

GSA FEDERAL SUPPLY SCHEDULE, FAR SUBPART 8.4

LIMITED SOURCES JUSTIFICATION

UNITED STATES INTERNATIONAL TRADE COMMISSION

1. Nature and description of the action being approved.

The United States International Trade Commission (USITC) has a requirement for court reporting services on a temporary basis utilizing limited sources pursuant to FAR 8.405-6 based on an urgent and compelling need. The acquisition is conducted under the authority of the Multiple Award Schedule Program, the GSA Schedules Program and GSA Order ADM 4800.2G, February 16, 2011, which lists the Commission as an executive agency eligible to use GSA sources of supply and services.

2. Description of the services required to meet the agency's needs, including the estimated value.

Temporary court reporting services for the USITC based on the following rationale:

- a. The previous contract for court reporting services expired on December 31, 2011.
- b. An open market competition was conducted and a Blanket Purchase Agreement was established with a new contractor on December 29, 2011.
- c. On January 5, 2012, an unsuccessful offeror, who was the incumbent, filed a protest with the GAO, resulting in a stay of performance under the BPA.
- d. On January 11, 2012, the protestor entered into litigation to force the government to stay performance of the new contractor.
- e. Inasmuch as the government required the court reporting services on an ongoing basis, the government offered to obtain temporary court reporting services if the court would permit the new contractor to continue services for a 2-3 day period before issuing the requested temporary restraining order and while the procurement for temporary services was conducted.
- f. The government proposed to obtain temporary services by competing the requirement among the protestor and the new contractor, both of whom are on GSA Schedule 736 for Temporary Administrative Services, including court reporting services. Additionally, both of these contractors

would be able to meet the rigorous schedule of events requiring court reporting services that are planned every day at the USITC.

- g. The 2-3 day period represents the timeframe necessary to solicit the two GSA contractors, receive quotations, and issue the short-term BPA.
 - h. The estimated value of the BPA during the performance period is 4,349,025.00.
3. Authority and supporting rationale, and a demonstration of the proposed contractors' unique qualifications to provide the required services.

This acquisition is made pursuant to FAR 8.405-6. To carry out its mission, the USITC holds hearings, conferences, meetings, and other proceedings such as depositions for the purpose of receiving testimony and evidence or making decisions. These proceedings frequently involve highly technical subjects such as electronics, computer technology, chemistry, bio-technology, sophisticated manufacturing techniques, and may include technical, economic, finance, and statistical acronyms, vocabulary or terms of art applicable to specific industries. The Commission requires court reporting services for these types of proceedings.

The Commission is required by statute to conduct several types of proceedings, such as import injury investigations and intellectual property-related import investigations, that consider the impact on the United States of imports. These investigations concern domestic industries, importers, and foreign producers. Witnesses travel from across the country and from foreign countries to testify at Commission hearings. In many cases, parties have very substantial interests in the outcome of cases, running into the billions of dollars. Many of the investigations have strict statutory deadlines. In those that do not, a delay in the Commission's determination can cost the parties substantial amounts because of uncertainty in the market and the absence or delay of a remedy for injury or damage suffered. This would put pressure on the agency's ability to complete proceedings in a timely manner.

In its statutorily-mandated investigations, the Commission is required to hold various types of hearings or administrative trials on the record. Transcripts are necessary to the conduct of each of these types of hearings and trials conducted by the Commission, as it is required by statute and regulation to maintain a complete record in all of its imports injury and Section 337 filings and proceedings. In import injury investigations, the Commission votes in public meetings, which also must be transcribed.

The lack of court reporting services would prevent the Commission from completing its statutorily-mandated investigations that are at the center of its mission. Following the procedures in 8.405-3 would result in unacceptable delay in obtaining the court reporting services needed by the Commission.

Inasmuch as the previous incumbent (protestor), and the current new contractor have both serviced these proceedings and have indicated an ability to meet the rigorous schedule of these events, the government determined that these unique qualifications made these two contractors eligible to participate in a limited sources procurement for the temporary court reporter services.

4. Determination by the ordering activity contracting officer that the order represents the best value consistent with FAR 8.404(d).

The Commission has verified that both of the contractors have a GSA FSS contract that covers court reporting services, and the capability to perform and meet the rigorous schedule, while the competition will drive the best pricing.

5. Description of the market research conducted among schedule holders and the results or a statement of the reason market research was not conducted.

Market research was not conducted because the two contractors considered for this procurement have demonstrated an ability to perform, are vested in the successful outcome of the procurement, and can provide competitive pricing.

6. A statement of the actions, if any, the agency may take to remove or overcome any barriers that led to the restricted consideration before any subsequent acquisition for the supplies or services is made.

The agency has a long term need for court reporting services and, pending the outcome of the instant protest, will either reinstate the current Blanket Purchase Agreement established on December 29, 2012, or conduct a re-competition for the court reporting services.

This justification is accurate and complete to the best of my knowledge and belief.

FOIA Exemption (b)(6)

Celeste H. Rueffert, Contracting Officer

January 13, 2012

FOIA Exemption (b)(6)

Stephen A. McLaughlin, Chief Administrative Officer