

# DEPARTMENT OF VETERANS AFFAIRS

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

Acquisition Plan Action ID: VA246-18-AP-7999

1. **Contracting Activity:** Department of Veterans Affairs, VISN 6, Hampton Veterans Affairs Medical Center (Hampton VAMC), Network Contracting Office 6 (NCO 6).
2. **Nature and/or Description of the Action Being Processed:** This action is to procure Architect-Engineering Services, as a sole source award under the authority at FAR 6.302-2, for urgent and compelling justification for Other Than Full and Open Competition. The services are to obtain one (1) deliverable, a Preliminary Flow, Pressure and Rainfall (FPR) Monitoring Plan, as a component of a larger engineering project with an estimated 28-month duration. Sole source award will be made to a highly-qualified firm, which is still being identified from available sources. This document is being used, rather than the simplified acquisition template, because AE services are subject to the Competition in Contracting Act (CICA), and therefore this justification should be written in relation to the content under FAR part 6, the implementing regulation.
3. **Description of Supplies/Services Required to Meet the Agency's Needs:** The Hampton VA Medical Center requires engineering services to complete a Preliminary Flow, Pressure, and Rainfall (FPR) Monitoring Plan, to be coordinated and approved through the Hampton Roads Sanitation District (HRSD), in accordance with Sections 1.3 and 3.3 of the Federal Facility Technical Standards regarding reduction of Sanitary Sewer Overflows (SSOs). The estimated value of this action is \$[REDACTED] for work to be completed prior to 30 July 2018.
4. **Statutory Authority Permitting Other than Full and Open Competition:**
  - ( ) (1) Only One Responsible Source and No Other Supplies or Services Will Satisfy Agency Requirements per FAR 6.302-1;
  - (X) (2) Unusual and Compelling Urgency per FAR 6.302-2;
  - ( ) (3) Industrial Mobilization, Engineering, Developmental or Research Capability or Expert Services per FAR 6.302-3;
  - ( ) (4) International Agreement per FAR 6.302-4
  - ( ) (5) Authorized or Required by Statute FAR 6.302-5;
  - ( ) (6) National Security per FAR 6.302-6;
  - ( ) (7) Public Interest per FAR 6.302-7;
5. **Demonstration that the Contractor's Unique Qualifications or Nature of the Acquisition Requires the Use of the Authority Cited Above (applicability of authority):**
  - a. The Hampton Roads Sanitation District (HRSD), and the Virginia Department of Environmental Quality (DEQ) are parties to a Special Order by Consent (SOC) to reduce Sanitary Sewer Overflows. The SOC was issued by the Virginia State Water Control Board and outlines specific actions to be taken by localities within the Hampton Roads sanitation district. The SOC requires HRSD to meet specific requirements to manage waste water in its

jurisdiction. As a result, HRSD has required each of its permittees to comply with an infiltration and inflow order to progressively ensure compliance with the SOC. As a federal permittee of HRSD, Hampton VAMC is required to meet specific compliance steps towards reducing potential for wastewater overflow and for ensuring continuous compliance with wastewater quality regulations. These specific steps are outlined in an Infiltration and Inflow order.

- b. The Preliminary FPR monitoring plan was originally due by 30 October 2017. The Hampton VA Medical Center, Engineering Service, obtained the maximum available extension offered by HRSD, which was a nine month extension. The FPR plan is now due 30 July 2017. As of the date this justification was drafted, 119 days remain until the due date. Based on the milestone guidelines for the project, the FPR plan was allotted 120 days for completion. The subsequent deliverable is due 12 months after HRSD acceptance of the FPR plan. While FAR 6.301(c)(1) prohibits sole source justification on the basis of lack of advanced planning by the requiring activity, the Hampton VA Medical Center may become subject to fines of up to \$32,500 per violation of the Infiltration and Inflow Order (I/I Order), in accordance with the Code of Virginia 1950, § 62.1-44.32 et seq. The exact amount to be levied for violations cannot be specifically determined, but the ability of HRSD to fine the facility for lack of compliance represents the potential for serious financial injury to the facility, in accordance with FAR 6.302-2(b). In accordance with the Code of Virginia 1950, § 62.1-44.32 et seq, "Each day of violation of each requirement shall constitute a separate offense."
  - c. Given the time remaining to complete the submittal (FPR plan), insufficient time is available to complete the selection process described at FAR subpart 36.6. The selection of sources for architect-engineer services is a competitive procedure under FAR part 6, and CICA. The justification is written in accordance with circumstances permitting other than full and open competition, under CICA and FAR part 6. Sole source award will be negotiated with a single firm, to provide the required AE services. It is anticipated that AE services required to develop the remaining eleven (11) deliverables of the Infiltration/Inflow (I/I) Compliance Schedule, will continue to be procured competitively, under the Selection of Architects and Engineers statute.
6. **Description of Efforts Made to ensure that offers are solicited from as many potential sources as deemed practicable:** Multiple sources have been identified during market research. However, the time remaining to complete the required services prohibits use of competition.
  7. **Determination by the CO that the Anticipated Cost to the Government will be Fair and Reasonable:** The Government has a current IGE for this action. In the event that a fair and reasonable price cannot be negotiated with one firm, other known firms are available.
  8. **Description of the Market Research Conducted and the Results, or a Statement of the Reasons Market Research Was Not Conducted:** Market research consisted of review of sources identified for another project requiring the same type of services.
  9. **Any Other Facts Supporting the Use of Other than Full and Open Competition:** None.
  10. **Listing of Sources that Expressed, in Writing, an Interest in the Acquisition:** Draper Aden Associates (DUNS: 062355177), MECX, Inc. (DUNS: 1028732B3), Hydrostructures, P.A. (DUNS: 183679690) and ATCS, PLC (DUNS: 861012433).

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:** It is anticipated that AE services required to develop the remaining eleven (11) deliverables of the Infiltration/Inflow (I/I) Compliance Schedule, will continue to be procured competitively, under the Selection of Architects and Engineers statute.
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.

//Signed// \_\_\_\_\_  
Name: Scott Brown  
Title: Chief, Engineering Service  
Engineering Service  
Hampton VA Medical Center  
Date \_\_\_\_\_

13. **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.

//Signed// \_\_\_\_\_  
Daniel Spaulding  
Contracting Officer  
Construction Team 2  
Network Contracting Office 6  
Date \_\_\_\_\_