Attachment 4
U.S. Customs and Border Protection
Justification for Exception to Fair Opportunity (JEFO)
Exceeding the SAT – RFO 16.507-6

Date: May 18, 2026 PR Number: 20157753

1. **Agency and Contracting Activity.** U.S. Customs and Border Protection (CBP), Office of Field Operations (OFO), Non-Intrusive Inspection Program, prepared this justification for an exception to fair opportunity.[1]

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

The DHS CBP Non-Intrusive Inspection (NII) Program intends to procure, on a sole source basis, integrated Low-Energy Portal (LEP) systems via award of a delivery order against an existing IDIQ contract to Rapiscan Systems pursuant to RFO 16.507-6. CBP is responsible for acquiring and deploying NII technology at U.S. Ports of Entry (POE) to enable CBP Officers to screen commercial traffic for the presence of contraband while facilitating the flow of legitimate trade, cargo, and passengers. The purpose of these systems is to enable CBP to perform effective and efficient inspection of conveyances, including passenger occupied vehicles and buses for contraband such as illicit drugs, terrorist weapons and currency. These systems will be used for inspection of smaller vehicles such as privately owned vehicles (POV) including cars, sport utility vehicles, pickup trucks, motorcycles, commercial vans, dual-rear wheeled trucks and towed trailers, as well as larger vehicles like buses, recreational vehicles, truck tractors with empty semitrailers and trailers. Each system shall be capable of providing an NII image with the quality identified within the performance requirements in the Statement of Work (SOW) to aid CBP personnel in identifying anomalies (potential contraband) within the conveyance.

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

This action supports the issuance of a follow-on delivery order to Rapiscan under the competitively awarded Low-Energy Portal (LEP) IDIQ contract 70B03C21D00000037. The delivery order is anticipated to be awarded June 30, 2026 and delivery to be made by June 29, 2027.

The delivery order encompasses the following:

- LEP Type 2 systems and installation at the El Paso Field Office – El Paso, TX, Laredo Field Office – Mission, TX, and San Diego Field Office – San Diego, CA

[1] In this document, citations to RFO Part 16 are citations specifically to Federal Acquisition Regulation (FAR) Class Deviation 26-04 R1 for FAR Part 16, which was issued as part of the Revolutionary FAR Overhaul (RFO), which was implemented in response to Executive Order 14275, *Restoring Common Sense to Federal Procurement*, signed April 15, 2025.

Rapiscan is the incumbent vendor providing construction and installation of LEP Type 2 systems at these locations.

The systems are urgently required, as CBP relies on LEPs to support operational needs for inspecting vehicles for illegal contraband - including illicit drugs, terrorist weapons and currency. The systems enable passenger-occupied vehicles to be driven through by their drivers and scanned with Large Scale (LS)-NII, ensuring efficient flow of legitimate trade and travel across U.S. borders. These systems are deployed with required operator booths, separate shelters for officers and vehicle passengers, and other ancillary equipment in addition to the LEP system itself (e.g. bollards, signage, surveillance cameras, etc.).

The requirement is to also provide sustainment and enhancement efforts for established Non-Intrusive Inspection systems including the Low-Energy Z-Portals at locations identified by the program office.

The table below shows the estimated value:

Description	Quantity	Unit Price	Unit Total
LEP2	4	[redacted]	[redacted]
Site Preparation; Engineering Services & Support	4	[redacted]	[redacted]
Installation Services & Civil Works	4	[redacted]	[redacted]
Disposal Fee, Removal Cost, 3-year Warranty	4	[redacted]	[redacted]
		Total:	[redacted]

4. **Identify the exception to fair opportunity and provide supporting rationale, including a demonstration that the proposed contractor's unique qualifications or the nature of the acquisition requires use of the exception cited.**

RFO 16.507-6(b)(2). Only one awardee is capable of providing the supplies or services required at the level of quality required because the supplies or services ordered are unique or highly specialized.

Rationale:

The authority cited in Section 4 of the JEFO, RFO 16.507-6(b)(2), "Only one awardee is capable of providing the supplies or services required at the level of quality required because the supplies or services ordered are unique or highly specialized.", is applicable due to the unique qualifications of the proposed contractor and the nature of the acquisition.

The proposed delivery order is being issued under the existing multiple-award IDIQ contract vehicle, which was competitively awarded on September 21, 2021, to three vendors—Astrophysics, Leidos, and Rapiscan —using full and open competition. Following the LEP IDIQ award to Leidos, Rapiscan and Astrophysics, CBP competed each delivery order among the IDIQ awardees using Fair Opportunity procedures. For each requirement, CBP issued a delivery order solicitation under the IDIQ, evaluated technical and price proposals, and made award decisions based on best valued to the Government. Through this process, individual delivery orders were awarded for specific ports of entry and field offices. Each awardee has since developed site specific designs, completed or initiated construction activities, and integrated their LEP systems into the local operational environment.

Each contractor has developed detailed knowledge of the physical, operational, and regulatory conditions at its assigned ports; and each contractor's systems and infrastructure at those locations are now proprietary and tightly integrated with existing CBP operations.

Rapiscan has current experience delivering systems to the sites listed within the proposed Delivery Order. The requirement involves sustainment and enhancement efforts for established NII systems at designated locations. Rapiscan originally installed the existing Z-Portal systems and possesses specialized knowledge of the systems' design, functionality, and integration within the port environment. This expertise, combined with the contractor's familiarity with the unique construction challenges and operational needs of the port, ensures continuity and minimizes risks associated with system upgrades or modifications.

Additionally, the contractor has extensive experience working within the port environments, including familiarity with its unique construction challenges, operational needs, and regulatory requirements. This experience ensures that the contractor can effectively address unforeseen issues that may arise during the installation and upgrade process.

The contractor has also established strong working relationships with port points of contact, which facilitates efficient coordination and execution of the required tasks. Engaging a new contractor would require significant time and resources to transfer knowledge, establish relationships, and familiarize them with the port environment and existing systems. This would introduce unnecessary risks, delays, and costs, jeopardizing the ability to meet the required timeline and operational needs.

5. Determination by the contracting officer that the anticipated cost to the Government will be fair and reasonable.

The proposed delivery order is being issued under the existing multiple-award IDIQ contract vehicle, which was competitively awarded on September 21, 2021, to three vendors—Astrophysics, Leidos, and Rapiscan —using full and open competition. The pricing structure established under the IDIQ contract was determined to be fair and reasonable at the time of

award. The proposed delivery order pricing aligns with the rates and terms negotiated under the IDIQ contract.

Additionally, the Contracting Officer will review and evaluate the cost breakdown for the delivery order as provided by the contractor and determine if the proposed pricing is reasonable given the scope of work, technical complexity, and operational requirements.

6. Any other facts supporting the justification.

This delivery order is a follow-on action under the legacy IDIQ contract, and transitioning to a new contractor outside of the IDIQ would result in significant duplicative costs. These costs include:

- Re-engineering Costs: Developing new systems to meet CBP's specifications, estimated at $10–15 million per system based on prior acquisition history.
- Integration Costs: Re-integrating new systems with existing infrastructure at Ports of Entry (POEs), estimated at $5 million per location.
- Training Costs: Retraining CBP personnel to operate and maintain new systems, estimated at $2 million.
- Operational Downtime: Delays in deployment and operational readiness, resulting in potential mission impacts and increased risks at POEs.

These estimates are based on historical data from similar acquisitions and the costs associated with transitioning to a new contractor. By issuing this delivery order under the legacy IDIQ, CBP avoids these duplicive costs and ensures continuity of operations.

Ordering these units now, versus waiting for the follow-on procurement to the existing contracts to be awarded, will allow CBP to continually improve its operational capabilities in inspecting vehicles, as well as meet the request as outlined in the One Big Beautiful Bill to begin procuring additional quantities of these items in an expedited manner.

7. **A statement of the actions, if any, the agency may take to remove or overcome any barriers that led to the exception to fair opportunity before any subsequent acquisition for the supplies or services is made.**

This delivery order is being issued under the LEP, Multiple Award IDIQ contract. The IDIQ structure was designed to promote competition among the awardees for subsequent delivery orders under Fair Opportunity procedures, ensuring that barriers to competition are minimized within the scope of the IDIQ.

For future acquisitions beyond the scope of the current IDIQ, CBP will take the following actions to increase competition:

- **Market Research:** CBP will conduct updated market research to identify additional vendors capable of meeting the agency's requirements for Low-Energy Portal (LEP) systems, including assessing emerging technologies and solutions that may expand the pool of qualified sources.
- **Specification Review:** CBP will review and revise overly technical specifications, if applicable, to ensure that requirements are not unnecessarily restrictive and allow for broader vendor participation.
- **Data Rights Acquisition:** CBP will evaluate whether acquiring data rights or technical documentation from the current vendors would enable other contractors to compete for future requirements without compromising system performance or operational continuity.
- **Small Business Outreach:** CBP will continue to engage with the Small Business Office to explore opportunities for small business participation, including subcontracting plans and partnerships with larger vendors.

The IDIQ contract remains an effective mechanism for promoting competition among the awarded vendors, and CBP will continue to leverage this structure to meet emergent and future needs while exploring ways to enhance competition for subsequent acquisitions.

8. CBP intends to post this justification on www.sam.gov pursuant to RFO 16.507-6(f).

9. **Technical/Requirements Personnel Certification:**

Pursuant to RFO 16.507-6(d)(2)(ix), I certify that this requirement meets the Government's minimum need and that the supporting data, which form a basis for the justification, are accurate and complete.

[redacted]
Technical Representative/COR _____ Date

10. **Contracting Officer Certification and Approval**:

Pursuant to RFO 16.507-6(e)(1), I certify that this justification is accurate and complete to the best of my knowledge and belief and hereby determine that the circumstances for an exception to fair opportunity exist and legal review was obtained when required based on dollar value.

[redacted]
Contracting Officer _____ Date

*Note: In accordance with RFO 16.507-6(e)(1), proposed orders with an estimated value exceeding the simplified acquisition threshold, but not exceeding $900,000, the ordering activity contracting officer's certification that the justification is accurate and complete to the best of the ordering activity contracting officer's knowledge and belief will serve as approval. For CBP, the

contracting officer should sign each justification prior to approval by the next higher level (e.g., Competition Advocate, HCA, and/or CPO).

► JEFO Approvals:

11. COMPETITION ADVOCATE (Per RFO 16.507-6(e)(2) – Exceeding $900,000 to $20M)

☑ Approved ☐ Disapproved

Name (Print): Earl Lewis
Competition Advocate
Signature: EARL J LEWIS Digitally signed by EARL J LEWIS Date: 2026.05.26 17:48:47 -04'00' Date: _____

12. HEAD OF CONTRACTING ACTIVITY (Per RFO 16.507-6(e)(3)– Exceeding $20M to $90M)

☑ Approved ☐ Disapproved

Name (Print): Earl Lewis
Head of the Contracting Activity
Signature: EARL J LEWIS Digitally signed by EARL J LEWIS Date: 2026.05.26 17:51:01 -04'00' Date: _____