

DEPARTMENT OF VETERANS AFFAIRS

Justification and Approval

For

Other Than Full and Open Competition

1. **Contracting Activity:** The Community Health Nurse Coordinator under Patient Care Services of the Department of Veterans Affairs, VISN 4, Erie VA Medical Center, Station #562 is submitting this "Justification for Other Than Full and Open Competition" for Community Nursing Home (CNH) Services. In accordance with VA Financial Policies and Procedures, Volume II, Chapter 6, Appendix A, it is not possible to estimate an annual amount for each patient in their respective CNH on a VA Form 2237, as the number of patients utilizing the services often changes from month to month based on demand. Therefore, an obligation for the estimated amount of bills is required with the use of VA Form 1358.
2. **Nature and/or Description of the Action Being Processed:** This is for a basic ordering agreement (BOA) established with each CNH with which this facility currently has respective Provider Agreements. This is a new BOA developed based on a template and instructions sent to the field through the Director of Contracting from VHA Acquisition Leadership. The new BOA is not intended to cover more than 90 days and is anticipated to provide contract coverage (vice Provider Agreement coverage with CNHs that are willing to agree to contractual arrangements) until more formal contractual expectations are provided by VHA Acquisition Leadership for the field to competitively negotiate and award. Estimated value of this request for a 90 day period is \$56,250.00. This price estimate is based on FY13 expenses at Wesbury United Methodist Community for the Erie VAMC. The proposed sole source will be to Wesbury United Methodist Community.
3. **Description of Supplies/Services Required to Meet the Agency's Needs:** Contractor shall provide CNH services to meet the total medical, nursing, and psychosocial needs of VA beneficiaries and any specialty care services as identified as a particular need in the CNH program. All nursing home facilities in VA's CNH program must have current Center for Medicare and Medicaid Services (CMS) certification (Medicare and/or Medicaid), a State nursing home license and shall meet VA developed quality of care standards utilizing CMS inspection criteria. Primary care/provider (medical doctor, nurse practitioner, and/or physician assistant) visits will be available at the rate of one (1) visit per month. Laboratory, x-ray, and other special services will be available to VA patients as needed. In addition, the care provided will include room, meals, nursing care, and other services or supplies commensurate with the VA-authorized level of care, without extra charge. Full attention shall be given to motivating and educating patients to achieve and maintain independence in the activities of daily living. Every effort shall be made to keep patients ambulatory and to achieve an optimal level of self-care.
3. **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;
 - () (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;

4. **Demonstration that the Contractor's Unique Qualifications or Nature of the Acquisition Requires the Use of the Authority Cited Above:** Wesbury United Methodist Community, as permitted by VHA Handbook 1143.2, was selected by Veterans and their families as the CNH of choice for CNH services based on location. Wesbury, having met all state inspection, insurance and licensing criteria required under provider agreement (as by contract), met the VA's requirement. By virtue of these facts, this makes Wesbury uniquely qualified to provide the required CNH services on behalf of Erie VAMC for qualified Veterans requesting such CNH services there. The consequence of not having the ability to award a BOA to Wesbury would mean the Veteran must be moved which could ultimately result in a life threatening situation.

Wesbury has a proven track record of successfully providing these services to the Erie VAMC under provider agreement. Rates of the provider agreement have been consistent with VA Central Office-approved Medicare rates for services provided at rural locations and in accordance with the instructions provided, are allowable rates for the resulting BOA.

5. **Description of Efforts Made to ensure that offers are solicited from as many potential sources as deemed practicable:** Erie VAMC received authorization to utilize Provider Agreements for CNH services in 2012 and has been utilizing them from that time to the present. However, on March 12, 2014 all facilities were directed to implement BOAs immediately to replace provider agreements. The first provider agreement expires on March 31, 2014 and is with Wesbury. Given the emergent need for this procurement as well as the unique qualifications described in paragraph 4 above, additional sources were not solicited.
6. **Determination by the Contracting Officer that the Anticipated Cost to the Government will be Fair and Reasonable:** As described in paragraph 4 above, rates for the BOA with Wesbury are anticipated to be the same or better than those currently in place under provider agreement. Rates of the provider agreement have been consistent with VA Central Office-approved Medicare rates for services provided at rural locations and in accordance with the instructions provided, are allowable rates for the resulting BOA. Given this consistency, pricing is anticipated to be determined as fair and reasonable when the BOA is awarded.
7. **Description of the Market Research Conducted and the Results, or a Statement of the Reasons Market Research Was Not Conducted:** Given the short two week timeframe given to negotiate a contract with an existing CNH, a market survey was not conducted. The basis for a sole source contract to the existing provider in this situation is to continue for approximately 90 days under a BOA until more definitive directions are provided by VHA Acquisition Leadership to negotiate and award different, follow-on contractual arrangements.
8. **Any Other Facts Supporting the Use of Other than Full and Open Competition:** None
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:** Competition was not sought because Wesbury is currently providing services. The current provider agreement expiration date does not allow for the time required to solicit and review offers from competing vendors, if market research and/or solicitation results provided any. CNH services are medically necessary and interruptions to that service would be life threatening.

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.

Jan N. Ward, RN, NEN
Jan Ward
Chief, Nursing Services
Erie VA Medical Center

3-20-14
Date

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.

Jaimy S. Rand
Chief of Contracting
Erie VA Medical Center

3-20-2014

Date

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

Benjamin P. Iachini
Network Contract Manager
VISN 4

3-20-2014

Date

c. **SAO (If over 650K):** I certify the justification meets requirements for other than full and open competition.

N/A

Jeffrey Ryan
Acting Director
Service Area Office, East

Date _____