## 9. Future Plans to Permit Competition

USGS has not requested funding to support this type of work and has no future plans to do so.

**10. Recommendation and Certification from Program Offices**

Based on the above, I recommend this acquisition be conducted on the basis of other than full and open competition. I certify that technical data that form the basis for this justification that are the responsibility of technical or requirements personnel are complete and accurate.

\_\_\_\_\_  
Signature

[Redacted Signature]

\_\_\_\_\_  
Date

**11. Certification from the Contracting Officer**

Prices will be evaluated in detail to determine that the prices are fair and reasonable.

All of the requirements of the Competition in Contracting Act (41 U.S.C. 253), as implemented in the Federal and Interior Acquisition Regulations, have been considered in preparing this justification. This justification is accurate and complete to the best of my knowledge and belief.

**12. Approvals**

\_\_\_\_\_  
[Redacted Name], Contracting Officer

\_\_\_\_\_  
Date

\_\_\_\_\_  
[Redacted Name], Chief Acquisition Branch

\_\_\_\_\_  
Date

\_\_\_\_\_  
Competition Advocate

\_\_\_\_\_  
Date

*(The U.S. Geological Survey (USGS) considers employee signatures to be Personal Protected Information, and therefore all employee signatures have been redacted. By posting this document, the Contracting Officer attests all appropriate signatures have been obtained.)*