

DEPARTMENT OF VETERANS AFFAIRS

Justification and Approval

For

Other Than Full and Open Competition

1. **Contracting Activity:** Department of Veterans Affairs, VISN 4 , VA Pittsburgh Medical Center
This Justification and Approval (J&A) for Other Than Full and Open Competition is proposed by the Network Contracting Office (NCO4), and VA Pittsburgh Healthcare System (VAPHS) Prosthetics Department. The transaction number for this action is 646-14-1-952-0001.
2. **Nature and/or Description of the Action Being Processed:**
The proposed sole source award will be to Klingensmith, Inc. for the procurement of home oxygen services under a three month requirements contract. This is a new contract which serves as an interim action until a long term competitive contract can be awarded. Unforeseen delays in the approval process at the SAO office due to backlogs, has caused a significant delay in moving forward with the posting of this contract. Currently these services and supplies are being procured on a extension of a prior contract which will expire in the upcoming week. This does not comport with Joint Commission guidelines and is a high risk approach as there are over 900 veterans currently prescribed oxygen through VAPHS.
3. **Description of Supplies/Services Required to Meet the Agency's Needs:**
The contractor will assist the VA Pittsburgh Healthcare System by delivering uninterrupted life saving oxygen therapy interventions. Specific contract services include the performance of all administrative and logistical support functions required to provide continuous home oxygen provisioning and sustainment support as, but not limited to:
 - CPAP/ BIPAP machines and replacement parts
 - Concentrator (Rental) with two broad categories of flow rates and replacement parts
 - Up to 5 liters per minute(LPM)
 - Up to 10 liters per minute (LPM)
 - Various cylinder sizes (rental) to provide oxygen [EX. A(smallest) – E (largest) and replacement parts.
 - Oxysafe fire safe cannula
 - Procurement / Distribution of two types of oxygen and backup/spare parts
 - Gas Oxygen
 - Liquid Oxygen
 - Nasal Cannula/Masks and replacement parts
 - Portable oxygen systems (used when a veteran travels)
 - Delivery of VA Owned equipment to include setup (CPAP/Bipap/Portable Oxygen Concentrator (POC)/ Fire safe Cannulas)
 - Respiratory therapy visits

The proposed contract cost estimate is \$481,930 for a three month period based on prior months invoices.

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

- (x) (1) Only One Responsible Source and No Other Supplies or Services Will Satisfy Agency Requirements per FAR 6.302-1;
- (x) (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;

The statutory exception permitting other than full and open competition for this acquisition is 10 USC 2304 (c)(1) or 41 USC 253 (c)(1), as implemented by FAR 6.302-1 or 6.302.2 USC 253 b(2).

5. **Justification**

As stated above, VAPHS is currently at an end of an extension for the procurement of home oxygen services for approximately 960 existing oxygen therapy clients. Interruption of home oxygen therapy is life threatening having the potential to cause serious injury and/or death. If the existing contractor decided to no longer support this business segment it would be extremely difficult and expensive due to the need for immediate delivery of a large volume of equipment, by qualified personnel prior to the existing equipment pick up. The current provider owns and services all equipment currently in the possession of and providing life saving home oxygen therapy support to VAPHS veterans. Accordingly it is necessary and urgent to negotiate a sole source contract as soon as possible for this service. Selecting another contractor at this time would be unrealistic based on the startup capital and transition period required to service the large number of patients spread over 25 counties geographically centered around Western PA.

NCO 4 intends to establish a 3 month contract as the minimum quantity of services necessary until a longer competitive contract can be awarded. If the long term contract can be awarded sooner, the interim contract will be terminated for convenience.

6. **Determination by the Contracting Officer that the Anticipated Cost to the Government will be Fair and Reasonable:**

For the long term contract NCO 4 will employ all standard methods to ensure that offers are solicited from as many potential sources as deemed practicable. These methods include but are not limited to publishing a sources sought synopsis, performing a NACIS and PSC search in the Central Contractor Registration Database, researching other medical centers contracts, and performing market research through VAPHS respiratory therapists who have colleagues in local industry who can not only provide sources but explain how these services are contracted for in commercial healthcare industry. This understanding is important as it may help in writing requirements which would increase potential sources.

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

No award shall be made until the Contracting Officer determines the price to the Government to be fair and reasonable. This determination will be based on a comparison of the offer's price proposal to the Governments Independent estimate which is based on historical competitive contract pricing

for these services. Rates from a recently awarded contract at the butler VA will provide comparative pricing.

8. **Any Other Facts Supporting the Use of Other than Full and Open Competition:**

A market survey was not conducted. The basis for a sole source to the existing supplier in this situation for a three month period for a critical service. Any other solution or contractor is not realistic due to start-up costs and transition period required to service over 900 veterans in 25 counties geographically centered around Western PA.

9. **Listing of Sources that Expressed, in Writing, an Interest in the Acquisition:**

None

10. **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:**

Acquisition planning is already underway for a follow on competitive acquisition planning is already underway for a follow-on competitive acquisition. An integrated Product Team (IPT) has considered impact of new technology and language to allow for this progression in the new contract Reviewing scope issues associated with geography and patient demographics. This long term contract is in the final stages of legal review which has been a significant longer process then originally anticipated.

11. **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.



Carol A. McAfee
Prosthetics Program Leader
VA Pittsburgh Healthcare System

Date: 9/27/2013

12. **Approvals in accordance with FAR 6.304**

a. **Contracting Officer's Certification (required):** I certify that the foregoing justification is accurate and complete to the best of my knowledge and belief.



Linda Buccigrossi
Contracting Officer/Supervisory Contract Specialist
VA Pittsburgh Healthcare System

Date: 9/29/2013

b. **NCM/PCM (Required \$3K and above):** I certify the justification meets requirements for other than full and open competition.



Network Contract Manager
NCO 4

Date: 9/29/2013