

DEPARTMENT OF VETERANS AFFAIRS

**Justification and Approval (J&A)
For
Other Than Full and Open Competition (>SAT)**

Acquisition Plan Action ID: 36C263-21-AP-5305

1. **Contracting Activity:** Department of Veterans Affairs, Veterans Health Administration, Network 23 Contracting Office (NCO23) for the Sioux Falls VA Medical Center, Facilities Management Engineering Department, 2501 W. 22nd Street, Sioux Falls, SD 57105. VA Purchase Request Form 2237 number is 438-22-2-3535-0002.
2. **Nature and/or Description of the Action Being Processed:** Project 438-18-100, Upgrade Station Generator System has a need for brand name items – Two Caterpillar 2-megawatt Generators – as part of a requirement in which the contractor shall prepare the site for the addition of generators with electronic control systems which will synchronize utility and generator power with an existing Caterpillar generator for this medical center campus as required by the project drawings and specifications. Although only the brand name specified will be accepted for this project, the overall construction project will be solicited in a competitive environment as a 100% Service Disabled Veteran-Owned Small Business set-aside amongst the five eligible vendors in the NCO 23 North Dakota / South Dakota Multiple-Award Task Order Contract (MATOC) pool and will provide ample opportunity for material/equipment distributors to compete. Consequently, the overall award for the entire construction project will be as a Firm-Fixed Price (FFP) task order.
3. **Description of Supplies/Services Required to Meet the Agency's Needs:** Two Caterpillar 2-megawatt generators that will be completely self-contained units with individual electronic controls systems already included and mounted on concrete pads for both safety and security.
4. **Statutory Authority Permitting Other than Full and Open Competition:**
 - (X) (1) Only One Responsible Source and No Other Supplies or Services Will Satisfy Agency Requirements per 41 USC §3304(a)(1) as implemented by FAR 6.302-1;
 - () (2) Unusual and Compelling Urgency per 41 USC §3304(a)(2) as implemented by FAR 6.302-2;
 - () (3) Industrial Mobilization, Engineering, Developmental or Research Capability or Expert Services per 41 USC §3304(a)(3) as implemented by FAR 6.302-3;
 - () (4) International Agreement per 41 USC §3304(a)(4) as implemented by FAR 6.302-4
 - () (5) Authorized or Required by Statute per 41 USC §3304(a)(5) as implemented by FAR 6.302-5;
 - () (6) National Security per 41 USC §3304(a)(6) as implemented by FAR 6.302-6;
 - () (7) Public Interest per 41 USC §3304(a)(7) as implemented by FAR 6.302-7;
5. **Demonstration that the Contractor's Unique Qualifications or Nature of the Acquisition Requires the Use of the Authority Cited Above (applicability of authority):** The specified brand-name Caterpillar generator is the only item meeting the requirements of the government; although, Caterpillar has numerous authorized commercial equipment dealers and distributors that could be utilized to procure the specified Caterpillar 2-megawatt generators. The current Caterpillar generator on the Sioux Falls VA Campus was procured under an Energy Reduction Defense Acquisition

Contract (ERDAC) Number V618P-3724A in January of 2010. At that time, this ERDAC contract established the standard for this facility as Caterpillar for 2-megawatt back-up generators. Also, adding two more generators to the Sioux Falls VA Campus will require the integration and use of Caterpillar proprietary software to properly synchronize the power and share the electrical load between all units. Any other brand of generator would not allow for the integration of the existing Caterpillar generator and the two new generator units and would cause system incompatibility of electronic control software, increase risk of system failure during a power outage, and be cost prohibitive for both original procurement and future maintenance costs.

6. **Description of Efforts Made to ensure that offers are solicited from as many potential sources as deemed practicable:** During the AE Design effort for this construction project, Apogee-CEMS (AE Design firm of record) examined three possible generator options for the VA to consider within this design. The first option was to add two additional matching generators as described by this brand name sole source requirement. The second option was to provide two additional generators that “may not” match the existing generator. The third option was to provide three new 2-Megawatt generators and remove the existing generator from service. The First option was chosen as the most cost effective with the least risk to the Sioux Falls VA Medical Center. The second option had increased risk if the current Caterpillar generator would not synchronize correctly due to the two new generators’ proprietary software not interfacing between units. The end result would be a greater risk of power interruptions due to software incompatibility. The third option was to provide three new generators and remove the existing generator from service. Since the existing generator is still in good operational shape, the cost to procure three generators exceeded the brand name sole source option by over \$1,000,000.00. Based upon the three options presented, the first option was the one that was the most cost effective and presented the least amount of risk to the Sioux Falls Medical Center in the case of a power outage and was chosen for the basis of this AE design.
7. **Determination by the CO that the Anticipated Cost to the Government will be Fair and Reasonable:** A detailed Independent Government Cost Estimate (IGCE) has been provided by the Apogee-CEMS AE firm which includes all costs for this project, including the two Caterpillar 2-megawatt generators. Offers will be determined fair and reasonable by the Contracting Officer prior to award. The equipment pricing can be verified by contacting Caterpillar. If fair and reasonable pricing cannot be achieved from the Service-Disabled Veteran Owned Small Businesses, then the solicitation may be cancelled be re-solicited for all Service-Disabled Veteran Owned Small Businesses to increase competition and reduce costs.
8. **Description of the Market Research Conducted and the Results, or a Statement of the Reasons Market Research Was Not Conducted:** The two new generators contained within this requirement are required to interface with the current Caterpillar generator which makes it necessary to purchase these items from Caterpillar. As described in Section 5, the existing Caterpillar generator on the Sioux Falls campus was previously competitively bid and Caterpillar was established as their standard, so no further research was conducted.
9. **Any Other Facts Supporting the Use of Other than Full and Open Competition:** No other suppliers can provide Caterpillar proprietary software for this project. The Sioux Falls VA Medical Center currently has a Maintenance Service contract for service of all Caterpillar generators which would also reduce procurement leadtime, duplication of effort, and generator maintenance costs.

VHAPM Part 806.3 Other Than Full and Open Competition (OFOC) SOP
Attachment 5: Request for Sole Source Justification Format >SAT

10. **Listing of Sources that Expressed, in Writing, an Interest in the Acquisition:** Since the standard was established as Caterpillar generators in the year 2010 for the Sioux Falls VA Medical Center campus no other generator manufacturers have expressed any interest in providing equipment.
11. **A Statement of the Actions, if any, the Agency May Take to Remove or Overcome any Barriers to Competition before Making subsequent acquisitions for the supplies or services required:** If the Sioux Falls VA Medical Center plans to expand their generators in other areas on their campus that won't be directly paired with other generators that need to synchronize together, the Sioux Falls VA Engineering Department will consider other generator manufacturers.
12. **Requirements Certification:** I certify that the requirement outlined in this justification is a Bona Fide Need of the Department of Veterans Affairs and that the supporting data under my cognizance, which are included in the justification, are accurate and complete to the best of my knowledge and belief.

	AARON J. KOMPELIEN 1423112	Digitally signed by AARON J. KOMPELIEN 1423112 Date: 2021.11.04 08:57:35 -05'00'	4 November 2021
Signed for:	Kerry A. Nilson Engineering Chief Sioux Falls, SD		Date

13. **Approvals in accordance with the VHAPM Part 806.3 OFOC SOP:**

- a. **Contracting Officer or Designee's Certification (required):** I certify that the foregoing justification is accurate and complete to the best of my knowledge and belief.

	Gregg R Sutcliffe 189759	Digitally signed by Gregg R Sutcliffe 189759 Date: 2021.11.04 09:56:19 -05'00'	November 4, 2021
	Gregg R. Sutcliffe Contracting Officer / Branch Chief Network 23 Contracting Office		Date

- b. **One Level Above the Contracting Officer (Required over SAT but not exceeding \$750K):** I certify the justification meets requirements for other than full and open competition.

	Scott J. Petrin 1494019	Digitally signed by Scott J. Petrin 1494019 Date: 2021.11.04 11:55:29 -05'00'	Nov 4, 2021
	Scott P. Petrin Division 1 Chief Network 23 Contracting Office		Date

	Daryl A. Berg 429170	Digitally signed by Daryl A. Berg 429170 Date: 2021.11.04 12:52:19 -05'00'	11/4/2021
	Daryl A. Berg Director of Contracting Network 23 Contracting Office		Date

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- c. **VHA RPO HCA Review and Approval:** I have reviewed the foregoing justification and find it to be complete and accurate to the best of my knowledge and belief and recommend approval (if over \$75 million) or approve (\$750K to \$75 million) for other than full and open competition.

TERRY
SPITZMILLER
Terry L. Spitzmiller
Executive Director
Regional Procurement Office - Central
VHA Head of Contracting Activity (HCA)

Digitally signed by TERRY
SPITZMILLER
Date: 2021.11.10 09:34:31
-06'00'

11/10/2021
Date