

**JUSTIFICATION FOR OTHER THAN FULL AND OPEN COMPETITION**  
**41 U.S.C. 3304 (a) (2)**

Pursuant to the requirements of the U.S. Code 41 U.S.C. 3304 (a)(2) the Competition in Contracting Act (CICA) as implemented by Federal Acquisition Regulation (FAR), Subpart 6.3. and in accordance with the requirements of FAR, Subpart 6.302-2, the justification for the use of the statutory authority under FAR, Subpart 6.3 is justified by the following facts and rationale required under FAR Subpart 6.303-2 as follows:

**1. Agency and Contracting Activity**

The Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (ICE), Office of Acquisition Management (OAQ) proposes to enter into a contract on a basis other than full and open competition.

**2. Nature and/or Description of the Action Being Approved**

ICE has a requirement to acquire .223 62 grain and 64 grain Duty ammunition for its own agents and officers, U.S. Customs and Border Protection (CBP) and the Federal Protective Service (FPS). Agents and officers from ICE, CBP and FPS will use the identified ammunition in the performance of their duties and for training as required by agency policy. [REDACTED]

[REDACTED] The required ammunition is manufactured by Federal Cartridge Company, 900 Ehlen Drive, Anoka, MN 55303-1778.

**3. Description of Supplies/Services**

The contractor shall provide ammunition for ICE, CBP and FPS as specified below:

- [REDACTED] .223 62 grain duty ammunition [REDACTED]
- [REDACTED] .223 64 grain duty ammunition [REDACTED]

[REDACTED] Initial delivery will be made 45 days after contract award with subsequent deliveries to be made at scheduled intervals throughout the 12 month period of performance.

**4. Identification of Statutory Authority Permitting Other Than Full and Open Competition**

The statutory authority permitting other than full and open competition is 41 U.S.C. 3304 (a)(2) implemented by the Federal Acquisition Regulation (FAR) Subpart 6.302-2 entitled "Unusual and Compelling Urgency." The manufacturer is the only one that provides the referenced part numbers for this one time purchase.

**5. Demonstration That the Nature of the Acquisition Requires the Use Authority Cited**

Based upon an assessment of the components stockpile for the ammunition to be acquired CBP and FPS have exhausted their stockpile supply. In addition, ICE has approximately 3 months of stockpile supplies of .223 (62 grain and 64 grain) duty ammunition. The failure of law enforcement agents being able to effectively perform their jobs could cause substantial safety issues for the government. Furthermore, the government would be severely impacted in its ability to deploy agents and officers to execute their missions which are an integral part of DHS operations. These products (.223 62 grain and 64 grain duty ammo) were previously obtained by ICE under IDIQ contracts [REDACTED]. The contracts recently expired and the results of the evaluation from the solicitation for new IDIQ contract resulted in no award for the standard duty ammunition. As a result, the National Firearms and Tactical Training Unit (NFTTU) are running the risk of depleting mission critical inventory.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**6. Description of Efforts Made to Ensure that Offers are Solicited from as Many Sources as is Practical**

A Sources Sought was posted in FBO website (FedBizOpps) on May 7, 2012 in order to solicit for vendors that can provide the required ammo (.223 62 grain and 64 grain duty ammo). Even though small businesses expressed an interest in providing the required ammunition in response to the FBO posting, the specified part numbers can only be obtained from this manufacturer. In addition, the selected contractor has already met extensive testing requirements conducted by the ballistics laboratory (BALLAB).

**7. Determination by the Contracting Officer that the Anticipated Cost to the Government will be Fair and Reasonable**

The Contracting Officer determines that the anticipated pricing associated with .223 62 grain [REDACTED] and .223 64 grain [REDACTED] duty ammo will be fair and reasonable based on historical purchases. [REDACTED] These IDIQ contracts represent an excellent value to the Government, but has since expired and a new contract for .223 duty ammos is underway.

**8. Description of Market Research**

The NFTTU has conducted extensive market research in support of previously executed contracts [REDACTED]. These IDIQ contracts were awarded based on quality and price reasonableness. It is the intent of ICE to move forward with a sole source contract based on the urgent and compelling need for the ammunition.

**9. Any Other Facts Supporting the Use of Other than Full and Open Competition**

Conducting this procurement under full and open competition will delay the award and cause significant impact on the mission of ICE, CBP and FPS in terms of operational and training capabilities. The .223 [redacted] duty ammo are made based on ICE specifications and BALLAB recommendations.

**10. A Listing of the Sources, if any, that Expressed In Writing an Interest in the Acquisition**

Vendors	Business Type
Ammo Broker	WOSB
PCP Ammunition	SB
Government Logistics Solution	SDVSOB
BCI Services	SDVOB

**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 Supplies or Services Required**

In the future, if additional .223 (62 grain and 64 grain) duty ammo is required before a replacement IDIQ contract can be awarded, market research will be performed to see if any other brands would be compatible and can be safely used to endure maximum competition.

**12. Contracting Officer's Certification.** I certify that the data supporting the recommended use of other than full and open competition is accurate and complete to the best of my knowledge.

[redacted]  
\_\_\_\_\_  
Contracting Officer

[redacted]  
\_\_\_\_\_  
Date

**13. Technical/Requirements Personnel Certification.** I certify that this requirement meets the Government's minimum need and the supporting data, which forms a basis for this justification, is complete and accurate.

[redacted]  
\_\_\_\_\_  
Section Chief - Contracts

[redacted]  
\_\_\_\_\_  
Date