

**NETWORK CONTRACTING OFFICE (NCO 9)**

**JUSTIFICATION FOR OTHER THAN FULL AND OPEN COMPETITION**

10 USC 2304(c) or 41 USC 3304(a)

1. REQUISITION / CONTRACT No.	2. TOTAL ESTIMATED COST:	3. PROPOSED CONTRACTOR:	4. REQUESTING ACTIVITY:	5. CONTRACTING ACTIVITY:
621-15-3-5096-1766	\$30,000.00	NOR-WELL Company, Inc. 136 E. Elk Avenue Elizabethton, TN 37643-3244	Engineering (138)  Wes Rosenbalm 423-926-1171 x7558 VA Medical Center Mt. Home, TN 37684-4000	Craig Ziegemeier 1639 Medical Center Parkway, Suite 400 Murfreesboro, TN 37129  615-225-6409

**6. STATUTORY AUTHORITY: AUTHORITY PERMITTING THE USE OF OTHER THEN FULL AND OPEN COMPETITION**

- FAR 6.302-1 – Only one responsible source and no other supplies or services will satisfy agency requirements** [41 USC 3304(a)(1)]: The supplies or services required by the Agency are available from only on responsible source and no other supplies or services will satisfy agency requirements.
- FAR 6.302-1(c) – Only one responsible source and no other supplies or services will satisfy agency requirements** [41 USC 3304(c) (1)]: **Brand Name Justification.** The use of such descriptions in the acquisition is essential to the Government’s requirement, thereby precluding consideration of a product manufactured by another company.
- FAR 6.302-2 – Unusual and compelling Urgency** [41 USC 3304(a)(2)]: 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 the agency is permitted to limit the number of sources from which it solicits bids or proposals. *(NOTE: These justifications may be made and approved after contract award when preparation and approval prior to award would unreasonably delay the acquisition. Lack of advanced planning is not justification for the use of this authority.)*
- FAR 6.302-3 – Industrial Mobilization; engineering, development, or research capability; or expert services** [41 USC 3304(a) (3)]: It is necessary to award the contract to a particular source or sources in order (i) 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 (ii) 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 (iii) to acquire the services of an expert neutral person for any current or anticipated litigation or dispute.
- FAR 6.302-4 – International agreement** [41 USC 3304(a) (4)]: Full and open competition need not be provided for when precluded by the terms of an international agreement or a treaty between the United States and a foreign government or international organization, or the written directions of a foreign government reimbursing the agency for the cost of the acquisition of the supplies or services for such government.
- FAR 6.302-5 – Authorized or required by statute** [41 USC 3304(a) (5)]: A statute expressly authorizes or requires that the acquisition be made through another agency or from a specified source, or the agency’s need is for a brand-name commercial item for authorized resale.
- FAR 6.302-6 – National security** [41 USC 3304(a) (6)]: The disclosure of the agency’s needs would compromise the national security unless the agency is permitted to limit the number of sources from which it solicits bids or proposals.
- FAR 6.302-7 – Public Interest** [41 USC 3304(a) (7)]: The agency head determines that it is not in the public interest to use full and open competition in the particular acquisition concerned.

**7. NATURE AND/OR DESCRIPTION OF THE ACTION BEING APPROVED:** On June 11, 2015 a large sinkhole appeared in the parking lot A on the campus of the James H. Quillen VA Medical Center. The sinkhole, was large enough, though its true size and depth were unknown at the time, to be of danger to vehicles in addition to pedestrians. A soils engineer was brought on the station. After some discussion it was determined to dig the area out and find the "neck" of the sinkhole.

**8. A DESCRIPTION OF THE SUPPLIES OR SERVICES REQUIRED TO MEET THE AGENCY'S NEEDS, INCLUDING THE ESTIMATED VALUE:**

Estimated value is not to exceed \$30,000.00. Work shall be coordinated with the COR.

Project involves the following:

1. Supply all supervision, labor (including overtime), tools, equipment, safety equipment, and materials to complete the initial work on the sinkhole as well as any additional work resulting from the investigation of the sinkhole.
2. Excavate the sinkhole to determine its extent as well as, determine the cause of the hole.
3. Do any additional excavation necessary to effect any repairs needed by underground utilities that may be the cause of the sinkhole as well as a result of any previous excavations.
4. Work with a soils engineer, if necessary, to determine the cause of the sinkhole and stabilize the hole if possible.
5. Repair any underground utilities damaged due to the sinkhole, damaged due to the excavation work, or whose previous damage may have caused the sinkhole. This may include, but is not limited to storm water, domestic water, chilled water, sanitary sewer, electrical, steam, access tunnels/vaults, manholes/basins, etc.
6. Back-fill the hole using flowable fill, clean compacted clay, or other material or materials as recommended by the soils engineer. This will be done in the amounts and to the degree recommended by the soils engineer.
7. Complete the back-filling of the hole with compacted #57 stone gravel in a layer of 6 to 12 inches thick to a level matching that of the existing parking lot pavement.
8. Any spoil generated as a result of the excavation will be removed from the excavation site and transported to an area on the Mountain Home campus designated by the COR.
9. The area will be cleaned-up using a water hose and/or broom swept so that all soil, mud, gravel, loose asphalt, and other debris standing higher than the aggregate in the existing parking lot asphalt has been removed.
10. All equipment will be removed from the campus upon completion of the work described above.
11. Execute and complete any additional work necessary to bring about the total and safe resolution of this sinkhole problem as directed by the responsible VA parties.

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

Due to the threat to individuals, damage to vehicles and utilities, caused by the sinkhole, this project is an unusual and compelling urgency under FAR 6.302-2, 41 USC 3304(a)(2). Immediate measures must be taken to determine the cause and provide a permanent solution to the growing sinkhole. NOR-WELL Company, Inc. has experience at VA hospitals, with similar projects. Immediate solution is required to prevent the sinkhole from expanding causing injury to pedestrians, damage to vehicles, damage to utilities, and other property damage. NOR-WELL Company, Inc. is a small business under NAICS code 238220 with a small business size of \$15 million.

**10. A DESCRIPTION OF THE EFFORTS MADE TO ENSURE THAT OFFERS ARE SOLICITED FROM AS MANY POTENTIAL SOURCES AS IS PRACTICABLE, INCLUDING WHETHER A NOTICE WAS OR WILL BE PUBLICIZED IN REQUIRED BY SUBPART 5.2 AND, IF NOT, WHICH EXCEPTION UNDER 5.202 APPLIES:** N/A – Unusual and compelling urgency under FAR 6.302-2, 41 USC 3304(a)(2). This JOFOC will be published to Federal Business Opportunities (FBO).

**11. A DETERMINATION BY THE CONTRACTING OFFICER THAT THE ANTICIPATED COST TO THE GOVERNMENT WILL BE FAIR AND REASONABLE:**

The proposal from the contractor is inline with the IGCE. The anticipated cost will be fair and reasonable based on

the development of the IGCE and current market conditions for plumbing, soil engineering, ground fill and surfacing work. With the concurrence from the Chief of Engineering for Mt. Home, the price is considered fair and reasonable.

**12. A DESCRIPTION OF THE MARKET RESEARCH CONDUCTED AND THE RESULTS OR A STATEMENT OF THE REASON MARKET RESEARCH WAS NOT CONDUCTED:**

The Contracting Officer has determined that this service is urgent and compelling and requires immediate assessment and correction to prevent injuries, damage to vehicles, damage to utilities, and further property damage under FAR 6.302-2 and is in the best interest of the Government.

**13. ANY OTHER FACTS SUPPORTING THE USE OF OTHER THAN FULL AND OPEN COMPETITION:** Unusual and compelling urgency under FAR 6.302-2 in accordance with 41 USC 3304(a)(2).

**14. A LISTING OF THE SOURCES, IF ANY, THAT EXPRESSED, IN WRITING, AN INTEREST IN THE ACQUISITION:** N/A.

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This justification has been prepared under the authority of 41 USC 3304(a) as set forth in FAR 6.3. This Justification documentation shall conform to guidance in FAR Part 13 for acquisitions at or below the simplified acquisition threshold (>\$150,000). For acquisitions above the simplified acquisition threshold, the documentation shall conform to guidance in FAR Part 6, Department of the Veterans Affairs Acquisition Regulation and Procurement Policy.

Federal Acquisition Regulation (FAR) 6.3 Other than Full and Open Competition, (a) 41 USC 3304(a) and 10 U.S.C. 2304(c) each authorize, under certain conditions, contracting without providing for full and open competition. The Department of Defense, Coast Guard, and National Aeronautics and Space Administration are subject to 10 U.S.C. 2304(c). Other executive agencies are subject to 41 USC 3304(a). Contracting without providing for full and open competition or full and open competition after exclusion of sources is a violation of statute, unless permitted by one of the exceptions in 6.302.

**15. CERTIFICATION AND SIGNATURE APPROVALS:**

Pursuant to FAR 1.707 Signature Authority, this Justification has been thoroughly reviewed and recommends approval. I certify that the above facts and representations under my cognizance that are included in this Justification are accurate and complete to the best of my knowledge and belief.

Concur	TITLE	TYPED NAME	SIGNATURE	DATE
<input checked="" type="checkbox"/>	COR (If Applicable)	Wes Rosenbalm	<i>Wes Rosenbalm</i>	6/12/15
<input checked="" type="checkbox"/>	Chief Engineer	Kevin Milliken	<i>Kevin Milliken</i>	6/19/15
<input checked="" type="checkbox"/>	Contracting Officer	Craig S. Ziegemeier	<i>Craig S. Ziegemeier</i>	6/19/2015
<input type="checkbox"/>	Supervisor	Kenneth N. Hooks, Jr.	<i>Kenneth N. Hooks, Jr.</i>	6/22/2015