

## **Justification and Approval for Sole Source**

*“Source Selection Information – see FAR 2.101 and 3.104”*

### **1. Identification of the agency and contracting activity.**

#### **a. Federal agency and contracting activity. HHS.**

Indian Health Service (IHS)  
Division of Engineering Services – Seattle  
701 Fifth Ave, Suite 1600  
Seattle, WA 98104

#### **b. Sponsoring organization.**

Great Plains Area Indian Health Service  
115 4<sup>th</sup> Ave. SE – Room 309  
Aberdeen, SD 57401

#### **c. Project Officer information.**

CDR Corey Sawatzky  
3200 Canyon Lake Dr, Rapid City, SD 57702  
[Corey.sawatzky@ihs.gov](mailto:Corey.sawatzky@ihs.gov)  
605-945-5454

### **2. Nature and/or description of the action being approved.**

#### **a. Acquisition purpose and objectives.**

The objective of this procurement is to award a fixed price construction contract for Project #GP23CR300C06, Wellfield Excavation & Repair as a sole source requirement to Doug O’Bryan Contracting, Inc.

#### **b. Project background.**

IHS is an Operating Division of the Department of Health and Human Services (HHS) responsible for the administration of the principal federal health care programs for American Indian/Alaska Natives.

The Program Summary Document authorizes IHS project GP23CR300C06 that consists of the construction of repairing the existing wellfield within the parking lot of the Cheyenne River Health Center on the Cheyenne River Sioux Tribe Reservation in South Dakota.

IHS facility Cheyenne River Health Center located in Eagle Butte, SD has extensive leaks throughout their geothermal well system. Their geothermal piping and wells are all located underneath their South parking lot and sidewalks. The need was previously discovered as glycol

was running out of their retaining wall close to the geothermal system. An emergency contract was completed at the area level to bring in (Contractors Name) and do leak detection of the wellfield. The contractor located leaks on well loop 2, 4, 5, 7, 8, 9, 10, and 11. When these loops are removed from service to prevent leaking, the HVAC system can no longer keep up with the demands of the facility and it falls outside the temperature requirements. Upon review of the work needed to repair these, it was discovered that the cost far exceeds that which can be handled at the area level. It is imperative that these repairs occur prior to winter as the system will not be able to properly heat the facility.

In addition a second emergency service contract was established to bring a temporary chiller onsite to provide cooling while the repairs take place. This has been completed and the site is prepped for these emergency repairs to be completed.

**3. Description of the supplies or services required to meet the agency's needs (including the estimated value).**

**a. Project title.**

Eagle Butte Emergency Wellfield Repairs

**b. Project description.**

Indian Health Service Cheyenne River Health Center is requesting emergency work be done on their geothermal HVAC system. This acquisition will remove sections of the existing parking lot and sidewalks where the geothermal system is located. After removal of these items, excavation down to the piping will commence. Once excavation is completed the piping will be repaired via fusion welding. The piping will then be tested to ensure operation. The excavations will be backfilled and compacted to ensure that the piping will not break. The parking lot asphalt and sidewalks that were removed shall also be replaced. The existing system will be shut off and per a service contract a temporary chiller will be introduced.

As well as this brief description an accompanying SOW is attached.

• **Requirement type.**

- Research & development (R&D)
- R & D support services
- Support services (non-R&D)
- Supplies/equipment
- Information technology (IT)
- Construction
- Architect-engineer (A & E) services
- Design-build
- Other (specify): \_\_\_\_\_

- **Type of action.**

- New requirement
- Follow-on
- Other (specify): \_\_\_\_\_ Urgent \_\_\_\_\_

- **Proposed contract/order type.**

- Firm-fixed-price
- Other fixed-price (specify, e.g., fixed-price award-fee, fixed-price incentive-fee): \_\_\_\_\_
- Cost-plus-fixed-fee
- Other cost reimbursement (specify, e.g., cost-plus-award-fee, cost-plus-incentive-fee): \_\_\_\_\_
- Time and materials
- Indefinite delivery (specify whether indefinite quantity, definite quantity, or requirements): \_\_\_\_\_
- Other (specify): \_\_\_\_\_
- Completion Form     Term form

- **Acquisition identification number.**

**c. Total estimated dollar value and performance/delivery period.**

\$373,784.25

270 Calendar Days after Notice to Proceed

**4. Identification of the statutory authority permitting other than full and open competition.**

- This acquisition is conducted under the authority of 41 United States Code (U.S.C.) 253(a)(1) & 41 United States Code (U.S.C.) 253(a)(2) as set forth in Federal Acquisition Regulation (FAR) 6.302-1 Only one responsible source and no other supplies or services will satisfy agency requirements & Federal Acquisition Regulation (FAR) 6.302-2 Unusual and compelling urgency.
- This acquisition is conducted under the authority of section 4202 of the Clinger-Cohen Act of 1996.
- This acquisition is conducted under the authority of the Services Acquisition Reform Act of 2003 (41 U.S.C. 428a).

**5. Demonstration that the proposed contractor(s) unique qualifications or the nature of the acquisition requires use of the authority cited.**

**a. Name and address of the proposed contractor(s).**

Doug O'Bryan Contracting  
605-685-6281  
21617 US HWY 18  
Martin, SD 57551  
UEI: EK97JD32EJG6

**b. Nature of the acquisition and proposed unique qualifications of the contractor(s).**

This acquisition is for the repair of the of the existing geothermal wellfield at Cheyenne River Health Center. Doug O'Bryan Contracting has an existing service contract with the facility for the multi-stack chiller units for this area and has done many other projects for the facility. These multi-stack chillers units work in conjunction with the wellfield to provide the HVAC for the facility. Recently there has been very little sitework contractors available throughout the area as there is bigger new construction going on throughout the area.

As discussed in paragraph 6 below, Doug O'Bryan contracting is ready and willing to accommodate the service units needs of excavation and repair in the timeframe required under this emergency situation. The contractor is an Indian Owned Small business with a HUB Zone certificate.

The Contractor Performance Assessment Reporting System (CPARS) was reviewed for performance of previous Doug O'Bryan Contracting projects. The CPARS report contained thirty (30) projects with a trend of "Satisfactory" and "Very Good" ratings. Additionally, the contractor has completed numerous projects with IHS. In 2018 (HHSI161201700014C) they completed a project for Bad Nation Booster Pump Station and Water Main to upgrade the system and received "Very Good" ratings for the work completed. A Contract Responsibility Assessment was requested on 15 September 2023. The assessment did not indicate any terminations, defaults or exclusions. Much of the work completed by Doug O'Bryan Contracting is completed in North and South Dakota.

**6. Description of the efforts made to ensure that offers are solicited from as many potential sources as practicable. Indicate whether a FedBizOpps notice was or will be publicized as required by FAR Subpart 5.2 and, if not, which exception under FAR 5.202 applies.**

Project Engineer had tried contacting Midwestern Mechanical, Action Mechanical, GP- Radar Bloodhound, Rapid Rooter, & Colorado Underground Leak Detection all called in the time frame of 6/5/2023 – 6/9/2023. For investigation and possible remedies into the leaking well field system. Midwestern Mechanical & Action Mechanical were the only contractors interested in helping in locating the leaks. Action Mechanical also gave the number of their leak detection sub-contractor who was called but never responded. As all of these companies are strictly plumbing companies the work of excavation and concrete will need to be done by a prime contractor. Doug O'Bryan Contracting was the only one to respond that could accomplish all of the tasks to complete this project in the accelerated timeframe required. Also, since a second emergency service contract was established to bring a temporary chiller onsite to provide cooling, this would cause further cost impacts for these emergency repairs to be completed should the timeline be extended. (See para 9 below for further facts).

**7. Determination by the Contracting Officer that the anticipated cost/price to the Government will be fair and reasonable.**

Based on the unique circumstances and type of acquisition proposed, the Contracting Officer will request data other than certified cost or pricing data in accordance with FAR 15.403-3(a)(1) to determine fairness and reasonableness of the cost/price of the contract prior to its award.

**8. Description of the market research conducted (see FAR Part 10) and the results, or a statement of the reasons market research was not conducted.**

The original estimation for the project was believed to be underneath the \$150,000 mark for IDIQ projects for the area. This estimation ended up being low after it was determined the full scale of the repairs needed. Local contractors were contacted and only one had the ability and the time to complete the work within the emergency constraints of this project.

**9. Any other facts supporting the use of other than full and open competition.**

The SOW prepared is for an estimation based on how severe the leaks underneath the ground are. The issue being somewhat unquantifiable without being able to visually identify leaking in the system. The approximate location of the main leaks have been identified through a leak detection contractor.

The existing system will continue to get worse and could cause damage past the point of repair. The existing piping is connected to 364 geothermal wells that could collect sedimentation and cause them to burst and or lose all functionality, rendering them ineffective and in need of replacement. These wells are typically 300ft of piping buried vertically in the earth. Replacement costs are extremely high for these well systems. If not corrected immediately the hospital will not

have sufficient HVAC systems to maintain accreditation. Meaning the diversion of patients and the lack of sufficient care for the entire area. Diversion of patients would take a toll for the community as the next nearest hospital is over 90 miles away. Earlier estimates for the replacement of 2 wellfield loops containing a fraction of the entire system was around \$2,000,000. The sooner work is started and completed for the repair of the system the less likely it is the system will need total replacement.

**10. Listing of sources, if any, that expressed, in writing, an interest in the acquisition.**

No other sources have expressed an interest, in writing, in the proposed acquisition.

**10. Statement of the actions, if any, the agency may take to remove or overcome any barriers to competition before any subsequent acquisition for the required supplies or services.**

The agency shall not further the inspection into the wellfield system via more urgent acquisitions. The wellfield leaks have been identified by a separate contractor prior to this acquisition that should be sufficient for this acquisition and repair. If operation does not improve via this acquisition, normal contracting procedures will be sought. In the future this specific issue of leaking wellfields piping should be caught as soon as possible to minimize damage. As this piping has been leaking for an indeterminate amount of time, immediate repairs are needed to ensure continued operation.

All future construction projects will continue to be competitively solicited as required.

**12. Program office certification.**

**This is to certify that the portions of this justification that have been developed by the undersigned program office personnel, including supporting information and/or data verifying the Government’s minimum needs, schedule requirements and other rationale for other than full and open competition, are accurate and complete.**

Official	Name & Title	Signature	Date
<b>Project Officer</b>	Corey Sawatzky, DFM Deputy Director		
<b>Project Officer’s Immediate Supervisor</b>	Martin Shutt, DFM Director		
<b>Head of the Sponsoring</b>	Brent Rohlfs, OEHE Director		

Official	Name & Title	Signature	Date
Program Office			

**13. Contracting Officer certification.**

This is to certify that the justification for the proposed acquisition has been reviewed and that to the best of my knowledge and belief the information and/or data provided to support the rationale and recommendation for approval is accurate and complete.

Official	Name & Title	Signature	Date
Contracting Officer	Jennifer J. Scroggins, Supervisory Contracting Officer		

**14. Chief of the Contracting Office and Head of the Contracting Activity signature(s).**

Official	Name & Title	Signature	Date
Chief of the Contracting Office	Melissa D. Warmath Chief of OEHE Acquisition		
Head of the Contracting Activity			

**15. Competition Advocate signature.**

Official	Name & Title	Signature	Date
Competition Advocate			

**16. HHS Senior Procurement Executive signature.**

<b>Official</b>	<b>Name &amp; Title</b>	<b>Signature</b>	<b>Date</b>
<b>HHS Senior Procurement Executive</b>			