

**National Aeronautics and Space Administration
Ames Research Center
Moffett Field, California 94035-1000**

Justification for Other than Full and Open Competition
[FAR 6.303-2(a)(1)]

Summary Information:

Initiating Office: NASA Ames Research Center
Procurement Division (Code JAC)

Purchase Request No.: 4200336771

Procurement Title: Space Technology Research and Development (STRAD)

Total Estimated Value: **FOIA Exemption 5**

Period of Performance: May 1, 2010, through October 31, 2010

Statutory Authority: 10 USC 2304(c)(1), *Only One Responsible Source and No Other
[FAR 6.303-2(a)(4)] Supplies or Services Will Satisfy Agency Requirements*

This Justification for Other than Full and Open Competition (JOFOC) has been prepared in accordance with the requirements of Federal Acquisition Regulation (FAR) 6.303 and NASA FAR Supplement (NFS) 1806.303.

Detailed Information:

A. Nature and/or description of the action being approved. [FAR 6.303-2(a)(2)]

NASA Ames Research Center (ARC) proposes to negotiate a sole source contract modification with Eloret Corporation, to extend the period of performance of contract NNA04BC25C up to six months, pending adjudication of a protest, which was filed on April 8, 2010. This extension will consist of a three-month base period and three one-month option periods. The performance period to be covered by this action will begin May 1, 2010, with the potential to run through October 31, 2010.

Contract NNA04BC25C was competed as a Small Business Set-Aside and awarded on September 24, 2004, with an effective date of October 1, 2004. The contract had an ultimate completion date of September 30, 2008 (after exercise of all options). The contract type is Cost-Plus-Award-Fee (CPAF).

Effort for the recompetition began in early 2007. Revisions to the business model utilized during acquisition strategy delayed issuance of the solicitation until October 28, 2008. This delay prompted a Justification for Other than Full and Open Competition (JOFOC) which was approved on September 28, 2008, and authorized the extension of the contract's performance period for five months, through February 28, 2009.

Proposals were received December 12, 2008, and evaluation commenced. It became clear that evaluation and contract award could not be completed prior to the existing contract's end date of February 28, 2009. A second JOFOC was approved on February 27, 2009 to extend contract performance period for an additional five months, through July 31, 2009. A third JOFOC (approved August 26, 2009) extended the contract performance period an additional eight

months, through March 31, 2010. A fourth extension was approved on March 31, 2010, as authorized by FAR 52.237-3, Continuity of Services (Jan 1991). This fourth extension was necessary to allow for a one month Phase-In and Phase-Out period after the April 1, 2010 award of the follow-on contract, NNA10DE12C, to ERC, Inc. This fourth extension had the effect of extending the contract performance period an additional month, through April 30, 2010.

This JOFOC documents the basis and authority to enter into a fifth extension. This fifth extension is necessary for the following reasons: An unsuccessful offeror protested the award of contract NNA10DE12C to ERC, Inc. on April 8, 2010. Accordingly, the Government was required to suspend performance of the newly-awarded contract. The adjudication of the protest will necessitate a delay in the transition of services to a new contract. The proposed extension, consisting of a three-month base period and three one-month option periods, is intended to provide sufficient time for the adjudication of the protest and the completion of any necessary related actions, as well as to allow for the 30-day Phase-In and Phase-Out Period necessary to ensure an adequate transition into a new contract. Options are included and will be exercised only if necessary.

As a result of this fifth extension, the total contract performance period will exceed five years (October 1, 2004, through a maximum of October 30, 2010, for a total of six years). Accordingly, a Request for Deviation to authorize this additional six month extension (consisting of a three-month base period and three one-month option periods) was approved on April 30, 2010 as permitted by Procurement Information Circular (PIC) 00-22, *Class Deviation—Five Year Term of Contract*; this deviation was approved by the Associate Administrator for Procurement on April 30, 2010.

B. Description of the supplies or services required to meet the agency's needs (including estimated value). [FAR 6.303-2(a)(3)]

The purpose of this JOFOC is to extend the current Space Technology Research and Development (STRAD) contract (NNA04BC25C) for a period of up to six additional months, pending the adjudication of a protest to the GAO of the award of a follow-on contract in support of this effort. The STRAD contract has included, and will continue to include, mission-critical analytical and experimental support for various NASA programs, including on-orbit aerothermal analysis for Space Shuttle missions, scientific and engineering support for the Crew Exploration Vehicle (CEV) Aerosciences Project, and the Thermal Protection System Technology Development Project. It supplies NASA ARC with engineering, science, and administrative support services, including materials development, modeling and analysis, and testing; personnel skill sets include staff engineers, research and development scientists, computational fluid dynamics experts, and IT and documentation support staff. This extension will enable the requiring organizations to continue to obtain these highly specialized contract services for STRAD.

The estimated value of the services for this additional six-month extension is **FOIA Exemption 5** (FOIA Exemption 5 for the three-month base period, and **FOIA Exemption 5** for each of the one-month option periods) based on the Government's Independent Cost Estimate. The Independent Cost Estimate was determined based on a technical review of labor and materials anticipated to be necessary for continued performance of current and anticipated tests and projects for the remaining period of performance. This extension will require an increase in contract value and ceiling by **FOIA Exemption 5**, from the current value of **FOIA Exemption 5** to a value of **FOIA Exemption 5**.

C. An identification of the statutory authority permitting other than full and open competition. [FAR 6.303-2(a)(4)]

The statutory authority is 10 USC 2304(c)(1), *Only One Responsible Source and No Other Supplies or Services Will Satisfy Agency Requirements*.

D. Demonstration of the proposed contractor's unique qualification or the nature of the acquisition requires use of the authority cited. [FAR 6.303-2(a)(5)]

In accordance with FAR 6.302-1(a)(2)(iii), for DoD, NASA, and the Coast Guard, services may be deemed to be available only from the original source in the case of follow-on contracts for the continued provision of highly specialized services when it is likely that award to any other source would result in substantial duplication of cost to the Government that is not expected to be recovered through competition, or unacceptable delays in fulfilling the agency's requirements.

The additional six-month (maximum) extension to the current contract is necessary to provide coverage of critical, highly specialized, technical requirements pending completion of the protest action. The current contract is providing critical and highly specialized services for on-going projects and tests, including on-orbit aerothermal analysis for Space Shuttle missions, which would be adversely impacted without this continuing contract support. A separate competition for these critical and highly specialized services to another vendor would neither be feasible nor reasonable, given the context of the pending protest, and further would cause a substantial duplication of cost to the Government that is not expected to be recovered and would affect the seamless continuity of services necessary to support this area of the Center's and NASA's mission. Costs that would be duplicated include not only those associated with the conduct of a separate competition for the additional six-month period, but also those associated with start-up and learning activities required to ensure adequate contract performance.

Failure to extend the contract also would cause unacceptable delays in fulfilling critical and highly specialized STRAD requirements. A gap in performance of these critical and highly specialized requirements would cause harmful consequences for both the Center and the Agency, given the importance of the work being performed under this contract, as reflected above.

E. Description of efforts made to ensure that offers are solicited from as many potential sources as is practicable, including whether a notice was or will be publicized as required by FAR Subpart 5.2 and, if not, which exception under 5.202 applies. [FAR 6.303-2(a)(6)]

On April 27, 2010, a synopsis was posted on the NASA Acquisition Internet System (NAIS) and the Federal Business Opportunities Portal (FedBizOpps) to inform the public of NASA's intent to extend contract NNA04BC25C with Eloret Corporation in order to continue performance through October 31, 2010. The synopsis provided instructions for interested organizations to submit capabilities and qualifications to perform the effort to the Contracting Officer. No responses were received.

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

The Contracting Officer's signature on this document indicates that the Contracting Officer has determined that the anticipated cost to the Government will be fair and reasonable. Prior to execution of the contractual instrument, a proposal analysis will be performed in accordance with FAR 15.404. The proposal analysis will ensure that the final agreed-to price for the

contract extension is fair and reasonable. Analysis will include cost and price evaluation techniques. Pre-negotiation objectives will be prepared prior to the initiation of negotiations and will be approved in accordance with FAR 15.406 prior to the conduct of negotiations.

G. Description of the market research conducted and the results or a statement of the reason market research was not conducted. [FAR 6.303-2(a)(8)]

A synopsis was posted in NAIS and FedBizOpps as stated in paragraph E above and no interested parties responded.

H. Any other facts supporting the use of other than full and open competition.
[FAR 6.303-2(a)(9)]

This extension to the STRAD contract is required as a result of the receipt of a protest to GAO of the contract award to ERC, Inc. The protest has required the Government to suspend performance of the newly-awarded contract, and the adjudication of the protest will necessitate a delay in the transition of services to a new contract. Given the context of the protest, the only reasonable alternative for the Government, to ensure the continuation of these highly specialized services for STRAD, is to extend the existing contract.

I. Listing of the sources, if any, that expressed, in writing, an interest in the acquisition. [FAR 6.303-2(a)(10)]

No other source expressed interest in providing the additional work required by this extension and increase in contract value.

J. 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. [FAR 6.303-2(a)(11)]

As noted above, this extension to the STRAD contract is required as a result of the receipt of a protest to GAO of the contract award to ERC, Inc. This award was made after the review of proposals received in response to a Small Business Set-Aside negotiated procurement. The receipt of this protest has required the Government to suspend performance of the newly-awarded contract, and the adjudication of the protest will necessitate a delay in the transition of services to a new contract. Given the context of this protest, the only reasonable alternative for the Government, to ensure the continuation of these highly specialized services for STRAD, is to extend the existing contract with Eloret Corporation (NNA04BC25C), as provided herein, pending resolution of the protest. Accordingly, to prevent unacceptable delays and substantial duplication of costs in fulfilling these highly specialized requirements, Eloret Corporation is, in the context of this protest, the only responsible source to perform the STRAD contract requirements from May 1, 2010, through October 31, 2010.

Signature Page

Requirement Initiator:

Michael Olson
Contracting Officer's Technical Representative

I certify that the facts presented in this justification are accurate and complete.



Signature

4/28/2010

Date

Contracting Officer:

B. K. Hess

I hereby determine that the anticipated cost to the Government will be fair and reasonable and certify that this justification is accurate and complete to the best of my knowledge and belief.



Signature

28 Apr 2010

Date

CONCURRENCE:

Directorate Manager:

Dr. Eugene Tu
Director of Exploration Technology



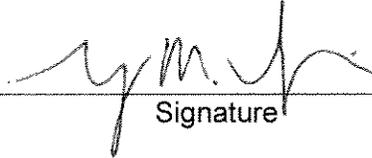
Signature

4/28/10

Date

Procurement Officer:

Jeffery M. Lupis



Signature

4/29/10

Date

APPROVAL:

Center Competition Advocate:

Lewis S.G. Braxton III
ARC Deputy Center Director



Signature

4/30/10

Date

cc (after approval):

JAB/241-1