
JUSTIFICATION FOR OTHER THAN FULL AND OPEN COMPETITION (JOFOC)¹

BRAND NAME JUSTIFICATION (BNJ)

JOFOC NUMBER²:

PROCUREMENT REQUEST (PR) NUMBER: DJA-23-ASOD-PR-0059

CO: JULIE TRUONG

COR/GTR³: [REDACTED]

DATE: 10/28/22

This acquisition is conducted under the authorities for procurements under the Simplified Acquisition Threshold (SAT) in accordance with Federal Acquisition Regulation (FAR) Part 13 for other than full and open competition (including brand name) and not using Federal Supply Schedule (FSS) also known as the GSA Schedules Program or the Multiple Award Schedules (MAS) and FAR Part 8 – Required Sources of Supplies and Services to meet the agency's needs.

1. Identification of the agency and contracting activity.

Requiring Agency:

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)
Digital Forensics Branch, Special Operations Division
45250 Severn Way, Suite 101
Technical POC: [REDACTED]
Email: [REDACTED]

Contracting/Ordering Activity:

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)
Office of Management - Acquisitions
99 New York Avenue, NE
Washington, DC 20226
Contract Specialist/Contracting Officer Name: Julie Truong
Email: CS/CO's email: Julie.Truong@atf.gov;

¹ This is also known as a Justification & Approval. It is the document required by the FAR that justifies and obtains approval for a sole-source contract.

² This is entered at or after small business review, including the header.

³ COR – Contracting Officer's Representative – services /GTR – Government Technical Representative – supplies/goods.

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

The Digital Forensics Branch (DFB) intends to award a firm-fixed price one-year contract for the purchase of three (3) GrayKey Online Premier Mobile Units and Licenses.

3. A description of the supplies and/or services required, including the delivery schedule and/or the period of performance (inclusive of all option periods), and the estimated dollar value of the acquisition.

This action is for the purchase of three (3) GrayKey Online Premier Mobile Units and Licenses. GrayKey, manufactured by Grayshift, is the primary tool used in DFB to unlock iPhones and Android devices seized in the field to extract evidentiary data.

The purchase of additional GrayKey Units in the Mobile Device Exploitation Unit (MDX) would help address the current backlog of 575+ devices (devices awaiting an update and devices pending processing) and aid in MDX's mission to process devices quickly and efficiently moving forward. Currently, once a device is received, there is a two (2) month wait (60 business days) before the device can be hooked up on an available GrayKey unit for processing. After the device ingests the GrayKey program, depending on the make and model of the device, it could remain on the unit for a couple days until the unit is available to process the next device.

[REDACTED]

Based on our current backlog, DFB would like to consider this requirement as an emergency purchase. We are unable to keep up with the demand in the field with only the six (6) licenses we have now. The year-long license agreement would begin upon the contract award. Subsequent license renewals would be addressed in an upcoming GrayKey renewal contract.

4. Identify statutory authority permitting limiting sources.

This acquisition is conducted under the authority

- ☐ FAR 6.302-1 Only one responsible source and no other supplies or services will satisfy agency requirements.
- ☐ FAR 6.302-2 Unusual and compelling urgency.
- ☐ FAR 6.302-3 Industrial mobilization; engineering, developmental, or research capability; or expert services.

- ☐ FAR 6.302-4 International agreement.
- ☒ FAR 6.302-5 Authorized or required by statute.
- ☐ FAR 6.302-6 – National Security
- ☐ FAR 6.302-7 Public Interest

5. A statement demonstrating the unique qualifications of the proposed contractor or the nature of the action requiring use of the authority.

GrayKey has the ability to unlock Apple's iPhones/iPads and Android mobile devices sent to us from the field. Once the device is unlocked, the data can be retrieved, and the case agents can search for evidentiary data. To unlock a device, the device is attached to the unit where the software is ingested and will run through any known numeric and alphabetical combinations in order to "bruteforce" it. Depending on the complexity of the passwords, it can take minutes, months, or years for a device to unlock.

DFB asserts that the purchase of GrayKey Online Premier Mobile Units and Licenses is the best avenue to accomplish our mission of device unlocks and extractions in order to support the field. GrayKey has the most up-to-date and device inclusive mobile device exploitation capabilities, a successful and consistent past performance, is extremely well priced, and DFB personnel are currently certified on its use which is valuable when testifying in a court of law.

6. A description of efforts made to ensure offers/quotes were solicited from as many potential sources as is practicable, including whether a notice was or will be publicized as required by [FAR 5.2](#) and, if not, which exception under [FAR 5.202](#) applies.

GrayKey is only available for purchase and use by law enforcement agencies. To ensure their product is **not** used by the general public, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

7. The anticipated dollar value of the proposed acquisition, including options if applicable, and a determination by the contracting officer that the anticipated cost to the government will be fair and reasonable.

The estimated cost for the three (3) new GrayKey Online Premier Mobile Units and Licenses is based on historical data from previous award, a quote and pricing information located on the Grayshift user portal.

Since DFB is a confirmed law enforcement GrayKey user, we have access to the Grayshift user portal. The GrayKey pricing structure and current software prices are listed and available for review by all current users. This information is not available if you are not a current GrayKey user.

Since Grayshift is only available for law enforcement and their products are not readily advertised on the internet and no additional pricing information is available through common internet searches, GSA websites, or other online sources.

8. A description of the market research conducted and the results or the reason market research was not conducted.

Market research was conducted through contacting Grayshift and asking *for market research purposes only*, to please provide a list of their authorized resellers. We were notified via email that

The Contracting Specialist researched both companies to establish a Small Business classification and determined both could be used as a set-aside.

9. Any other facts supporting the use of other than full and open competition.

None.

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

[REDACTED]

[REDACTED]

11. A statement of any actions the agency will take to remove or overcome any future barriers to competition.

DFB will continue contact with Grayshift each year the licenses expire to inquire *for market research purposes* only if they have any additional resellers, we can utilize to renew the licenses.

[REDACTED]

12. Certifications.**Co-Prepared by:**

As the Contracting Officer's Representative (COR) or Government's Technical Representative (GTR), I certify the above information is accurate to the best of my knowledge and contains complete data/information necessary to support the recommendation and the basis for this justification.

[Redacted Signature]

As the Contracting Officer and based on the information presented by the program office, the information is complete and accurate to the best of my knowledge, and it is in the best interest of the US Government to pursue other than full and open competition for this requirement.

Julie Truong Contracting Officer
Office of Management - Acquisitions

Date

Reviewed by:

[Redacted Signature]

[Redacted Signature] Date