

## Justification for Other-than Full and Open Competition

**Date:** April 16, 2010

**Need Date:** July 31, 2010

**(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.”**

**Program Office:** Office of Solid Waste and Emergency Response  
Office of Emergency Management  
Homeland Security Laboratory Response Center

**Project Officer:** Terry Smith  
202-564-2908

**Title:** “Chemical Warfare Agent Laboratory Services”

**(2) Nature and/or description of the action being approved.**

In the aftermath of the World Trade Center (WTC), Pentagon and Capitol Hill anthrax responses, EPA personnel successfully carried out their mission under trying circumstances with the challenge of unprecedented demand on response resources and capacity limitations. One of the most significant capacity problems relates to agency analytical laboratory support. Agency planners and decision-makers identified issues requiring attention as part of the lessons learned from these activities. In addition to lessons learned, EPA’s Office of Emergency Management conducted an analysis of homeland security planning scenarios to refine analytical issues and identify potential gaps. OEM’s analysis identified a significant analytical gap for chemical warfare agents in environmental samples.

The Virginia Division of Consolidated Laboratory Services (VADCLS), as part of this seven member CWA laboratory group, serves to fill the gap found in CWA analytical capability and capacity resulting from the Homeland Security Council scenario analysis and OEM’s analysis. It is imperative that EPA comply with the decree set forth through Presidential Directives 9, 10, and 22. However, VADCLS requires additional funding to remain an operational entity. Without it, the nation would be left vulnerable to recovering from a CWA attack, putting many American lives in jeopardy. Therefore, it is imperative that OAM award VADCLS a contract to operate and maintain this capacity.

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

To initiate capability building, DHS provided approximately \$1.4 million. The laboratories have used this funding for infrastructure improvements, to purchase instrumentation, and to enhance quality management systems. DHS provided additional funding to VADCLS and the Florida State Laboratory to hire and train personnel to build this capacity and to enhance the capability to produce an electronic data deliverable (EDD).

The purpose of this requirement is to maintain capability and capacity for EPA to provide chemical warfare analyses during a national emergency. To maintain this capability and capacity, the contractor shall participate in analytical studies of chemical warfare agents including, but not limited to, multi-laboratory validation studies of analytical methods, proficiency testing, analytical method development to support Standardized Analytical Methods (SAM), and throughput studies as will be determined at later dates via technical direction. The contractor will report results and associated quality assurance parameters as specified in a technical direction document.

**Period of Performance:** 5 years. Two year base and three one year option periods.

**Estimated Contract Amount:** \$ 1million, two year base period and \$500,000 for each of three 1-year option periods for a total of \$2,500,000.00 over five (5) years.

**Proposed Contractor:**

Virginia Division of Consolidated Laboratory Services  
600 N 5th Street  
Richmond, VA 23219

**(4) An identification of the statutory authority permitting other than full and open competition.**

The Federal Acquisition Regulations (FAR) that supports this justification for other than full and open competition is:

FAR 6.302-3(a)(2)(i):  
maintain a facility, producer, manufacturer, or other supplier available for furnishing supplies or services in case of a national emergency or to achieve industrial mobilization;

The subject justification allows the Environmental Protection Agency to maintain necessary capability and capacity to provide Chemical Warfare Analyses (CWA) in case of a national emergency.



**(5) A demonstration that the proposed contractor's unique qualifications or the nature of the acquisition requires use of the authority cited.**

Since 2007, EPA and DHS have been jointly operating seven CWA laboratories. As a result of the FBI's threat analyses, a satisfactory on-site audit, and the ability to adopt a chemical surety program with the DoD, a finite number of laboratories demonstrated the ability to analyze CWAs.

Per an agreement between DHS and EPA, EPA's Office of Emergency Management (OEM) agreed to assume responsibility for long term operation and maintenance of the seven fixed CWA laboratories (Attachment 4). EPA cannot expand the capability beyond these seven fixed CWA laboratories since there are no other laboratories outside of its surety program with DOD that are performing environmental CWA analysis.

Transitioning to the capability-building step, EPA needed to establish a chemical surety program with the Department of Defense (DoD). Because of international treaty restrictions, distribution of CWA is extremely limited to those laboratories that contract with DoD. This aspect is what separates a CWA compliant laboratory from a laboratory that processes routine chemical samples. The chemical surety program would enable the EPA to access CWAs in the ultra-dilute form (10 parts per million or less). EPA and DoD signed an interagency agreement in November 2006 (Attachment 1) giving EPA access to ultra-dilute CWAs.

**(6) A 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 Subpart 5.2 and, if not, which exception under 5.202 applies.**

To facilitate an evaluation of applicant laboratories, an interagency team consisting of members from DHS, EPA, and the FBI conducted on-site audits (Attachment 3) to verify information submitted in the proposals, and to also ascertain whether the laboratories were capable of being transitioned to a CWA laboratory. As a result, DHS selected EPA Regions 1 and 3, the Virginia Division of Consolidated Laboratory Services (VADCLS) and the Florida Department of Environmental Protection Laboratory as the initial CWA pilot fixed laboratories because of their satisfactory assessment from the audits.

Based on the same FBI threat analysis DHS and EPA decided to expand geographic coverage for this capability to reflect the continental United States. In 2007, DHS solicited additional laboratories. Four additional laboratories were selected; bringing the total number of pilot CWA fixed laboratories to seven. The selected

laboratories were EPA's Region 6, 9, and 10 laboratories, as well as the Florida Department of Environmental Protection Laboratory (herein known as the Florida State Laboratory). Each laboratory sufficiently represented areas targeted in the FBI threat analysis.

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

Based on the Independent Government Cost Estimate and in comparison to the prior contract with DHS, it is determined that the anticipated cost to the government is deemed fair and reasonable. Any associated markups are due to the standard cost of living increase. No profit or award fees are anticipated with the requirement. The contractor's motivation to continue to meet and/or exceed the government's expectations is to be evaluated based on prior year work, and the government's desire to award contractor an option period.

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

The next step in the process entailed competitively soliciting laboratories interested and qualified in developing this CWA capability. DHS and EPA decided to limit the solicitation to public laboratories, including Federal and State laboratories. As a result of a Federal Bureau of Investigation (FBI) threat analysis exposing regions of the United States that were most vulnerable to attack by a CWA, the solicitation was further limited to laboratories geographically located within 250 miles of Washington, D.C. and New York City. In the Spring of 2006, DHS then posted a solicitation (Attachment 2) seeking interested laboratories that would provide analytical capacity and participate in analytical method development and validation, proficiency testing, training, and other activities.

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

**EPA's Compliance with the Presidential Directives**

Presidential Directives 9, 10, and 22 require EPA to have sufficient analytical capability and capacity to support responses to terrorist attacks or incidents involving weapons of mass destruction (WMD). To ensure that EPA could meet these homeland security responsibilities, EPA established the Environmental Response Laboratory Network (ERLN) and in 2005 conducted an analysis of several Homeland Security Council scenarios to gauge existing environmental analytical capabilities and capacity. This analysis identified a significant analytical gap for environmental samples contaminated with Chemical Warfare Agents (CWAs).



Knowing that such a gap existed, EPA was obliged to fill it. However, while the Presidential Directives set mandates for an agency to comply they do not provide monetary assistance. Since EPA did not have funding necessary to address this gap, a collaborative relationship was created with the Department of Homeland Security (DHS) to develop capability and capacity in fixed and mobile laboratories. A key component of this collaboration was that DHS would provide initial funding since the bulk of the money would go to making the laboratories CWA compliant. Once established, EPA would then assume responsibility for long term operation and maintenance of the capability and capacity.

**(10) A listing of the sources, if any, that expressed, in writing, an interest in the acquisition.**

There are no listings of sources in this acquisition.

**(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 required.**

Essentially, the barrier to competition exists in a laboratory's ability to be CWA compliant. In order to be CWA compliant, a laboratory must satisfy the criteria EPA established for its chemical surety program with DoD, which allows the laboratory to gain access to ultra diluted CWAs. In an effort to limit the distribution of these chemicals, EPA will not grant access to its chemical surety program to any more laboratories outside of those already participating in its program including VADCLS. The operating context with which this requirement and justification were brought about is to fill the gap described previously. EPA has an obligation to the American public to be prepared in the event of a CWA attack. These laboratories are deemed necessary in order to maintain and supply CWA analyses to protect the American public in case of a national emergency.

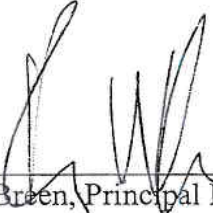
**Part IV – Program Office Director’s Certification**

I certify that the supporting data contained in this JOFOC is complete and accurate.

  
\_\_\_\_\_  
Dana S. Tulis, Acting Director  
Office of Emergency Management

2/18/10  
Date

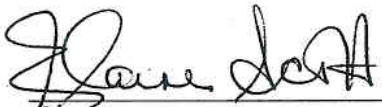
**Concurrence**

  
\_\_\_\_\_  
Barry N. Breen, Principal Deputy Assistant Administrator  
Office of Solid Waste and Emergency Response

3/19/2010  
Date

**(12) Contracting officer certification that the justification is accurate and complete to the best of the contracting officer's knowledge and belief.**

According to the FAR 6.302-2 and as Contracting Officer under this requirement, I have determined that this requirement is in the best interest of the government financially as well as technically. The items in question are much needed items in order for the Environmental Protection Agency (EPA) to have continuity of service through the usage of the Virginia Division of Consolidated Laboratory Services (VADCLS). These services provide help with analytical issues, including developing capability and capacity where it does not exist or is very limited. It is essential that EPA maintain the same vendor in order to have compatibility with the existing laboratory. I am in agreement that the supporting data attached to this file is complete and accurate.



Elaine Scott  
Contracting Officer

05/27/10

DATE

SIGNATURE PAGE

For

Justification for Other than Full and Open Competition

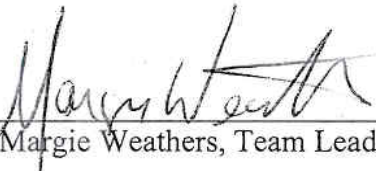
Virginia Division of Consolidated Laboratory Services

  
Kenneth Irby, Contract Specialist

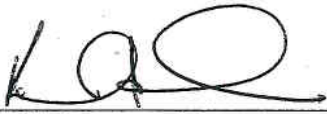
8/27/10  
DATE

  
Elaine Scott, Contracting Officer

05/27/10  
DATE

  
Margie Weathers, Team Leader

5/27/10  
DATE

  
Keith Stewart, Manager

5/27/10  
DATE

  
Susan Moroni  
Competition Advocate

6/22/10  
DATE



**ENVIRONMENTAL CHEMICAL WARFARE AGENT ANALYTICAL  
CAPABILITY SUPPORT  
PERFORMANCE STATEMENT OF WORK**

**1.0 BACKGROUND**

In the aftermath of the World Trade Center (WTC), Pentagon and Capitol Hill anthrax responses, EPA personnel successfully carried out their mission under trying circumstances with the challenge of unprecedented demand on response resources and capacity limitations. One of the most significant capacity problems relates to agency analytical laboratory support. Agency planners and decision-makers identified issues requiring attention as part of the lessons learned from these activities. In addition to lessons learned, EPA's Office of Emergency Management conducted an analysis of homeland security planning scenarios to refine analytical issues and identify potential gaps. OEM's analysis identified a significant analytical gap for chemical warfare agents in environmental samples (see Attachment 7).

EPA has established the Agency-wide Environmental Response Laboratory Network (ERLN) to focus on environmental analytical issues, including developing capability and capacity where it does not exist or is very limited. EPA and its partners, such as the Department of Homeland Security (DHS), have also established several Agency and interagency committees and workgroups to address lessons learned and identified gaps in a coordinated, systematic manner. DHS created and chairs the Integrated Consortium of Laboratory Networks (ICLN), which five Federal laboratory networks comprise. The ICLN is a tiered structure consisting of Joint Leadership Council (JLC), Network Coordinating Group (NCG), and topic-related subcommittees. OEM internally coordinates with other offices via the Homeland Security Laboratory Response Work Group (HSLRWG) and externally coordinates with other Federal and State agencies on the development and operation of the ERLN.

Within the context of the ERLN, EPA has coordinated with DHS to develop environmental analytical capability and capacity for chemical warfare agents (CWAs). Based on a threat assessment, DHS issued its first solicitation to public sector fixed laboratories to compete to develop this capability within a 250-mile radius of Washington, DC and New York City in 2006.

## **2.0 PURPOSE**

The purpose of this solicitation is to continue to support EPA's need to fill an environmental analytical gap for CWAs by transitioning responsibility for the long term operation and maintenance of the capability at VADCLS from DHS to EPA. Before initiating this joint venture, EPA and DHS agreed that DHS would provide initial funding to conduct public notification requirements and a gap analysis to determine what issues, such as infrastructure improvements, quality assurance system enhancements, and training, laboratories needed to address to be able to analyze CWAs. To date, DHS has spent over \$2 million. EPA agreed to financially support the long term operation and maintenance of the capability. Both agencies agreed to closely coordinate to ensure a smooth transition from one agency to the other. Funding for the Virginia Division of Consolidated Laboratory Services is expected to expire in late Spring 2010.

## **3.0 SPECIAL REQUIREMENTS**

### **3.1 Quality Assurance (QA) Requirements**

The tasks in this solicitation will require environmental measurements. VADCLS shall adhere to a quality assurance program commensurate with ISO 17025 criteria and ERLN membership requirements. ISO 17025 specifies the general requirements for the competence to carry out tests and/or calibrations, including sampling. It covers testing and calibration performed using standard methods, non-standard methods, and laboratory-developed methods. DHS included the requirements of this QA program, which is attached as Attachment 5, in its 2006 solicitation, and the interagency team evaluated candidate laboratories against these requirements. Interagency team members included Terry Smith, EPA, Dennis Reutter, DHS, Mike Rickenbach, DOJ/FBI and Sean Kolb, CSC. EPA will oversee the laboratory to ensure that it satisfies these requirements. Attachment 3 includes EPA's oversight process.

### **3.2 Surety Program**

EPA entered into a memorandum of understanding with the Department of Defense (DOD) in 2006 to establish a chemical surety program. A chemical surety program is necessary because access to these analytical chemicals is very limited. This program gives EPA access to CWAs in the ultradilute form, and EPA will use these analytical chemicals for instrument calibration, quality assurance, and to oversee the program.

## **4.0 DETAILED TASK DESCRIPTION**

### **TASK 1: Analyses**

The contractor shall conduct analyses of chemical warfare agents, including but not limited to, multi-lab validation studies of analytical methods, proficiency testing, analytical method development to support Standardized Analytical Methods (SAM) and throughput studies. The contractor will report results and associated quality assurance



parameters as specified in a technical direction document. Dates will be provided via technical direction.

**TASK 2: EPA-Sponsored Meetings**

The contractor shall participate in three EPA-sponsored meetings concerning further development and maintenance of analytical capability and capacity and associated issues. These issues include but are not limited to health and safety, status updates, method development, sampling, instrumentation and other technical issues, and integration with field measurements. Dates will be provided via technical direction.

**TASK 3: Training and Exercises**

The contractor shall participate in two EPA-sponsored training and exercises related to CWA analytical operations. Dates will be provided via technical direction.

**5.0 KEY PERSONNEL**

<b>P-level</b>	<b>Position</b>	<b>Number</b>
<b>4</b>	<b>Project Manager/Lead Chemist</b>	<b>1</b>
<b>3</b>	<b>Chemist</b>	<b>1</b>
<b>2</b>	<b>Technician/Analyst or equivalent</b>	<b>1</b>
<b>1</b>	<b>Support Staff</b>	<b>1</b>

Description of Key Personnel:

Project Manager/Lead Chemist

- Responsible for operation and deployment of CWA Program
- Responsible for method development activities and sample analysis using GC/MS, TOF-MS, LC/MS technologies for CWA Program
- Oversees work of other chemists, technicians and maintenance staff at each involved with CWA program.

Chemist – provides analytical and sample preparation duties to support the Lead Chemist.

Technician/Analyst or equivalent – performs instrument maintenance, drafts analytical reports, provides some information technology maintenance support and provides quality assurance/quality control support



Support Staff – provides administrative support, including developing and delivering progress reports and final analytical reports, ordering supplies and other data management support

## **6.0 DELIVERABLES AND SCHEDULE**

The contractor shall provide a progress report at the end of each quarter to Contracting Officer (CO). This report shall summarize the status of all major activities the laboratory performed under this contract.

### **Deliverable**

Work Plan

### **Schedule**

10 calendar days after  
Receipt of task order from  
CO

Progress Report

Quarterly