

**JUSTIFICATION REVIEW DOCUMENT
OTHER THAN FULL AND OPEN COMPETITION**

PROJECT: W912P521R0002, Chickamauga Lock Upstream Approach Wall Construction Project

CONTROL NO: LRN-FY21-07

AUTHORITY: 10 U.S.C. 2304(c)(1)

AMOUNT: \$16,225.00

| | | |
|----------------------------|-------------------|--------------|
| PREPARED BY: | NAME: [REDACTED] | DATE: |
| CONTRACT SPECIALIST | PHONE: [REDACTED] | 6 April 2021 |
| CONTRACTING OFFICER | NAME: [REDACTED] | DATE: |
| | PHONE: [REDACTED] | 6 April 2021 |
| TECHNICAL | NAME: [REDACTED] | DATE: |
| | PHONE: [REDACTED] | 6 April 2021 |
| REQUIREMENTS | NAME: [REDACTED] | DATE: |
| | PHONE: [REDACTED] | 6 April 2021 |

SIGNATURES ARE REQUIRED BELOW:

I have reviewed this J&A and find the justification adequate to support other than full and open competition.

| | | |
|---|--------------------------|--------------------------------------|
| DISTRICT SMALL BUSINESS SPECIALIST | SIGNATURE: [REDACTED] | DATE: (date in electronic signature) |
| | NAME: [REDACTED] | PHONE: [REDACTED] |
| PROJECT MANAGER | SIGNATURE: [REDACTED] | DATE: (date in electronic signature) |
| | NAME: [REDACTED] | PHONE: [REDACTED] |
| ASSISTANT DISTRICT COUNSEL | SIGNATURE: [REDACTED] | DATE: (date in electronic signature) |
| | NAME: [REDACTED] | PHONE: [REDACTED] |

**JUSTIFICATION AND APPROVAL (J&A)
FOR OTHER THAN FULL AND OPEN COMPETITION**

1. Contracting Agency: United States Army Corps of Engineers (USACE), Nashville District (CELRN), Contracting Division, Nashville, TN

2. Description of the Action: Approval is requested to include the brand name or equal products identified in solicitation W912P521R0002, Chickamauga Lock Upstream Approach Wall Construction Project (Project), to maintain consistency with the plans and specifications that were issued with Contract W912P517C0007, Chickamauga Lock Chamber, and to provide compatibility and interoperability amongst existing Government systems. The Government will not purchase the products directly, but rather brand name or equal specifications will be included in the solicitation that will lead to a firm-fixed price construction contract. The construction contract will be awarded under a full and open solicitation. The brand-name or equal items identified in the specifications are light poles with bases and DigiPro2 Software (Attachment 1).

3. Description of Supplies/Services or Nature of Construction: The Project requires construction of the upstream approach wall pier and upstream approach wall beam installation in the upstream approaches to the new lock chamber at Chickamauga Lock located in Chattanooga, Tennessee.

The construction contract estimate is approximately [REDACTED]. This action is to be solicited using the Best Value Tradeoff Process (Federal Acquisition Regulation (FAR) Part 15.101). Award will be made to the responsible Offeror whose proposal conforms to the solicitation, is fair and reasonable, and offers the best overall value to the Government.

The plans and specifications include two (2) separate instances where Brand Name or Equal identification is made, with an aggregate value of \$16,225.00. See Attachment 1 for a complete list of items, manufacturer, and estimated cost of all items which have a brand name or approved equal indicated to provide Offerors insight to the quality of product expected for the Project and to aid in understanding the features included for estimating the items.

4. Authority Cited: The statutory authority permitting other than full and open competition for this acquisition is 10 United States Code 2304(c)(1) as implemented by FAR 6.302-1. Only one responsible source and no other supplies or services will satisfy agency requirements. In accordance with Defense Federal Acquisition Regulation Supplement (DFARS) 206.302-1(c)(2) and section 888(a) of the NDAA for FY17 (Pub. L. 114-328), this J&A is required in order to use brand name or equal descriptions.

5. Reason for Authority Cited:

a. Background. The existing Chickamauga Lock was dedicated in 1940 and is currently experiencing structural deficiencies associated with alkali aggregate growth that threatens the lock's long-term operability. The objective of this procurement action is to construct the upstream approach wall for the new navigation lock. This procurement will help CELRN ensure the reliability, efficiency, and availability of this valuable regional resource for the next 50 years and beyond. Components included in the new upstream approach wall must reliably function as part of the overall lock system and be compatible with existing equipment that is being installed under the current Lock Chamber construction contract (W912P517C0007) that was awarded in September 2017.

b. Justification. The rationale for selecting brand name or equal for the light poles and bases is to maintain consistency with the plans and specifications that were issued with contract W912P517C0007, Chickamauga Lock Chamber. Acquiring brand name or equal light poles and bases would decrease the amount of spare parts needed, be compatible with the current electrical system at the project, lessen the time spent on training and performing maintenance. The DigiPro2 software or approved equal is based on providing compatibility and interoperability amongst existing Government systems. CELRN currently uses DigiPro2 software to analyze tilt data from inclinometers, so having the DigiPro2 brand name would decrease the amount of training time necessary to learn a new software. It will also ensure that CELRN personnel are able to access and analyze data from the contractor in a timely manner by eliminating the need to get access to whichever software the contractor uses to generate and analyze their data, which could delay the project. Additionally, using one software across the entire Chickamauga Lock project will ensure that any observed differences in measurements over time are actually attributable to movement in the ground, as opposed to differences in how the software analyzes the data.

Competition is only limited to the extent necessary to meet the Government's legitimate needs of this project. Contractors are free to use any product which meets the Government's minimum needs. As indicated in the clause FAR 52.236-5, Material and Workmanship, "References in the drawings and specifications to equipment, material, articles, or patented processes by trade name, make, or catalog number, shall be regarded as establishing a standard of quality and shall not be construed as limiting competition." The Contractor may, at its option, use any equipment, material, article, or process that, in the judgment of the Contracting Officer, is determined to be equal through formal evaluation comparison against the specified salient characteristics as provided by the written specifications for each piece of equipment, material, article or process.

Because each manufacturers' product has slightly different specifications, to achieve compatibility and interoperability amongst existing Government systems, it is necessary to identify one (1) product (in each of the two (2) Brand-Name or Equal instances). The product will be reviewed to see if it matches the specifications needed to qualify it as a brand name or equal to product. If it does not meet the minimum specifications outlined, it will not be considered.

c. Alternative. An alternative would be to remove all instances of Brand Name or Equal and instead define requirements by salient and performance characteristics. This alternative would increase risk to the Government, as an oversight or omission when describing salient characteristics could lead to a component not fitting the characteristics described in the plans and specifications as intended, and it increases the likelihood that the Contractor proposes a product that does not meet project needs.

d. Impact. Listing acceptable instrumentation software and light poles and bases by reference of Brand Name or Equal limits competition by increasing the likelihood that the Contractor acquires the brand name products referenced. However, as noted in the specifications, the Contractor is allowed to submit any other product which meets the Government's minimum characteristics and standards of quality. Due to the specific equipment and relatively low cost of individual components, listing the products by Brand Name or Equal is not expected to have a significant impact.

6. Efforts to Obtain Competition. Competition is obtained to the maximum extent practical while meeting the agency's requirements by utilizing a specific product only to the extent it is necessary to complete the contract, while allowing Contractors to use the brand-named or any

other product which meets the Government's minimum characteristics and standards of quality. Notice of Intent (NOI) for Brand Name or Equal was posted to beta.SAM on 18 March 2021 which stated the intent to utilize brand name or equal requirements. The NOI included a list of all products called out as brand name or equal in the plans and specifications. No responses were received from industry pertaining to the brand name or equal items.

7. Actions to Increase Competition: This J&A supports a discrete requirement that will end when the Project is complete. Therefore, there are no planned actions to increase competition for the requirement covered by this J&A.

8. Market Research: A NOI to sole source brand name or equal was posted to beta.SAM on 18 March 2021. Based on involvement of experts in the field, knowledge of the market, and review of product availability, there is more than sufficient products available to meet project needs. Items listed in the project's plans and specifications are provided solely as examples and Contractors are not required to use the specific brand identified.

9. Interested Sources: To date, there have been no responses to the NOI posting. The solicitation will be synopsized in accordance with FAR 5.201, and responses will be evaluated utilizing the Best Value Trade-off process per FAR Part 15.

10. Other Factors: None.

11. Technical Certification

I certify 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: [REDACTED]

Date: In Si

Title: Technical Lead

Signature: [REDACTED]

12. Requirements Certification

I certify 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: [REDACTED]

Date: (in e

Title: Technical Lead

Signature: [REDACTED]

13. Fair and Reasonable Price Determination

I hereby determine that the anticipated cost or price to the Government for this contract action will be fair and reasonable. This determination was made utilizing market research and independent government estimates. Certified cost or pricing data will not be required. This requirement is anticipated to receive adequate price competition (FAR 15.403-1 (b)(1)).

Name: [REDACTED]

Date: (in electronic signature)

Title: Contracting Officer

Signature: [REDACTED]


Contracting Officer's Certification and Approval

Based on the foregoing justification, I hereby approve the procurement of the Chickamauga Lock Upstream Approach Wall, estimated at **\$16,225.00** on an other than full and open competition basis pursuant to the authority of 10 U.S.C.2304(c)(1), subject to availability of funds, and provided that the services and property herein described have otherwise been authorized for acquisition.

Date: (in electronic signature)

Signature:

A large black rectangular redaction box covering the signature of the Contracting Officer.


Contracting Officer

Attachment 1 – Complete List of 'Brand Name or Equal' Items

| Item | Specification | Manufacturer | Estimated Cost |
|---------------------|--|----------------------------------|-----------------------|
| Digipro2 software | Section 13 50 00, Paragraph 2.1.3 | Durham Geo- Enterprises, Inc. | \$0-\$625 |
| Light Poles & Bases | Section 26 05 00 Paragraph 2.1.4 and 65W416-UAW | Valmont Structures | \$15,600 |