

DEPARTMENT OF VETERANS AFFAIRS

Justification and Approval (J&A) For Other Than Full and Open Competition (>\$150K)

Acquisition Plan Action ID: VA69D-17-AP-8499

1. **Contracting Activity:** Department of Veterans Affairs, Veterans Health Administration (VHA), NCO 12 – Great Lakes Acquisition Center (GLAC) [36C252]

Purchase Request (PR) 578-18-1-6121-0002

2. **Nature and/or Description of the Action Being Processed:**

FAR13.5 Simplified Procedures for Certain Commercial Items: This procurement is for facility support services in accordance with (IAW) Federal Acquisition Regulations (FAR) 13.5 Simplified Procedures for Certain Commercial Items and specifically FAR 13.501 Special Documentation Requirements, where acquisitions conducted under Simplified Acquisition Procedures are exempt from the requirements of FAR Part 6, but still require a justification using the format of FAR 6.303-2.

The Edward Hines Jr. VA Hospital (Hines VAH) has a FY18 bona fide need for a new service contract for the inspection, testing, maintenance, and repair of the temperature control systems and devices located on its campus. The Contracting Officer has determined to pursue a single source award of a firm-fixed price service contract with a Service-Disabled Veteran-Owned Small Business (SDVOSB) IAW VA Acquisition Regulation (VAAR) 813.106-70, 819.7007, and FAR 13.501. See [Class Deviation - Veterans First Contracting Program \(VFCP 2016\)](#).

3. **Description of Supplies/Services Required to Meet the Agency's Needs:**

Market research performed by both the Program Office at Hines VAH and the Contract Specialist determined that three separate labor categories from the GSA Schedule 03 FAC, SIN 811 005 are needed for this requirement, Control Technician, Applications Engineer, and HVAC Mechanic. This requirement calls for two (2) Control Technicians, one (1) Applications Engineer, and one (1) HVAC Mechanic in order to complete all of the required services for the temperature control systems and devices. These services are required for a six (6) month period of performance, October 01, 2017 through March 31, 2018, in order to maintain equipment in accordance original equipment manufacturers' (OEM) recommendations and to remain in compliance with The Joint Commission (TJC) and the National Fire Protection Association (NFPA 99) standards. The total estimated value of this acquisition is \$465,219.20.

https://www.jointcommission.org/standards_information/jcfaq.aspx
<http://catalog.nfpa.org/>

4. Statutory Authority Permitting Other than Full and Open Competition:

FAR13.5 Simplified Procedures for Certain Commercial Items: The authority for applying the Simplified Procedures for Commercial Items of FAR 13.5 is 41 U.S.C. 1901 and is implemented by for restricting competition on this procurement via FAR 13.106-1(b)(2).

The authority permitting other than full and open competition is 38 USC 8127, Public Law 109-461 and is implemented by VAAR 819.7007 and VAAR 813.106-70. See [Class Deviation - Veterans First Contracting Program \(VFCP 2016\)](#).

SUBCHAPTER II - PROCUREMENT AND SUPPLY

Sec. 8127. Small business concerns owned and controlled by veterans: contracting goals and preferences

-STATUTE-

(a) Contracting Goals. - (1) In order to increase contracting opportunities for small business concerns owned and controlled by veterans and small business concerns owned and controlled by veterans with service-connected disabilities, the Secretary shall -

(c) Sole Source Contracts for Contracts Above Simplified Acquisition Threshold. - For purposes of meeting the goals under subsection (a), and in accordance with this section, a contracting officer of the Department may award a contract to a small business concern owned and controlled by veterans using procedures other than competitive procedures if - (1) such concern is determined to be a responsible source with respect to performance of such contract opportunity;

(2) the anticipated award price of the contract (including options) will exceed the simplified acquisition threshold (as defined in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)) but will not exceed \$5,000,000; and

(3) in the estimation of the contracting officer, the contract award can be made at a fair and reasonable price that offers best value to the United States.

5. Demonstration that the Contractor's Unique Qualifications or Nature of the Acquisition Requires the Use of the Authority Cited Above (applicability of authority):

TL Services, Inc. is a verified Service-Disabled Veteran-Owned Small Business (SDVOSB) found on the Office of Small & Disadvantaged Business Utilization (OSDBU) Vendor Information Pages (VIP) website under NAICS 561210. They are also a contract holder on GSA Schedule 03FAC which means they have already been determined by a warranted Contracting Officer to be a responsible Contractor and to possess fair and reasonable pricing. TL Services, Inc. has satisfactorily performed these services for the Hines VAH since April of 2017, gone through the VHA badging procedures and background checks, and familiarized themselves with the Hines VAH campus and its complex temperature control systems and components. They were one of two GSA contract holding SDVOSBs to respond to Sources Sought VA69D-17-N-0096 posted to GSA eBuy on 8/9/2017. Their response included a thorough Capability Statement which demonstrated successful performance and completion of similar government service contracts over the past several years. Multiple VISNs within the VA have partnered with TL Services, Inc. for building automation control systems maintenance. Twenty-eight (28) past performance reports listed under the "nonsystems" sector were reviewed through the Past Performance Information Retrieval System (PPIRS), and all but one of these reports possessed past performance ratings of "Satisfactory" or better. Utilizing a SDVOSB with a proven history of successful performance significantly reduces the risk associated with the

acquisition of the required services. This acquisition strategy also helps the VA meet its annual goals for the utilization of veteran-owned small business concerns and avoid substantial duplication of cost to the Government that is not expected to be recovered through competition.

6. Description of Efforts Made to ensure that offers are solicited from as many potential sources as deemed practicable:

A Sources Sought Notice, VA69D-17-N-0096, containing a brief synopsis of the requirement was posted to fbo.gov and GSA eBuy on 8/9/2017 for the purpose of obtaining information regarding the availability and capability of all qualified sources to perform a potential requirement. Responses to the information requested were to assist the Government in determining the appropriate acquisition method. All responses were due on 8/19/2017 at 11:00 AM (CST). The following firms responded to this notice (listed alphabetically):

<u>NAME</u>	<u>DUNS #</u>	<u>OM OR GSA</u>	<u>SOCIOECONOMIC STATUS</u>
J&B Hartigan, Inc.	969770747	GSA	SDVOSB
TL Services, Inc.	800166969	GSA	SDVOSB

As seen above, two (2) SDVOSBs responded to the Sources Sought Notice. One of these firms, TL Services, is the incumbent Contractor at the Hines VAH and is also a GSA contract holder with considerable past performance history. The other firm, J&B Hartigan, Inc., is also a GSA contract holder with considerable, relevant past performance history. The Contract Specialist confirmed that both vendors were verified on the VIP website and contacted each of these firms in order to obtain further information regarding their ability to perform the required services. Both firms confirmed their ability and willingness to compete for the opportunity if a competitive solicitation were to be issued.

Although the CO anticipates completing this acquisition as a single source procurement IAW FAR 13.106-1(b) and VAAR 813.106-70, a competitive acquisition strategy is anticipated for the follow-on requirement in the spring of 2018.

7. Determination by the CO that the Anticipated Cost to the Government will be Fair and Reasonable:

Upon review of the market research findings, the Contracting Officer (CO) has determined to exercise their discretion and authority granted in VAAR 819.7007 and VAAR 813.106-70 to pursue a single source award with TL Services, Inc. for a six month period of performance. TL Services, Inc. offered to provide services at or below the rates contained on their GSA contract GS-21F-0185W in April of 2017. These rates have already been determined to be fair and reasonable by a warranted CO.

TL Services has since offered to continue providing these services at their current rates which were determined fair and reasonable in April of 2017. A review of market prices demonstrated that aside from annual escalations included in GSA contracts on Special Item Number (SIN) 811 005, no changes have occurred which would lead the CO to believe the current pricing is no longer fair and reasonable. Awarding a 6-month contract to the incumbent ensures continuity of services without delay and avoids substantial duplication of cost to the Government that is not expected to be recovered through competition on such a short-term basis.

8. Description of the Market Research Conducted and the Results, or a Statement of the Reasons Market Research Was Not Conducted:

A search of the Office of Small & Disadvantaged Business Utilization (OSDBU) Vendor Information Pages (VIP) website on August 21, 2017 under NAICS 561210 identified seventy (70) SDVOSBs which service Illinois. An additional search adding the keyword "heat" produced 18 matches. A search of GSA eLibrary under the 03 FAC Schedule, SIN 811 005 produced twenty (20) matches for SDVOSBs.

Additional market research revealed two (2) Service-Disabled Veteran-Owned Small Businesses (SDVOSBs) interested and capable of performing the required services. Both of these businesses are current GSA contract holders on Schedule 03FAC, SIN 811 005. The requirements have been met for a set-aside to SDVOSBs in accordance with (IAW) *The Rule of Two* and VAAR 819.7005. The Contracting Officer also has the authority to pursue a sole source award with either of these SDVOSBs IAW with VAAR 819.7007 and VAAR 813.106-70. See section 6 above for further information on findings.

9. Any Other Facts Supporting the Use of Other than Full and Open Competition:

See sections above.

10. Listing of Sources that Expressed, in Writing, an Interest in the Acquisition:

See section 6 above.

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:

The current requirement is for a six month period of performance, October 01, 2017 through March 31, 2018. An additional sources sought is anticipated to be posted in November or December of 2017 to identify firms in the marketplace capable and willing to provide responses to a competitive solicitation. Dependent upon on the results of market research, the future requirement is anticipated to be competed and awarded prior to March 01, 2018 on a competitive basis in order to give the awardee adequate lead time to mobilize and obtain necessary badging and system access.

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.

Mike McCrary
Chief M&O
Edward Hines Jr. VAH

13. **Approvals in accordance with the [VHAPM Part 806.3 OFOC SOP](#):**

- a. **Contracting Officer:** I certify that the foregoing justification is accurate and complete to the best of my knowledge and belief.

Ashley Johnson
Contracting Officer
Great Lakes Acquisition Center

- b. **One Level Above the Contracting Officer:** I certify the justification meets requirements for other than full and open competition.

Scott Ivy
NCO 12 Division Chief
Great Lakes Acquisition Center