

**DEPARTMENT OF THE TREASURY  
 JUSTIFICATION FOR OTHER THAN FULL AND OPEN COMPETITION  
 (JOFOC)**

I recommend that the U.S. DEPARTMENT OF THE TREASURY use other than full and open competition for the acquisition of the following supplies or services. If this acquisition is to be made with only one source or a limited number of sources, negotiations will be conducted with the indicated proposed supplier(s):

**1. DESCRIPTION OF SUPPLIES OR SERVICES**


**Provide electrical power, natural gas, and water to the Memphis Internal Revenue Service (MIRSC) located at 5333 Getwell Rd, Memphis, TN 38118.**

**Period of Services – October 1, 2012 – September 30, 2013**

<b>2. REQUISITION NO.</b>  <b>D-3-D9-24-DE-L03-000</b>	<b>4. NAME(S) OF PROPOSED SOURCE(S)</b>  <b>Memphis Light, Gas and Water Division          220 South Main St.          Memphis TN 38103-3917</b>
<b>3. COST ESTIMATE</b>  <b>\$3,832,941.52</b>	

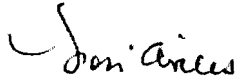
**REQUESTING OFFICE CERTIFICATION**

I certify that the attached justification is accurate, and contains complete data necessary to support the recommendation for other than full and open competition.

<b>5. REQUESTING OFFICE          REPRESENTATIVE (Name          &amp; Title)</b>	<i>(Signature)</i>	<i>(Phone No.)</i>	<i>(Date)</i>
<b>Derrell Hart          Senior Building Management          Specialist</b>		<b>901-546-2229</b>	<b>8/16/2012</b>

**SMALL BUSINESS CERTIFICATION**

I have conducted a search of vendor files, Central Contractor Registration (CCR), and the SBA's Dynamic Small Business Search under the CCR System to locate potential offerors for this procurement. If any were found, a list is attached.

<b>6. SMALL BUSINESS          SPECIALIST          (Name and Title)</b>	<i>(Signature)</i>	<i>(Phone No.)</i>	<i>(Date)</i>
<b>LORIAN AVILES, PROCUREMENT ANALYST</b>		<b>404.338.9204</b>	<b>8.16.2012</b>

# PROCUREMENT OFFICE CERTIFICATION

> This requirement ☐ will, ☒ will not, provide for a bridge contract

I certify that this submission is accurate, and that it contains complete information necessary to enable Approving Officials to make an informed recommendation for approval or disapproval.

7. ASSIGNED CONTRACTING OFFICER (Name)	(Signature)	(Phone No.)	(Date)
CHARISSE JACKSON	<i>Charisse Jackson</i>	404 338-9220	8/17/12

Before requesting this procurement, state one statutory authority for this procurement to be conducted under "other than full and open competition" procedures. Provide narrative justification associated with the respective state authority in block number 15.

## THE COMPETITION IN CONTRACTING ACT OF 1984 (P.L. 98-369)

(place "X" in appropriate box)

### 8. 41 USC 253(c)(1) – Only one responsible source; or brand name specification

X This authority shall be used in preference to the Public Interest justification. It shall not be used when any of the other circumstances is applicable. (Explain what makes this contractor the only responsible source i.e., Does this proposed contractor have facilities or equipment that are specialized and vital to the effort? Is the proposed contractor the only one that can meet critical schedules? Does the proposed contractor have prior experience of a highly specialized nature vital to the effort? Why won't any other product or service satisfy the need? What are the unique features of the product that are unavailable in any other brand or product? Why was this particular product and/or vendor chosen? Are these features available in other models? Describe the rationale for the brand name specification. Describe the market survey and analysis efforts leading to this conclusion. In addition, for brand name, indicate that "the use of such descriptions in the acquisition is essential to the Government's requirements, thereby precluding consideration of a product manufactured by another company.")

### 9. 41 USC 253(c)(2) – Unusual and compelling urgency

This authority applies in those situations where (1) an unusual and compelling urgency precludes full and open competition, and (2) delay in award of contract would result in serious injury, financial or other, to the Government. (Explain why the agency's need for the supplies or services is of such an unusual and compelling urgency that the Government would be seriously injured unless it limited the number or sources. Solicitation from as many potential sources as is practicable under the circumstances is required.) **Note: The total period of performance under this authority is limited to the minimum contract period necessary to meet the requirements and to enter into another contract through the use of competitive procedures, and may not exceed one year unless the head of the agency entering into the contract determines that exceptional circumstances apply. The determination is in addition to the approval of the justification.**

**10. 41 USC 253(c)(3) – Industrial mobilization, engineering, developmental, or research capability; or expert services**

This authority applies when it is necessary to award the contract to a particular source or sources in order (1) to 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, or (2) to establish or maintain an essential engineering, research, or development capability to be provided by an educational or other nonprofit institution or a federally funded research and development center, or (3) to acquire the services or an expert for any current or anticipated litigation or dispute. (Does the proposed contractor have facilities and equipment that are vital in the event of a national emergency? Is the proposed contract to maintain properly balanced sources of supply for meeting the requirements of acquisition of programs in the interest of industrial mobilization? Is the proposed contract to create or maintain the required domestic capability for production of critical supplies by limiting competition to items manufactured in the United States or the United States and Canada?)

**11. 41 USC 253(c)(4) – International agreement**

This authority may be used when the acquisition is to be reimbursed by a foreign country that requires the product to be obtained from a particular firm as specified in official written direction such as a Letter of Offer and Acceptance; or, when services are to be performed, or supplies are to be used in the sovereign territory of another country and the terms of a treaty or agreement specify or limit the sources to be solicited. (Cite the international agreement or treaty between the United States and the foreign government or international organization that precludes full and open competition. Provide the written directions of the foreign government reimbursing the agency for the cost of the acquisition, which preclude full and open competition.)

**12. 41 USC 253(c)(5) – Authorized or required by statute**

This authority may be used when a statute expressly authorizes that the acquisition be made through another agency or from a specified source. (Cite the authority that expressly authorizes that the acquisition be made through another agency or from a specified source, and attach a copy of the statute.) Note: While this statutory exception includes the small disadvantaged business 8(a) set-aside program, a JOFOP is not required for this type of procurement unless the amount exceeds \$20 million.

**13. 41 USC 253(c)(6) – National Security**

This authority may be used for any acquisition when disclosure of the Government's needs would compromise national security. It will not be used merely because the acquisition is classified, or merely because access to classified matter will be necessary to submit a proposal or to perform the contract. (Explain why the disclosure of the Government's needs would compromise the national security or violate security requirements.)

**14. 41 USC 253(c)(7) – Public Interest**

This authority may be used when none of the other authorities above apply. Individual justification, Secretarial approval, and Congressional notification 30 days before award of the contract are required.

**15. JUSTIFICATION (ADD PAGES IF NEEDED)**

- A. DEMONSTRATION THAT THE PROPOSED CONTRACTOR'S UNIQUE QUALIFICATIONS OR THE NATURE OF THE ACQUISITION REQUIRES USE OF THE AUTHORITY CITED.

**MLGW is a municipality owned utility that provides network electrical power, natural gas, and water for all of Shelby County. The MIRSC is located within the city limits of Memphis, TN, in Shelby County. MLGW is the only source to supply electrical power, natural gas, and water to the MIRSC site.**

- B. DESCRIBE THE EFFORTS TAKEN TO ENSURE OFFERS WERE SOLICITED FROM AS MANY POTENTIAL SOURCES AS IS PRACTICABLE, INCLUDING WHETHER A GPE NOTICE WAS OR WILL BE PUBLISHED AS REQUIRED BY SUBPART 5.2 AND, IF NOT, WHICH EXCEPTION UNDER 5.202 APPLIES.

**Exception-FAR 5.202 (a) (5) The proposed contract action is for utility services other than telecommunications services and only one source is available.**

- C. DEMONSTRATION THAT THE ANTICIPATED COST TO THE GOVERNMENT WILL BE FAIR AND REASONABLE

**The Government will pay for services based on actual usage at the published rate.**

- D. DESCRIBE THE MARKET SURVEY THAT WAS CONDUCTED AND THE RESULTS OF THAT SURVEY. IF ACTIONS WERE TAKEN BY PROCUREMENT PERSONNEL TO SATISFY THIS REQUIREMENT SUCH AS A GPE SOURCES SOUGHT SYNOPSIS, PLEASE SPECIFY.

**MLGW is the only supplier that can provide these services in this area.**

- E. DESCRIBE ANY OTHER DOCUMENTATION TO SUPPORT THE JOFOC.

**MLGW is the only supplier that can provide these services in this area.**

- F. LIST SOURCES, IF ANY, THAT EXPRESSED, IN WRITING, AN INTEREST IN THE ACQUISITION

**N/A**

- G. LIST THE ACTIONS THE BUREAU WILL TAKE TO PROMOTE THE COMPETITION ON ANY SUBSEQUENT ACQUISITIONS FOR SIMILAR SUPPLIES OR SERVICES

**Competition will be sought in the future if another supplier becomes available.**

- H. STATEMENT THAT REQUIREMENT DOES NOT RESULT FROM A LACK OF PLANNING OR THE EXPIRATION OF FUNDS.

**This requirement does not result from lack of planning or the expiration of funds.**

16. COMPETITION REVIEW BOARD RECOMMENDATION (OPTIONAL)				
[ ] APPROVE [ ] DISAPPROVE				
(Name and Title)		(Signature)		(Phone No.) (Date)
(Name and Title)		(Signature)		(Phone No.) (Date)
ADDITIONAL APPROVALS				
OVER \$650,000	17. BUREAU COMPETITION ADVOCATE (Name & Title) <b>Christopher B. Rodgers</b> Director, Office of Strategic Acquisition Initiatives	[X] APPROVE	(Signature)	(Phone No.) <b>202-283-6872</b>
		[ ] DISAPPROVE		(Date)
OVER \$12.5 MILLION	18. BUREAU HEAD OR SENIOR EXECUTIVE SERVICE DESIGNEE (Name & Title)	[ ] APPROVE	(Signature)	(Phone No.)
		[ ] DISAPPROVE		(Date)
OVER \$62.5 MILLION	19. SENIOR PROCUREMENT EXECUTIVE (Name & Title)	[ ] APPROVE	(Signature)	(Phone No.)
		[ ] DISAPPROVE		(Date)
NOTE: Each review must be preceded by lower level approval(s), e.g., over \$62.5 million all approvals are required. IN NO CASE WILL AN INDIVIDUAL SIGN MORE THAN ONE APPROVAL LEVEL.				

CONTROL # OM 2012-38