

## JUSTIFICATION FOR OTHER THAN FULL AND OPEN COMPETITION

### 6.302-1 "Only One Responsible Source and No Other Supplies or Services Will Satisfy Agency Requirements."

1. **Identification of the agency and the contracting activity, and specific identification of the document as a "Justification for other than full and open competition."**

The U.S. Department of the Interior, Indian Affairs (IA), Division of Environmental and Cultural Resources Management (DECRM), located in Reston, Virginia, proposes to enter into a contract on a basis of other than full and open competition for completing inventories, consultations, and repatriation as required by the Native American Graves Protection and Repatriation Act of 1990, (NAGPRA), 25 U.S.C. 3001-3013.

2. **The nature and/or description of the action being approved.**

This would be a new fixed price contract with the Nebraska State Historical Society (NSHS), located in Lincoln, Nebraska.

3. **A description of the supplies or services required to meet the agency's needs (including the total estimated value).**

The requirement is to provide services in completing processing and cataloging of archaeological collections, identifying NAGPRA items, and completing NAGPRA required inventories, at a total cost of \$redacted. This will allow IA to become compliant with NAGPRA's statutory and regulatory requirements for the IA collections housed at NSHS.

4. **The statutory authority permitting other than full and open competition.**

The statutory authority permitting other than full and open competition is 41 U.S.C.253(c)(1) (or 10 USC 2304(c) (1)) as implemented by the Federal Acquisition Regulation (FAR) Subpart 6.302-1 entitled, "Only One Responsible Source and No Other Supplies or Services Will Satisfy Agency Requirements."

5. **A demonstration that the proposed contractor's unique qualifications or the nature of the action require use of the authority cited.**

NSHS is uniquely qualified to provide these services to IA/DECRM based upon the following:

- a. NSHS staff have a thorough knowledge of the collections and their history, and extensive working experience researching and handling the collections. NSHS is fully insured and staff have been trained on proper handling techniques, dealing with objects of a sensitive nature, and other professional museum standards. NSHS staff have multiple collections locations and only NSHS staff are knowledgeable about the specific individual collections storage systems and methodologies as well as the general storage layout and collections processes and procedures at NSHS. This is critical to avoid unnecessary movement and handling of these very fragile, prehistoric collections. NSHS staff are also uniquely knowledgeable about the archives and documentation that is housed in the NSHS facilities.
- b. NSHS policies prohibit access to the collections and associated documentation to non- NSHS staff unless NSHS senior staff provides direct and continuous supervision at all times.
- c. Relocating these collections is not practicable for a number of reasons. First, the collections are pre-historic and extremely fragile. They have great value, not monetarily but historically, scientifically, and culturally. The human remains, especially skulls, are particularly vulnerable to vibration and movement, and require great care and skill in appropriate packing and safe transport. Funerary objects are frequently ceramic pottery, and are also extremely fragile and must not be subjected to any more movement than is absolutely necessary. Professional museum standards call for absolute minimal movement of such items.

Second, all potentially affiliated tribes must be contacted in writing with a request to relocate these collections and allow others to handle the remains of their ancestors and their burial objects. Because IA has not yet made determinations of cultural affiliation, many dozens of potentially affiliated tribes throughout the Plains region and beyond would need to be contacted and their permission given in writing. If even one tribe declines, then the move of the collections to another facility would be prohibited.

Third, while any contractor would need to provide proof of insurance, if human remains and funerary objects were damaged or lost, there is no amount of money that could properly compensate tribes for the loss of their ancestors.

Finally, the documentation and any other records are the property of NSHS, and the government cannot require that NSHS turn over this documentation to anyone outside of NSHS. Some documentation includes sensitive information about archaeological sites and collections. The documentation is essential for completing research on these collections, may be extremely fragile in many cases, and exists in a number of locations.

**6. A description of efforts to ensure that offers were solicited from as many potential sources as is practicable, including whether a notice was or will be publicized as required by Subpart 5.2 and, if not, which exception under 5.202 applies.**

These items were excavated in the 1960's and 1970's. By law these items were required to be stored in select museums. These artifacts have been stored for decades in this museum. Market research was conducted to determine if other curator's or researchers could perform this work. The museum's policy prohibits others to conduct this work on site. Therefore no other curators were contacted.

**7. A determination by the contracting officer that the anticipated cost (including the cost of options) to the Government will be fair and reasonable.**

The contracting officer determines the anticipated prices will be fair and reasonable based upon local pricing for similar services and labor categories.

**8. A description of the market research conducted (per FAR Part 10) and the results or a statement of the reason market research was not conducted.**

Market research was conducted by analyzing similar work completed by the Museum of Northern Arizona, the Arizona State Museum, the Museum of Indian Arts and Culture, and Northern Arizona University. The work performed by these entities required the same level of professional knowledge and experience; similar restrictions on other than the museum's own staff; transport restrictions; and similar work as is required for the collections housed at NSHS.

**9. Any other facts supporting the use of other than full and open competition, such as:**

If the contractor is an entity other than NSHS, the cost to the Government would double if the work was conducted on site at NSHS because the Government would be required to pay for the contractor's hours and at the same time, for the hours spent by a senior museum professional, likely the Curator of Archeology Collections. If the Government was successful in securing permission from *all* tribes to transport the collections to another contractor's facilities, there would be enormous costs in securely packing the collections in appropriate archival materials (and such materials must be acceptable to all tribes), and transporting the collections. Again, NSHS senior professional staff would need to be paid to oversee the handling and packing of the collections.

**10. A listing of any sources that expressed a written interest in the acquisition.**

None.

**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 the supplies or services are required.**

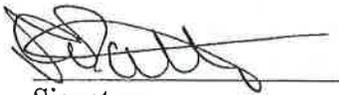
The Antiquities Act of 1906, 16 U.S.C. §§ 431-433, the statute by which the Federal government permitted excavations of archaeological sites and collections of artifacts from these excavations, covered such activities until passage of the Archaeological Resources Protection Act of 1979 (ARPA), 16 U.S.C. §§ 470aa-mm. The Antiquities Act required that repositories receiving permits to excavate would have to house any collections from excavations. ARPA distinguishes Indian lands from public (Federal) lands, a distinction that did not exist under the former Antiquities Act, and ARPA requires that custody of archaeological collections excavated from Indian lands remains with the Indian tribe or individual owning or having jurisdiction over the land excavated. Therefore, from 1979 and in the future, IA will not be required to deposit collections in repositories and will not be limited in working solely with the repository housing collections. Once all collections excavated under the Antiquities Act have been fully processed and cataloged, and IA meets all the requirements of NAGPRA, there should not be any further need to limit competition.

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**Certification**

**Requisitioner:**

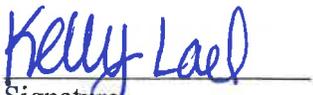
I certify that the facts and representations under my cognizance, which are included in this justification and which form a basis for this justification, are complete and accurate.

  
Signature

5/7/2013  
Date

**Contracting Officer:**

I certify that this justification is accurate and complete to the best of my knowledge and belief.

  
Signature

5/7/13  
Date