

**DEPARTMENT OF VETERANS AFFAIRS**

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

**Acquisition Plan Action ID: VA262-17-AP-11066**

1. **Contracting Activity:** Department of Veterans Affairs, SAO West - Network Contracting Office (NCO) 22, for the VA Loma Linda Healthcare System (VALLHS) located at 11201 Benton St., Loma Linda, CA 92357. 2237 Transaction # 605-18-1-6027-0009

**Nature and/or Description of the Action Being Processed:** This procurement is for the Semi-annual and Annual Boiler Plant cleaning, inspection, calibration, testing, and fine tuning services of the Cleaver Brooks Boilers located at VALLHS. This will be a Firm-Fixed-Price (FFP) contract for a base and up to four (4) option years. This procurement will be conducted in accordance with FAR 13.5 Simplified Procedures for Certain Commercial Items and specifically FAR Subpart 13.501(a)(1)(ii)--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 Subpart 6.303-2.

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

(a) VALLHS's Engineering service requires the services of a contractor perform Semi-annual and Annual Boiler Plant cleaning, inspection, calibration, testing, and fine tuning services of the Cleaver Brooks Boilers. Contractor shall furnish all labor, materials, supplies, equipment and transportation necessary to perform the semi-annual and annual boiler plant cleaning, inspection, calibration, testing, and fine tuning services at the VALLHS. Services will perform in accordance with the VHA Boiler Safety Device Testing Manual (Third Edition), VHA Directive 1810, and all other applicable laws / regulations.

(b) Estimated value of the acquisition: \$258,866.00

(c) Estimated Period of performance: December 1, 2017 through November 30, 2022.

**Statutory Authority Permitting Other than Full and Open Competition:** The authority for applying the Simplified Procedures for Commercial Items of FAR Subpart 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).

3. **Demonstration that the Contractor's Unique Qualifications or Nature of the Acquisition Requires the Use of the Authority Cited Above (applicability of authority):** Cleaver Brooks, the original equipment manufacturer (OEM) requires only "Factory Authorized Sales and Service Representative" to be perform the required services to Cleaver Brooks' boilers and equipment. Cleaver Brooks provides these representatives exclusive territories to provide parts, service and other support requirements through contractual means. Cleaver Brooks mandates the Representatives and their service technicians to attend all C-B Training continuously to obtain and maintain the title of "Factory Authorized". The C-B Trainings ensure the necessary certifications and

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Attachment 2: Request for Sole Source Justification Format >\$150K

experience are obtained that is required to perform maintenance and repairs to boilers, burners, and controls. Cleaver Brooks' boilers are also integrated with graphic user interface control unit with proprietary programs that are password sensitive and only accessible by Cleaver Brooks and their representatives. R.F. MacDonald is the authorized representative within the state of California (see link: <http://www.cleaverbrooks.com/find-a-rep/index.aspx>).

4. **Description of Efforts Made to ensure that offers are solicited from as many potential sources as deemed practicable:** Sources sought notice, 36C26218Q0034 (Link to 36C26218Q0034) was posted to [www.fbo.gov](http://www.fbo.gov) from October 12, 2017 to October 16, 2017 and received two (2) responses. Each business was contacted and was determined not capable of providing the required services.

**Determination by the CO that the Anticipated Cost to the Government will be Fair and Reasonable:** The anticipated cost of the contract has been deemed fair and reasonable based on the following reasons based on the program office's subject matter expert Independent Government Estimate (IGE) and on comparison of similar contracts.

5. **Description of the Market Research Conducted and the Results, or a Statement of the Reasons Market Research Was Not Conducted:** Market research was conducted pursuant to FAR Part 10, the Class Deviation – Implementation of the Veterans First Contracting Program as a Result of the U.S. Supreme Court Decision (Class Deviation – Veterans First Contracting Program (VFCP 2016), VHAPM Part 810.001, and PPM 2016-05. A review of GSA's FSS contracts, VA VETBIZ website ([www.vip.vetbiz.gov](http://www.vip.vetbiz.gov)), SBA's website ([http://dsbs.sba.gov/dsbs/search/dsp\\_dsbs.cfm](http://dsbs.sba.gov/dsbs/search/dsp_dsbs.cfm)), System for Award Management (SAM) website ([www.sam.gov](http://www.sam.gov)), Federal Procurement Data System (FPDS) website ([www.fpds.gov](http://www.fpds.gov)), and Federal Business Opportunities (FBO) website ([www.fbo.gov](http://www.fbo.gov)). Sources sought notice # 36C26218Q0034 was posted to [www.fbo.gov](http://www.fbo.gov) from October 12, 2017 to October 16, 2017 for all business concerns to view and respond too. Two (2) responses were received, but were determined not to be capable of providing the required services (see paragraph 7 below). Based on the market research and propriety of Cleaver Brooks's proprietary programs, only Cleaver Brooks and their "Factory Authorized Sales and Service Representative" are only responsible and capable source.

6. **Any Other Facts Supporting the Use of Other than Full and Open Competition:** None.

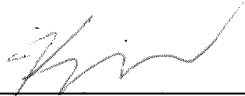
7. **Listing of Sources that Expressed, in Writing, an Interest in the Acquisition:** The following sources responded to sources sought notice 36C26218Q0034, but was deemed not capable of providing the required services:

- (a) Northwest Service Technologies, 600 E. Watertower, Suite D, Meridian, ID 83642
- (b) Insparisk LLC, 18-10 Whitestone Expressway 3rd Floor, Whitestone, NY 11357

8. **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:** Based on the market research and the supporting facts stated above, it is unlikely that future requirements will be available for competition because Cleaver Brooks and their "Factory Authorized Sales and Service Representative" retains all the exclusive rights, data, parts, certified technicians, and servicing to the Cleaver Brooks line of equipment. If other potential sources emerge, the VA will consider and assess whether competition for future requirements is feasible.

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Attachment 2: Request for Sole Source Justification Format >\$150K

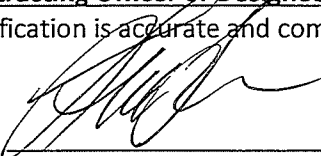
9. **Requirements Certification:** I certify that the requirement outlined in this justification is a Bona Fide Need of the Department of Veterans Affairs and that the supporting data under my cognizance, which are included in the justification, are accurate and complete to the best of my knowledge and belief.

  
\_\_\_\_\_  
Name: Kenneth Eigen  
Title: FMS, Chief Engineering  
Facility: VA Loma Linda Healthcare System

10/31/17  
Date


10. **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.

  
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Name: Tue M. Tran  
Title: Contract Specialist  
Facility: SAO West, NCO 22

10/31/17  
Date

- b. **Director of Contracting / Designee (Required over \$150K but not exceeding \$700K):** I certify the justification meets requirements for other than full and open competition.

  
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Name: Vicie R. Graves  
Title: Contracting Officer  
Facility: SAO West, NCO 22

31 OCT 2017  
Date