

DEPARTMENT OF VETERANS AFFAIRS

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

Acquisition Plan Action ID: VA248-18-AP-11354

1. **Contracting Activity:** Department of Veterans Affairs, VISN 08, Miami Veterans Medical Center; 2237: 546-18-3-6872-0225
2. **Nature and/or Description of the Action Being Processed:** This is a request to solicit and award a sole-source firm-fixed price contract for the project titled: "Underground Fuel Tanks Removal", to MILICON, Inc. dba ZUTO, Miramar, FL. The project will be solicited and awarded under "Unusual and Compelling Urgency", per FAR 6.302-2.

The urgency for this project award is the following:

- VA Miami is in violation of the following EPA Law Title 42-The Public Health and Welfare Chapter 82-Solid Waste Disposal Subchapter IX-Regulation of Underground Storage Tanks and Florida Statue 376.3077.
- The dead men poles holding the tanks down are rotted and when it rains the tanks will rise again and spill additional fuel on the soil further contaminating the area around it.
- This is a hazardous environment for hospital and patient safety with having these unearthed tanks full of fuel leaking into the soil and into the air for the patients to breathe.

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

Scope of Work:

The contractor will be required to provide qualified personnel and all material required to:

- Complete the tank registration with the Florida Department of Environmental Protection and Local and State Notification of all Site Activity and Report Review if required by Federal Govt;
- Ensure utility clearances will be performed before any onsite work commences. A site-specific Site Safety Plan will be written and all onsite personnel will be required to read and sign the Safety Plan prior to commencing work. Site work excavations were all based on a modified level "D". Appropriate AST personnel will be certified including, but not limited to, OSHA HAZWOPPER certified;

- Oversee & Coordinate excavation of any concrete and/or soils surrounding the UST's sufficient to expose the top and sides of the tanks for preparation of removal;
- Oversee & Coordinate the degassing and cutting of the UST's, the plan calls for addressing one tank at a time to account for the large area of each tank which may require additional soil sampling from that defined below;
- Oversee & Coordinate the removal of any liquid, soil or sludge contents inside the UST's using a vacuum truck. Contaminated water and sludge/soil transportation & disposal at a licensed waste receiving facility;
- Oversee & Coordinate the removal, waste manifest and transport of the tanks from the site by a licensed contractor;
13111 SW 20th Street Miramar, FL 33027
- Oversee & Coordinate the removal, manifesting and disposal of any suspect or contaminated soils from the site by licensed waste hauler and disposal facility;
- Supply clean back fill material per the client's specification (sand/crushed limestone...);
- Soil samples will be collected from the surficial depth interval of 0-2' below land surface (bls) to the groundwater table where applicable and from inside the tank pit(s). All samples will be field analyzed by an Organic Vapor Analyzer (OVA) and observed for odors or staining. Collection of a minimum of one (1) soil sample from each excavation for every 200 square feet of the base of the excavation and one soil sample every 20 feet from the sidewalls for organic vapor screening;
- Soil confirmation samples will be collected from at a minimum of the above-mentioned areas for laboratory analysis for the presence of Kerosene Analytical Group parameters (KAG) which consists of EPA Methods 8260/8270 (Purgeable Halocarbons/Aromatic Volatile Organic Compounds), FL-PRO (Total Recoverable Petroleum Hydrocarbons), EDB and lead (soil vs groundwater parameters);
- Direct push placement of at least four (4) temporary groundwater-monitoring wells using prepacked screens to be placed in the tank farm area. Groundwater samples will be collected after a minimum 24 hour waiting period and analyzed for the presence of KAG parameters
- Density testing will be performed;
- The results of the field investigation activities, findings, waste manifests, conclusions and recommendations for further work, if any, will be provided in a written Tank Closure and Assessment Report (TCAR) signed and sealed by an EPA-defined Environmental Professional and Florida Registered P.G.

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

In accordance with 41 USC §3304(a)(2) and

- ☐ (1) Only One Responsible Source and No Other Supplies or Services Will Satisfy Agency Requirements per FAR 6.302-1;
- ☒ (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. Unusual and Compelling Urgency (FAR 6.302-2, 6.303-2(a)(9)(ii)) – Milicon Inc. currently is working in the area of the fuel tanks. It was during their demolition that the tanks and seepage were discovered. Milicon possessed the skills and resources necessary to perform preliminary containment until the VA could devise the best way to proceed. Due to the fact that Milicon is already set up on the tank site mobilization could occur immediately and work to remove the tanks within 48 hours. Milicon has the skills and materials required to bring us into compliance quickly and maintain hospital and patient safety.

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

Market research shows there are other SDVOSB that could perform this project. However, it has been determined that soliciting Full and Open with a SDVOSB would not be beneficial. The urgency of this project requires a quick turn around from award to mobilization. Future procurements that are not urgent in nature will be solicited Full and Open with a SDVOSB set aside.

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

Based on the authorities cited in this justification, a sole source award under 41 USC §3304(a)(2) and FAR 6.302-2 will be negotiated for fair and reasonable pricing by comparing the project costs to past projects and the Independent Government Estimate (IGE).

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

Market research shows there are other SDVOSB that could perform this project. However, it has been determined that soliciting Full and Open with a SDVOSB would not be beneficial. The urgency of this project requires a quick turn around from award to mobilization. Future procurements that are not urgent in nature will be solicited Full and Open with a SDVOSB set aside. The VIP Database was queried in accordance with VAAR 810.001, Market Research Policy. Milicon, Inc is currently visible in vet.biz.gov as a certified SDVOSB.

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: None.
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 VA usually capitalizes on the advantages of the competitive procurements. Per VA requirement, most construction projects are either competed as competitive SDVOSB set-asides or under pre-existing SDVOSB IDIQ contracts. Due to the urgency in removing and performing remediation on tank site, it is determined to be in the best interest of the Government, to attempt to enter into a sole source contract with MILICON, Inc. dba ZUTO, Miramar, FL. The recommended contractor has been verified, both in terms of responsibility, as well as its status as a certified SDVOSB.

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.

Kurt L. Hair
1075896

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Kurt L. Hair 1075896
Date: 2018.05.07
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Kurt Hair
Chief Planning and Analysis
Facility

Date

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.

MELISSA A.
KEENE 431300

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MELISSA A. KEENE 431300
Date: 2018.05.09 11:18:06
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Melissa Keene
Contracting Officer
NCO 8/Construction Team 1

Date

- b. **One Level Above the Contracting Officer (Required over \$150K but not exceeding \$700K):** I certify the justification meets requirements for other than full and open competition.

EDWARD F.
SCHUMAN
424509

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F. SCHUMAN 424509
Date: 2018.05.09 11:24:43
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Edward F. Schuman
Supervisory Contract
NCO 8/Construction Team 1
Facility

5/9/2018

Date