

JUSTIFICATION AND APPROVAL  
FOR AN EXCEPTION TO FAIR OPPORTUNITY

1. Contracting Activity: Department of Veterans Affairs (VA)  
Office of Acquisition Operations  
Technology Acquisition Center  
260 Industrial Way West  
Eatontown, NJ 07724
  
2. Description of Action: VA proposes to issue a task order, consisting of a 12-month base period, to Pro-Sphere Tek Inc. under the Transformation Twenty One Total Technology (T4) Program, Indefinite Delivery, Indefinite Quantity (IDIQ) Contract Number VA118-13-D-1015 for certification of VistA for meaningful use design and development.
  
3. Description of the Supplies or Services: The proposed action is for the design, development, testing, and delivery of a software solution that will comply with the 2014 meaningful use certification requirements for the following two criteria: preferred language and smoking status. In addition, the contractor shall provide training to the business users on the functions and usage of the software solution and correct any software defects found during the performance of this effort. The total estimated value of the proposed action is [REDACTED].
  
4. Statutory Authority: The statutory authority permitting this exception to fair opportunity is Section 41 U.S.C. 4106(c) as implemented by the Federal Acquisition Regulation (FAR) Subpart 16.505(b)(2)(i)(D), entitled "It is necessary to place an order to satisfy a minimum guarantee".
  
5. Rationale Supporting Use of Authority Cited Above: The proposed source is Pro-Sphere Tek, 433 N. Lee St., Alexandria VA 22314. Solicitation VA118-13-R-0042, was issued by VA Technology Acquisition Center in accordance with clause H-1 entitled "On-Ramp" (the "On-Ramp clause") of the existing T4 contract. T4 is a five-year IDIQ, Multiple Award Task Order (MATO) contract with a total program ceiling of \$12B. The T4 contract was awarded in June 2011, to fifteen prime awardees. Seven awards were made to a combination of service-disabled veteran-owned small businesses (SDVOSB) and veteran-owned small businesses (VOSB) and eight awards were made to large businesses. During performance, one SDVOSB prime contractor was acquired by a non-SDVOSB concern and, while the contractor does retain their prime contract as a large business, it no longer qualifies as an SDVOSB concern under the T4 contract. Basic contract clause H-1, entitled "On-Ramp", reserves the Government's right to add additional SDVOSB or VOSB prime contractors as a result of this situation. Solicitation VA118-13-R-0042 was subsequently issued, using competitive procedures on January 15, 2013 on the Federal Business Opportunities (FBO) website. The solicitation closed on May 9, 2013. One offeror was chosen for an award in accordance with the criteria set forth in the Basis for Award of the solicitation. Included in the solicitation was FAR clause 52.216-22, Indefinite Quantity, which stated the minimum guaranteed value for each resultant contract award under the T4 contract. This order is being issued to Pro-

Sphere Tek Inc. to satisfy the contract's stated minimum guarantee during the fiscal year of the basic contract award, which thereby ensures the basic contract is binding on Pro-Sphere Tek Inc. and that the Government has met its bona fide for this fiscal year. Furthermore, the basic contract was awarded in the last month of the third quarter, and Pro-Sphere Tek Inc. has yet to receive a competitively awarded task order. With only 30 days remaining in the fiscal year, a non-competitive award is now required to fulfill the Government's commitment to a guaranteed minimum. Pro-Sphere Tek Inc. has been determined by the Government's technical experts to be able to perform all of the aforementioned meaningful use design and development tasks required under this effort. The determination included a review of the selected awardee's technical proposal in response to the sample task presented in the Solicitation pertaining to meaningful use.

6. Efforts to Obtain Competition: There is no competition anticipated for this action as it is being issued to satisfy the mandatory minimum guaranteed order for this IDIQ contract. In accordance with FAR 5.301 and FAR 16.505(b)(2)(ii)(D), this action will be synopsisized on FBO at time of award and the justification and approval document will be made publically available.

7. Actions to Increase Competition: There are no known barriers to competition for future requirements. The Government anticipates competing any future requirements among the T4 prime contract holders.

8. Market Research: Market research was not conducted for this effort. The order is being issued to satisfy the mandatory minimum guaranteed value for this IDIQ contract.

9. Other Facts: N/A

10. Technical and Requirements Certification: I certify that the supporting data under my cognizance, which are included in this justification, are accurate and complete to the best of my knowledge and belief.

██████████

Date: \_\_\_\_\_

IT Project Manager

Signature: \_\_\_\_\_

11. Fair and Reasonable Cost Determination: I hereby determine that the anticipated price to the Government for this contract action will be fair and reasonable. The labor rates incorporated in the T4 IDIQ contract have already been determined to be fair and reasonable. In addition, the proposed price will be compared to the Independent Government Cost Estimate.

██████████

Date: \_\_\_\_\_

Procuring Contracting Officer

Signature: \_\_\_\_\_

12. Procuring Contracting Officer Certification: I certify that this justification is accurate and complete to the best of my knowledge and belief.

██████████

Date: \_\_\_\_\_

Procuring Contracting Officer

Signature: \_\_\_\_\_

13. Legal Sufficiency Certification: I have reviewed this justification and find it adequate to support an exception to fair opportunity and deem it legally sufficient.

██████████

Date: \_\_\_\_\_

Legal Counsel

Signature: \_\_\_\_\_

Approval

In my role as Contracting Activity Competition Advocate, based on the foregoing justification, I hereby approve the acquisition of certification of VistA for meaningful use design and development on an other than fair opportunity basis pursuant to the authority cited in paragraph 4 above, subject to availability of funds, and provided that the services herein described have otherwise been authorized for acquisition.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_  
Head of the Contracting Activity