



DEPARTMENT OF VETERANS AFFAIRS
National Cemetery Administration
Centralized Contracting Division (41D3A)
75 Barrett Heights Road, Suite 309
Stafford, Virginia 22556

December 12, 2016

MEMORANDUM FOR FILE: Contract File

FROM: Kenneth Dougherty, Contracting Officer

SUBJECT: JUSTIFICATION FOR OTHER THAN FULL AND OPEN COMPETITION,
SOLDIERS' LOT ON ALBANY RURAL PRIVATE CEMETERY MAINTENANCE
SERVICES

Enclosure: (1) Justification for Other than Full & Open Competition dated May 15, 2015
(2) Albany Cemetery Association's SAM profile
(3) Market Research Memorandum
(4) Email from Mr. John Buszta dated December 9, 2016

1. The Department of Veterans Affairs (VA), National Cemetery Administration (NCA), Contract Service, has a Sole Source requirement for cemetery maintenance services at Soldiers' Lot on Albany Rural Private Cemetery for the period of one base year, plus four, one-year option periods. The total cost of this acquisition is less than Simplified Acquisition Threshold and has an estimated cost of \$18,180.00. This requirement, which is being solicited solely to Albany Rural Cemetery, represents commercial services which are available to the general public and are not unique and/or exclusively for governmental purposes (enclosure 1). There is no cost associated with modifying or tailoring the supplies to meet the government's needs.

2. Applicable statutory requirement: 41 U.S.C. 3304(a)(1) Use of noncompetitive procedures

3. In accordance with FAR Part 6.302-1(b)(1) Full and open competition need not be provided for when there is a reasonable basis to conclude that the agency's minimum needs can only be satisfied by unique supplies or services available from only one source or only one supplier with unique capabilities.

4. The requirement to be fulfilled by the vendor authorized by the private cemetery's owner, ALBANY CEMETERY ASSOCIATION, CEMETERY AVE., ALBANY, NY 12204 (enclosure 2).

5. The proposed price of the services, once received by Mr. John Buszta, will be evaluated for fairness and reasonability. Historically, Mr. Buszta provided the same services required under this procurement for a fair and reasonable price.

6. Market research was conducted in accordance with FAR Part 10 (enclosure 3). However, the services required are to be performed on a private cemetery, to wit, the vendor utilized is at the discretion of the cemetery operator. On December 9, 2016 an email was received from Mr. John Buszta in which Mr. Buszta stated that he would not allow anyone to perform services on his property with the exception of his own staff (enclosure 4). This requirement will be not be solicited as required by FAR Subpart 5.2 due to the exception provided by FAR Subsection 5.202(a)(6).

7. The Contracting Officer has determined it is in the best interest of the Government for this acquisition to be awarded to the Albany Rural Cemetery. With consideration to the VA's Soldiers' Lot being located within Albany Rural Private Cemetery; and the land being donated to the Government with the understanding that the Soldiers' Lot would be maintained by the private cemetery – services are considered available only from Albany Rural Cemetery, it is the Contract Officer's determination that there are no alternatives to fulfilling the agency's requirements and not awarding the solicitation to the authorized vendor would result in nonperformance or acting contrary to Albany Rural Cemetery's permission.



12/12/2016

Kenneth M. Dougherty
Contracting Officer