

Attachment 3: Exception to Fair Opportunity Memo Format

DEPARTMENT OF VETERANS AFFAIRS

Justification and Approval

For

Exception to Fair Opportunity Memo

1. **Contracting Activity:** Justification for other than Full and Open Competition/ Exception to Fair Opportunity

Agency: Department of Veterans Affairs
NCO 23 - Fargo
474 45th St S, STE 202
Fargo, ND 58102
VISN: 23
2237 #: 618-15-1-6065-0001

2. **Description of Action:**

Issue a sole source firm-fixed price delivery order with options to Sword & Shield Enterprise Security, Inc. for procurement of software license maintenance for SAV Link, Vitals Link and Data Analytics Interface for all VISN 23 sites except St. Cloud. The previous contract was order no. VA263-14-F-2158.

3. **Description of Supplies or Services:** This procurement is for a perpetual software license for SAV Link, ICU Link, Vitals Link and Data Analytics Interface maintenance for all VISN 23 sites except St. Cloud, which includes bug fixes, minor software release upgrades, and telephone support.

Estimated Dollar Value: \$185,215.55

Required Delivery Date: 10/01/2014

4. **Statutory Authority:** The statutory authority permitting an exception to fair opportunity is Section 41 U.S.C. 4106(c) as implemented by the Federal Acquisition Regulation (FAR) Subpart 16.505 Subpart 16.505(b)(2)(i):.

() FAR Subpart 16.505(b)(2)(i)(A): The agency need for the supplies or services is so urgent that providing a fair opportunity would result in unacceptable delays.

(**X**) FAR Subpart 16.505(b)(2)(i)(B): Only one awardee is capable of providing the supplies or services required at the level of quality required because the supplies or services ordered are unique or highly specialized.

() FAR Subpart 16.505(b)(2)(i)(C): The order must be issued on a sole-source basis in the interest of economy and efficiency because it is a logical follow-on to an order already issued under the

contract, provided that all awardees were given a fair opportunity to be considered for the original order.

() FAR Subpart 16.505(b)(2)(i)(D): It is necessary to place an order to satisfy a minimum guarantee.

() FAR Subpart 16.505(b)(2)(i)(E): For orders exceeding the simplified acquisition threshold, a statute expressly authorizes or requires that the purchase be made from a specified source". The statutory authority permitting an exception to fair opportunity for this action is 38 U.S.C. 8127(c), known as the Veterans First Contracting Program which provides the authority to directly contract with a Service-Disabled Veteran-Owned Small Business (SDVOSB) or a Veteran-Owned Small Business (VOSB).

() FAR Subpart 16.505(b)(2)(i)(F) In accordance with section 1331 of Public Law 111-240 (15 U.S.C. 644(r)), contracting officers may, at their discretion, set aside orders for any of the small business concerns identified in 19.000(a)(3). When setting aside orders for small business concerns, the specific small business program eligibility requirements identified in part 19 apply.

5. **Rationale Supporting Use of Authority Cited Above:** VA Central Office Guidance details that DSS is the only vendor that can offer an interface that performs the functionality required. The DSS Data Management System will now be used by all facilities within VISN 23, except St. Cloud. The DSS DataBridge interface being procured is the only system on the market that can allow for the functionality required by VISN 23. The DSS DataBridge will be used in conjunction with CIS, ARK and Analytics databases within all VISN 23 Intensive Care Units and Operative Care Services. The DSS DataBridge will allow for the automatic distribution/communication of essential clinical patient information to be transferred from Vista to CIS, ARK and Analytics. No other company has worked with VA programmers to understand the needs of a VA interface.

6. **Efforts to Obtain Competition:**
No efforts have been made because VA Central Office Guidance details that DSS is the only vendor that can offer an interface that performs the functionality required. Additionally, this is a follow-on order for maintenance and support for previously procured software.

7. **Actions to Increase Competition:**
No efforts have been made because VA Central Office Guidance details that DSS is the only vendor that can offer an interface that performs the functionality required. Additionally, this is a follow-on order for maintenance and support for previously procured software.

8. **Market Research:** None was conducted as this is a follow-on order for maintenance and support for previously procured software.

9. **Other Facts:** None

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.

Name Caroline Campbell Date: 9/22/2014

Title VISN 23 Chief Biomedical Engineer

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 based on *(insert the methods that will be used to determine a fair and reasonable price)*.

Name Christopher Volk Date: 9/22/2014

Procuring Contracting Officer Signature: _____

12. Procuring Contracting Officer Certification: *For a proposed contract exceeding the simplified acquisition threshold but not exceeding \$650,000, the contracting officer's certification required by FAR 16.505 (b)(2)(ii)(C)(1) will serve as approval.* I certify that this justification is accurate and complete to the best of my knowledge and belief. As this contract action does not exceed \$650,000, the certification below required by FAR 16.505(b)(2)(ii)(C)(1) serves as approval.

Name: Christopher Volk Date: 9/22/2014

Procuring Contracting Officer Signature: _____

____ **APPROVE** ____ **DISAPPROVED**

Name: Scott Petrin Date: 9/22/2014

Contract Manager Signature: _____