

DEPARTMENT OF VETERANS AFFAIRS

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

Acquisition Plan Action ID: [REDACTED]

1. **Contracting Activity:** Department of Veterans Affairs
Network Contracting Office 4
323 North Shore Drive, Suite 400
Pittsburgh, PA 15212
[REDACTED]
2. **Nature and/or Description of the Action Being Processed:** The proposed action is a firm-fixed-price contract for maintenance service to the Energy Management System (EMS) (also known as the Building Automation System (BAS)) at the Corporeal Michael J. Crescenz Veterans Affairs Medical Center (Philadelphia VAMC). This procurement is in accordance with 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.
3. **Description of Supplies/Services Required to Meet the Agency's Needs:** The Philadelphia VAMC has a follow-on non-competitive requirement for EMS maintenance support services. The maintenance support services include the provision of all labor and ancillary hardware necessary to perform all program modifications for all of the critical patient care control systems, valves, flow zone controls, LCM's local control modular, GCM's global control modular, computers and fiber optic networks. Monitoring of all systems in the EMS (or BAS) at the Philadelphia VAMC, on a 24 hour, 7 days a week, 365 days per year basis is required. Programming of all control check points, set points and software is necessary as part of this requirement to ensure proper functioning of the BAS. Management of the day-to-day operations of the EMS is required. [REDACTED]
[REDACTED] The anticipated period of performance is a base year plus four (4) option years. The Option to Extend Services Clause is also included and will be evaluated.
4. **Statutory Authority Permitting Other than Full and Open Competition:** FAR Subpart 13.5 used in accordance with 41 U.S.C. 1901.
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 proposed source is CM3 Building solutions, Inc., ("CM3"), 185 Commerce Drive, Fort Washington, PA 19034. CM3 is the original Building Automation System (BAS) developer and installer of the BAS equipment at the Philadelphia VAMC. The EMS is the overarching system that "manages" and "oversees" all of the systems that comprise the BAS: Niagara, existing (but discontinued) Barber Colman Network 8000 control system, Local Control Modulators, Global Control Modulators, and air handling units that have been transitioned over to the CM3 I/A series Building Automation System (BAS).

CM3 writes the software and develops the graphics, which controls the equipment. The hardware is proprietary to Schneider Electric, which is then sold to CM3 under an exclusive agreement. The software is sold from Schneider Electric to CM3. CM3 then customizes the software by creating databases, graphics, and programing tools. The integrated platform is proprietary to CM3. In addition, CM3 is an independently owned field office for Schneider Electric. Schneider Electric manufactures the Schneider Electric I/A Intelligent Automation System solely for CM3. CM3 provides the I/A line and other diverse solutions which incorporate manufacturer's proprietary BAS into a web based platform.

Due to the ongoing needs of the veteran beneficiary population, the Philadelphia VAMC needs to maintain the integrity of the physical plant services necessary to keep the hospital running and not at risk for patient care. The oversight and preventative maintenance of the BAS is needed. Currently, the Philadelphia VAMC has both obsolete equipment and upgraded equipment as part of the BAS. With the obsolete, outdated equipment, only CM3 can provide this necessary service. The upgraded equipment within the BAS also needs regular maintenance. Without this requirement, a disruption in services could result in increased health risks and possible serious injuries to veterans and employees at the Philadelphia VAMC.

6. **Description of Efforts Made to ensure that offers are solicited from as many potential sources as deemed practicable:** The Contracting Officer posted a synopsis for this requirement to the Federal Business Opportunities (FBO) website on October 26, 2017 in accordance with (IAW) FAR 5.201. The Contracting Officer also searched the Vendor Information Pages (VIP) database for any Service Disabled, Veteran Owned (SDVOSB), and Veteran Owned Small Business (VOSB) concerns that may be eligible to perform this requirement. No results were located that indicated an ability to perform CM3 proprietary work. A second VIP query was performed utilizing the NAICS 238220 and the keyword "BAS" amongst the states Pennsylvania, New Jersey, and Delaware. The results yielded 4 companies. A reading of the company CV did not show any experience or capabilities with Building Automation Systems, nor access to the proprietary information needed to be able to perform this requirement. The Government did not conduct additional market research for this requirement due CM3 having known proprietary rights to the BAS in use at the Philadelphia VAMC. The requiring activity will monitor the market for developments regarding the ability of other sources to perform this work.
7. **Determination by the Contracting Officer that the Anticipated Cost to the Government will be Fair and Reasonable:** The Contracting Officer will determine price reasonableness IAW FAR Part 13.106-3.
8. **Description of the Market Research Conducted and the Results, or a Statement of the Reasons Market Research Was Not Conducted:** See paragraph #6 above.
9. **Any Other Facts Supporting the Use of Other than Full and Open Competition:**

Procurement History for BAS Requirements at Philadelphia VAMC

<u>Contract Number</u>	<u>Contractor</u>	<u>Award Date</u>	<u>Extent Competed Authority</u>
VA244-13-C-0389	CM3 Building Solutions, Inc.	08/14/2013	Sole source; FAR 6.302-1

VA244-17-P-4519	CM3 Building Solutions, Inc	06/27/2017	Sole Source; FAR 13.5 used IAW 41 U.S.C. 1901
VA244-17-P-6267	CM3 Building Solutions, Inc	09/22/2017	Sole Source; FAR 13.5 used IAW 41 U.S.C. 1901

10. **Listing of Sources that Expressed, in Writing, an Interest in the Acquisition:** No sources have expressed interest in response to the posted synopsis on the www.fbo.gov website (see paragraph #6).

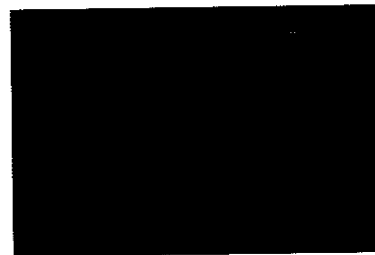
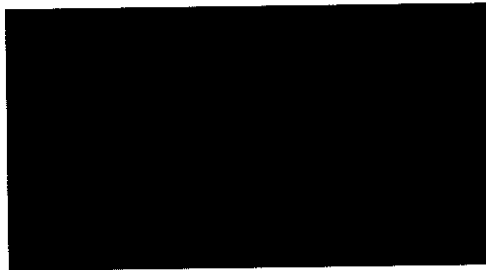
11. **A Statement of the Actions, if any, the Agency May Take to Remove or Overcome any Barriers to Competition before Making subsequent acquisitions for the supplies or services required:** See paragraphs #8-10 above.

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.

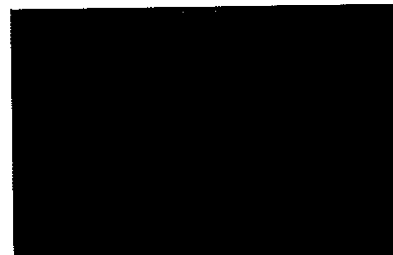
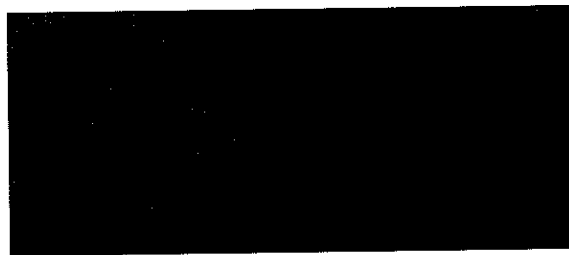


13. **Approvals in accordance with the VHAPM, Volume 6, Chapter VI: OFOC SOP.**

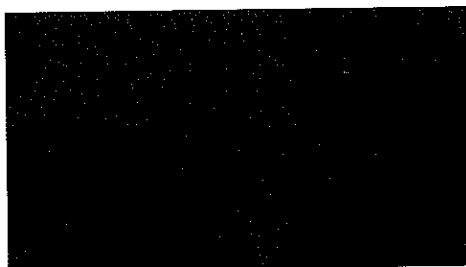
- a. **Contracting Officer's Certification (required):** I certify that the foregoing justification is accurate and complete to the best of my knowledge and belief.



- b. **Branch Chief's Certification:** I certify that the foregoing justification is accurate and complete to the best of my knowledge and belief.



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



- d. **VHA SAO 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 \$13.5 million) or approve (\$700K to 13.5 million) for other than full and open competition.

