

## Justification & Approval For Other than Full and Open Competition

As a legislative branch agency, the Library is subject to the competition and advertising requirements of 41 U.S.C. § 6101. Like the Competition in Contracting Act and the FAR, 41 U.S.C. § 6101 does not require competition when a contracting officer certifies that only one source or brand-name item is available, when dictated by public exigency, or when otherwise authorized by law.

This document sets forth the justification and approval for award of a contract or order by means providing for other than full and open competition per 41 U.S.C. § 6101, LCR 7-210, and, as applicable, FAR 6.302, FAR 13.106-1, FAR 8.405, and FAR 16.505. Contracting without competition shall not be justified on the basis of a lack of advance planning or concerns related to availability of funds.

This form shall be used to support instances where competition will be limited to a single source, a limited number of sources, including where a brand name product is required.

### Part 1 – Identification

**1. Contracting Agency and Activity:** Library of Congress, LCSG, DPS, PRES, PRTD

**2. Nature of Action Being Approved**

- ☒ Contract (or modification)
- ☐ LoC or Leg Branch Order (or modification)
- ☐ GSA Schedule or GWAC:
- ☐ Other:

Requisition Number: LGD20230046

Contractor (or Brand Name): Malvern Panalytical

Estimated Value (Base and all options): [REDACTED]

Period of Performance: 09/29/2023 to 09/28/2024

(+ 4 option years to 9/28/28)

**3. Description of Supplies or Services Required to Meet Library Needs**

**The Library requires the following supplies or services:**

The Library of Congress requires contract support to obtain a comprehensive service support agreement for the ASD FieldSpec4 Hi-Res Spectroradiometer (SN 18582) and its accessories, including the instrument's control laptop and software. The service support agreement includes an unlimited number of repairs, replacement of failed parts, and recalibrations, as well as covering the cost of all parts, labor, and shipping. A service support agreement will allow for the continuous high quality performance of the instrument and may include up to 4 option years of similar service.

## Part 2 – Program Office Justification & Approval

### 4. Authority for Contracting Without Competition

#### Over \$250,000

For this requirement over \$250,000, under FAR part 6, the basis for contracting without providing for full and open competition is:

- ☐ There is only one responsible source and no other supplies or services will satisfy Library requirements. 41 U.S.C. § 6101(b)(2)(C); FAR 6.302-1.
  - ☐ Library's minimum needs can only be satisfied by contractor's unique capabilities or products. FAR 6.302-1(b)(1).
  - ☐ Source controls copyrights, patents, raw materials, or secret processes cannot be acquired otherwise, or similar circumstances. FAR 6.302-1(b)(2).
  - ☐ Other exception identified in FAR 6.302-1:
- ☐ There is such unusual & compelling urgency that the Government would be seriously injured if competition is not limited. 41 U.S.C. § 6101(b)(2)(B); FAR 6.302-2. Option years are not permitted.
- ☐ Source is expressly authorized or required by statute (e.g., AbilityOne, UNICOR, GPO, GSA Public Buildings Service, Appropriations Act, etc.) per 41 U.S.C. § 6101(b)(1) and FAR 6.302-5:
- ☐ Other basis authorized in 41 U.S.C. § 6101(b) or FAR part 6.302:
- ☐ Library's needs can only be satisfied by a brand-name product or item which is essential to the Government's requirement. FAR 6.302-1(c).
- ☐ The Product is listed on the Library of Congress Enterprise Architecture Repository (LCEAR) database (Attach applicable IT Standard Data Sheet)

#### Up to and including \$250,000

For this requirement up to \$250,000, using simplified acquisition procedures under FAR part 13, the basis for contracting without providing for full and open competition is:

- ☒ Only one responsible source is reasonably available to meet Library requirements. 41 U.S.C. § 6101(b); FAR 13.106-1.
  - ☒ Product or service is reasonably available from only one source.
  - ☐ Source controls copyrights, patents or other exclusive licensing arrangements.
  - ☐ Urgent circumstances; only one source can reasonably deliver by required date. Option years are not permitted.
  - ☐ Source is expressly authorized or required by statute:
- ☐ Library's needs can only be satisfied by a brand-name product
- ☐ The Product is listed on the Library of Congress Enterprise Architecture Repository (LCEAR) database (Attach applicable IT Standard Data Sheet)

### GSA Schedule Order

For this GSA schedule order under FAR part 8, the basis for not competing among GSA schedule-holders and/or specifying a brand name product or item is:

- ☐ An urgent and compelling need exists, and following GSA procedures would result in unacceptable delays. FAR 8.405-6(a)(1)(i)(A).
- ☐ Only one GSA source is capable of fulfilling the requirement at the level of quality required because the supplies or services are unique or highly specialized. FAR 8.405-6(a)(1)(i)(B).
- ☐ In the interest of economy and efficiency, the new work is a logical follow-on to an original order that was placed competitively among GSA schedule-holders (i.e., the original order was not sole-source or limited-source.) FAR 8.405-6(a)(1)(i)(C).
- ☐ Library's needs can only be satisfied by a brand-name product
- ☐ The Product is listed on the Library of Congress Enterprise Architecture Repository (LCEAR) database (Attach applicable IT Standard Data Sheet)

### Order Under Multiple Award Indefinite-Delivery Contract or GWAC

For this order under FAR subpart 16.5, the basis for contracting without providing for full and open competition is:

- ☐ The need is so urgent fair opportunity would result in unacceptable delays. 41 U.S.C. § 6101(b)(2)(C) and FAR 16.505(b)(2)(i)(A).
- ☐ The Library's minimum needs can only be satisfied by contractor's unique capabilities or products. 41 U.S.C. § 6101(b)(1) and FAR 16.505(b)(2)(i)(B).
- ☐ A logical follow-on order in the interest of economy and efficiency. 41 U.S.C. § 6101(b)(1) and FAR 16.505(b)(i)(2)(C).
- ☐ To satisfy a minimum guarantee. 41 U.S.C. § 6101(b)(1) and FAR 16.505(b)(2)(D).
- ☐ Authorized or required by statute. 41 U.S.C. § 6101(b)(1) and FAR 16.505(b)(2)(E).
- ☐ The Library's minimum needs can only be satisfied by a brand-name product or item which is essential to the Government's requirement. 41 U.S.C. § 6101(b)(2)(B) and FAR 16.505(a)(4)(i).
- ☐ The Product is listed on the Library of Congress Enterprise Architecture Repository (LCEAR) database (Attach applicable IT Standard Data Sheet)

## 5. Rationale for Contracting Without Competition

*In supporting an action not providing for full and open competition, it is not sufficient to demonstrate that the contractor is exceptionally well qualified or even the best qualified, or that the required brand name product is well suited to the Library's needs. The rationale must demonstrate that no one else, or no other competing product, can satisfactorily fulfill the Library's requirement. Do not focus on the importance of the requirement; the issue is the rationale for not competing.*

*In supporting urgency, address the following: What are the unexpected facts or the unpredictable events that led to this situation? When is the required delivery or performance start date? Why this date? What specific harm to the Government will occur if the delivery is not made or performance not begun as scheduled? (Note that expiration of funds is not sufficient harm to justify not competing.) Demonstrate that the contract is only for items and quantities urgently needed until a competitive procurement action can be developed, or that a separate competitive follow-on is not practical.*

*In supporting a brand name justification, the brand name or feature must be essential to the Library's requirements, and market research indicates that other company's similar products or products with similar features cannot meet or be modified to meet the Library's needs.*

**We are authorized to limit competition on the basis of the citation in section 4 because:**

Malvern PANalytical is the sole manufacturer and authorized service provider of the FieldSpec4 Hi-Res Spectroradiometer that is currently in use in the PRTD laboratory and will be covered under this contract. This specialized system is required for research and testing of Library collection materials and surrogates. We have verified that, at this time, service and maintenance for this instrument can only be performed by Malvern PANalytical service engineers as confirmed by Malvern PANalytical. The system's operation would be compromised if serviced by unauthorized third parties due to the lack of specific technical knowledge and availability of replacement/service parts. For this reason, limited/sole source justification is indicated. This is often the case with analytical instrumentation owing to the complex and proprietary nature of the equipment.

## 6. Actions to Overcome Barriers to Competition Before Subsequent Contract Is Required

State what actions, if any, the program office can take to overcome barriers to competition before a contracting for this requirement again, such as: using action to provide time to develop specifications for a competitive procurement by a certain date; licensing copyrights or patents so other contractors may use the works; or breaking the requirement into parts that may be purchased competitively. If this is a one-time requirement, explain that action to increase future competition is not needed. If the source is expressly required by statute, state "Source is statutory."

**To increase competition, we will:** We have verified that, at this time, service and maintenance on this instrument can only be performed by Malvern PANalytical until such time that Malvern PANalytical elects to authorize third parties to repair and service this instrument. Further competition will be solicited if and when Malvern PANalytical authorizes third parties to service the instrument.

## 7. Program Office Certification

I certify that the description of the Government's minimum needs, schedule requirements, and technical information that provide the basis for this justification are accurate and complete.



Name



Title



Signature

1/19/23

Date