



ALTERNATE PROCUREMENT REQUEST

Office of Budget and Management

CSD/State Procurement Office

SFN 51403 (5/2007)

Name of Agency or Institution North Dakota Public Service Commission		Business Unit Number 408	Date Of Request July 8, 2009	Requisition/Tracking Number (Optional)	
Procurement Officer Gloria Geiger		Telephone Number 701-328-2401		Fax Number 701-328-2410	E-Mail
Description of Service or Commodity - Describe the intended purpose. (Include manufacturer, brand, model, and other identifiers.) Construction inspection services provided by Kadrmas Lee & Jackson, Inc.					
Total Estimated Cost - If a term contract, include any provisions for contract renewal or extension (e.g. \$10,000/Yr with two (2) annual renewal options). \$24,999					
Future Considerations <input type="checkbox"/> Reoccurring Purchase <input checked="" type="checkbox"/> One-Time Purchase Will this purchase obligate us to a particular vendor for future Purchases? (Either in terms or maintenance or if we purchase this item, will we need or be required to purchase more "like" items in the future to match this one?)					
Procurement Type <input type="checkbox"/> Limited Competitive Procurement. <input checked="" type="checkbox"/> Noncompetitive Procurement					
Contractor Information (Non-Competitive Only)					
Contractor Kadrmas Lee & Jackson, Inc.		Contact Person Mark Anderson	Telephone Number: 701-845-4980	Fax Number 701-845-0252	
Address: 1010 4 th Avenue SW, PO Box 937		City Valley City	State ND	Zip Code 58072-0937	
Indicate whether registration with the Secretary Of State is required. (See OMB Guidelines for Vendor Registration Requirements) <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No					
Price Considerations (Noncompetitive Only) Why is the price for this product or service considered fair and reasonable? Describe the negotiation efforts, if any, that have been made with the vendor to obtain the best possible price. The price for this service will be the same as the prices contained in the contract that ended June 30, 2009.					
Authority For Limited Or Noncompetitive Procurement Competition can be limited under the following N.D.C.C. or N.D.A.C. provisions. Check the appropriate authority reference.					
<input type="checkbox"/> The commodity or service is available from only one source. [N.D.C.C § 54-44.4-05 (2)(a)] <input type="checkbox"/> The commodity or service is available from another government entity's contract. [N.D.C.C. § 54-44.4-13]. <u>NOTE:</u> The contract must be reviewed by OMB State Procurement Office. <input type="checkbox"/> The commodity or service is to be purchased for experimentation or trial. [N.D.C.C. § 54-44-4-05(2)(b)] <input type="checkbox"/> No acceptable bid or proposal was received pursuant to a competitive bidding or competitive proposal process. [N.D.C.C. § 54-44.4-05(2)(c)] <u>NOTE:</u> If only one responsive bid or proposal was received in response to a solicitation, the procurement officer may make an award to the vendor upon determination that the specifications were not restrictive in accordance with N.D.A.C. § 4-12-06-02. If only one responsive bid or proposal is received in response to a solicitation, and the price submitted is not fair and reasonable and there is not time for resolicitation, or it is unlikely that resolicitation will increase the number of bids or proposal, the procurement may be conducted as a limited competitive or noncompetitive purchase, as appropriate. (N.D.A.C. § 4-12-11-08) <input type="checkbox"/> Commodities are being purchased for over-the-counter resale. [N.D.C.C. § 54-44.4-05 (2)(d)] <input type="checkbox"/> A used commodity is advantageous to the state and the commodity is available only on short notice. [N.D.C.C. § 54-44-05 (2)(g)] <input type="checkbox"/> The commodity is a component or replacement part for which there is not commercially available substitute and which can be obtained only from the manufacturer. [N.D.C.C. § 54-44-4.05 (2)(h)] <input type="checkbox"/> Compatibility with equipment currently owned by the state is essential to the proper functioning of that equipment.[N.D.C.C. § 54-44-05 (2)(i)] <input type="checkbox"/> Products or services exclusive to particular individuals or business entities are required, but competition for that proprietary product or service exists. [N.D.A.C. § 4-12-09-02 (1)(a)] <input type="checkbox"/> Circumstances require that commodities or services be provided by vendors within a specific geographic area, such as equipment requiring local service, on-site service within a specific time, or delivery of perishables.(N.D.A.C. § 4-12-09-02 (1)(b)) <input type="checkbox"/> It is determined that a competitive sealed bid or competitive sealed process is impracticable or not in the best interest of the state. [(N.D.A.C. 4-12-09-02 (1)(c))] <input checked="" type="checkbox"/> The services or the circumstances are of such a nature that deviation from the procurement process is appropriate. [N.D.C.C. § 54-44-4.05 (2)(j)]. <u>NOTE:</u> The agency must provide substantiating documentation.					

Justification Of Limited Competitive/Noncompetitive Purchase And Supporting Documentation

Explain why a fully competitive procurement method is impracticable or not in the best interest of the state.

Why is this commodity or service available from limited sources or one source? Provide factual material evidence, such as written documents, records, supporting data, affidavits, or other information. (e.g. describe research conducted, obtain and attach a letter from the manufacturer, etc.)

Kadmas Lee & Jackson, Inc. (KLJ) entered a contract with the Public Service Commission beginning June 23, 2008 for consulting services of a qualified inspector for oversight inspection during the construction by TransCanada Keystone Pipeline, LP of a 218-mile, 30-inch crude oil pipeline in Cavalier to Sargent Counties, North Dakota. The KLJ contract terminated on June 30, 2009.

TransCanada was expected to complete the North Dakota portion of the Keystone Pipeline project during the 2008 construction season, however, wet weather conditions delayed construction and construction resumed approximately June 8, 2009 and will continue through most of the 2009 construction season.

Since KLJ provided 3rd party inspection services regarding the Keystone Pipeline project during the 2008 construction season, they have a base of knowledge and experience from which to continue inspection services. Deviation from the competitive sealed bid and competitive sealed process is appropriate. The Commission requests noncompetitive procurement.

Disapproval Consequences

What are the consequence(s), including a dollar estimate of the financial impact, if this request for limited competitive or non-competitive purchase is not approved?

TransCanada construction of the Keystone Pipeline will continue even though 3rd party inspection services were discontinued June 30, 2009. In its February 21, 2008 Order, the Commission found it necessary to procure an inspector to monitor the construction activities to help ensure compliance with the Commission's order requirements, including reclamation of disturbed surface areas.

It is difficult to estimate the financial impact of an unknown noncompliance with the Commission's order that would be discovered through the 3rd party inspections.

Agency Approval (Up To \$25,000)

Instructions for agency head or designee: The procurement officer must cite the authority for the limited competitive or noncompetitive purchase and provide evidence necessary for an independent examination and determination of the material facts of the procurement (N.D.A.C. § 4-12-09).

Name (Printed or Typed)

Telephone Number

Laura Perry

701 328 2401

Approved Disapproved Returned for further justification Send notice of intent to make a noncompetitive purchase

Comments:

approved per N.D.C.C. 54-44-4.05.

I certify to the best of my knowledge and belief that all the information on this request, including any attachments, is true and accurate.

Signature

Date

Laura Perry

7-10-09

Office of Management and Budget – State Procurement Office Approval (\$25,000 and Over)

Name (Printed or Typed)

Telephone Number

Approved Disapproved Returned for further justification Send notice of intent to make a noncompetitive purchase

Comments:

Signature

Date