

## JUSTIFICATION FOR OTHER THAN FULL AND OPEN COMPETITION

Upon the basis of the following justification, I as Contracting Officer hereby approve use of the other than Full and Open competition for the proposed contractual action pursuant to the authority of 10 USC 2304(c)(1), only one responsible source and no other supplier or servicing activity will satisfy agency requirements, as implemented by FAR 6.302-1.

### **1. Contracting Activity**

Naval Postgraduate School  
Department of Contracting and Logistics  
1 University Circle  
Monterey, CA 93943

### **2. Description of the Action Being Approved:**

This justification covers the procurement of access to a package of Westlaw government contracts, international, government, and military legal research and reference databases on a subscription basis from ThomsonReuters West. This justification for other than full and open competition will be posted at the Government wide Point of Entry.

### **3. Description of Supplies/Services:**

The Westlaw database is an online subscription service for a database of legal materials and scholarly references in Federal government contracts law, military law, and international law. The subscription includes the military legal package with access to the government contracts law and military law "core" database collections, including select international materials.

The Naval Postgraduate School requires an online legal research and reference service covering government/defense contracts; Federal government legislative, legal and regulatory affairs; military; international procurement and defense trade matters, and related state legal materials.

The service must be able to contain and deliver 24/7/365 keyed, referenced, interlinked access, to be available for use on and off site via web-based subscription, to the following:

- Original authorities (Constitution, statutes, regulations including the Federal Acquisition Regulation and supplements, cases of general-jurisdiction and specialized tribunals, legislative history, rules and decisions of government contracts-related tribunals; rules and decisions of all Federal courts, Court of Federal Claims, Federal Circuit, Comptroller General, and boards; government personnel/ethics materials, government fiscal law materials, government management materials);
- legal reference materials (the Federal, military, and government contracts database suites; the Journals and Law Reviews (JLR) suite; All Analytical Library suite; All Primary Law suite; American Law Reports, Restatements, American Jurisprudence, and Corpus Juris Secundum, as well as specialized-practice legal reference materials including Nash & Cibinic Report, Briefing Papers, Wright & Miller Federal, Government Contractor Report, Government Contracts Counselor, The Procurement Lawyer, International Government Contractor, International Government Contract Law, Foreign Military Sales, and Government Contracts Cost and Pricing and Compliance handbooks);
- legal journals of general as well as specialized nature (including the Public Procurement Law Review and the Public Contract Law Journal);
- related news and defense industry/corporate records and publications affecting Federal, international, military, and procurement-related issues, including the AllNewsPlus suite.

Database must be accessible from the internet. Training and round-the-clock reference and technical assistance must be available.

Any copyrighted or proprietary materials to be handled by the government in accordance with the Federal Acquisition Regulation and the Defense Federal Acquisition Regulation Supplement.

**4. Statutory Authority Permitting Sole Source:**

FAR 6.302 -- Circumstances Permitting Other Than Full and Open Competition.

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

**5. Rational Justifying Use of Cited Statutory Authority:** Only Westlaw, a service of ThomsonReuters West, has the full range of all the necessary authority, legal references, legal journals, and defense/corporate publications on their database packages. Because the database information is interlinked and because basic packages are necessary to use specialized add-on databases, it is not possible to split the services between the various vendors that offer the database categories separately.

**6. Description of Efforts Made to Solicit Offers from as Many Offerors as Practicable:** Because only one source is providing the required databases (authority, legal references, legal journals, and defense/corporate publications), no other vendor is to be solicited. However, research guides at law libraries and on-line vendor sites were consulted to determine if all-encompassing requisite databases are available. Only one source, Westlaw was determined to meet the government's requirements.

**7. Determination of Fair and Reasonable Cost:** Costs will be determined fair and reasonable at time of award by the Contracting Officer and based on previous contracts and similar contracting efforts.

**8. Market Research:** Based on update of prior years' market research, search for impartial legal research guidance from leading law schools, and review of industry materials from ThomsonReuters West, Bloomberg Law, and Lexis, the Westlaw database service was found to be the sole commercially available source which meets the government requirements in terms of database resource content availability. While Lexis has some materials related to government contracts and military/national security law, Westlaw's content is much more comprehensive. Many specialized and general reference materials which are crucial to the government's research needs are exclusive to Westlaw, and will therefore not be available on Lexis. Bloomberg Law's website does not show any specialized government contracts materials whatsoever. No other commercial vendor has all the required databases content.

Acceptance will be at the ordering activity subject to the FAR/DFARS. Data is provided on "as is" basis and is subject to FAR/DFARS.

**9. Other Facts Supporting Use of Other Than Full and Open Competition:** Westlaw, Bloomberg Law, and Lexis databases are not interlinked and not compatible in taxonomy. Westlaw demonstrated outstanding past performance.

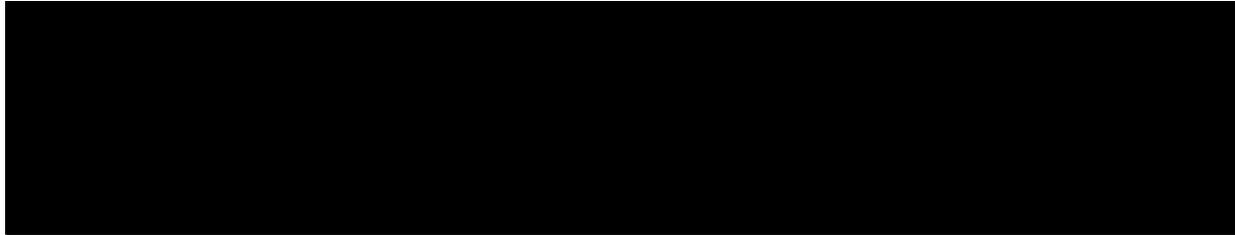
**10. Actions to Remove Barriers to Future Competition:** To establish a truly competitive marketplace for these types of databases, competitors of Westlaw will need to substantially upgrade their databases and obtain licenses to publish content which is now distributed exclusively through Westlaw. This change is unlikely to happen, as many of those databases (for example, AmJur, PPLR, The Procurement Lawyer, Briefing Papers, and CJS) are original to Westlaw.

## CERTIFICATIONS AND APPROVAL

### TECHNICAL/REQUIREMENTS CERTIFICATION

I certify that the facts and representations under my cognizance which are included in this Justification and its supporting acquisition planning documents, except as noted herein, are complete and accurate to the best of my knowledge and belief.

**Technical and Requirement Cognizance:**



### CONTRACTING OFFICER CERTIFICATION

To the extent that the LSJ value is between \$2,500 and \$150K for services and between \$3K and \$150K for products, the Contracting Officer's signature below also represents approval of the J&A/LSJ.

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

