

DEPARTMENT OF VETERANS AFFAIRS

Justification and Approval For Other Than Full and Open Competition

1. Contracting Activity: Department of Veterans Affairs, VISN 03, New York Harbor Healthcare System – New York Campus – Justification for Other Than Full and Open Competition for requirement 630-14-4-481-1176.

2. Nature and/or Description of the Action Being Processed:

The purpose of this requirement is to purge and package for recycling the existing x-ray films from the film library in the Department of Radiology, NYHHS – New York Campus. A previous requirement, VA243-14-P-3559 (PO# 630-C40313) provided for a maximum of 1200 labor hours, but it became apparent that the work estimate was 67% - 100% underestimated. Due to the significant shortfall in estimating the requirement, a new 2237 Firm-Fixed-Priced action must be requested.

3. Description of Supplies/Services Required to Meet the Agency's Needs: From approximately 60 rolling racks, each containing the equivalent of approximately 20 lateral drawers, the contractor is to remove x-rays from the existing film jackets, pack the x-rays into boxes provided by New York Harbor Healthcare System (NYHHS), seal the boxes and place them on pallets. All existing films are to be packaged and removed from the existing NYHHS film library. The film jackets are to be given to NYHHS personnel to record the destruction of the film records. The contractor is required to move pallets to the building's loading dock or warehouse on the ground floor. Approximately 1200 labor hours have been worked so far to date and is approximately 50% - 60% completed.

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

- ☐ (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;

5. Demonstration that the Contractor's Unique Qualifications or Nature of the Acquisition Requires the Use of the Authority Cited Above (applicability of authority):

Award VA243-14-P-3559 for the same requirement, was awarded as an open market award to a Service Disabled Veteran-Owned Small Business – Ninety Five South. One advantage of selecting this business was that they already had personnel working in the same facility under other contract requirements, thus minimizing the time required to complete the security screening and PHI training requirements that were required before beginning the work. Due to difficulties in making that award in the Federal Supply Schedule and the Open Market, time was running out to begin this project on-time, which needed to be completed ahead of the start of a construction project. Ninety Five South estimated the work to involve 1200 labor hours, which was considered to be higher than the work estimate by the requesting service. The contract was set up as a Not-To-Exceed amount of 1200 labor hours. Throughout the work, contractor personnel were regularly checked by the Project Officer and COR to ensure diligence. Additionally, contractor personnel were required to sign in and sign out to track the amount of labor hours worked.

Market Research revealed that of the 30 small businesses sought to provide an FSS quote, only two responded with one small business backing out of the award at the time of award and the other providing a quote that was

higher than the IGCE (even higher when this requirement and award VA243-14-P-3559 are combined). Neither of these two businesses were SDVOSB; twelve of the 30 who were solicited were SDVOSB, which none responded. On the open market, a solicitation was publicized for this requirement, set aside for small business. Only one respondent was an SDVOSB, which was Ninety Five South, the selected awardee. Only two other quotes were provided, with one price too low and the other not meeting the work requirements.

IAW FAR 6.302-5(b)(6) and FAR 19.1406, Ninety Five South is the only known SDVOSB that can immediately support this requirement without further delays.

Description of Efforts Made to ensure that offers are solicited from as many potential sources as deemed practicable:

Original Market Research revealed that of the 30 small businesses sought to provide an FSS quote, only two responded with one small business backing out of the award at the time of award and the other providing a quote that was higher than the IGCE (even higher when this requirement and award VA243-14-P-3559 are combined). Neither of these two businesses were SDVOSB; twelve of the 30 who were solicited were SDVOSB, which none responded.

On the open market, a solicitation was publicized for this requirement, set aside for small business. Only one respondent was an SDVOSB, which was Ninety Five South, the selected awardee. Only two other quotes were provided, with one priced too low and the other not meeting the work requirements.

6. Determination by the Contracting Officer that the Anticipated Cost to the Government will be Fair and Reasonable: The price of \$38 per hour is fair and reasonable as market research reveals that FSS prices for the same or similar work range from \$28 per hour to \$35 per hour. Due to the time-sensitivity of this requirement, the open market price being slightly higher than the FSS price range is acceptable.

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

New market research was not conducted because the previous market research is recent enough for this requirement.

8. Any Other Facts Supporting the Use of Other than Full and Open Competition: There are no other facts supporting the use of other than full and open competition.

9. Listing of Sources that Expressed, in Writing, an Interest in the Acquisition: See Section VI above.

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:

Not applicable.

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.

6/30/2014

X Patrick C. Malloy, M.D.

Signed by: Patrick C. Malloy 290212

Patrick Malloy, MD
Chief of Service, Dept. of Radiology
VA New York Harbor Healthcare System

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.

William B. Mills
Brad Mills
Contracting Specialist
VISN 3, NCO 3

6/30/2014
Date

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

7-10-2014

for Yolanda Borges
Director of Contracting
VISN 3/NCO 3
No other signatures required.

7-10-2014
Date