

DEPARTMENT OF VETERANS AFFAIRS

Justification and Approval
For
Other Than Full and Open Competition

1. **Contracting Activity:** Department of Veterans Affairs, VISN 07, Ralph H Johnson VA Medical Center in Charleston, SC. Justification for Other Than Full and Open Competition. A VA2237 will be provided by the Radiology Department as soon as possible to fund this requirement. No award action will be taken until this funding is received.
2. **Nature and/or Description of the Action Being Processed:** The Ralph H Johnson VA Medical Center requires a new bridge contract of 90 days duration with a 90 day option in order to continue to receive Radiopharmaceutical Isotopes. The current solicitation for this service has been stopped by a protest and the current contract for this service expired April 19th 2015. This contract will be firm fixed price with a monthly estimate. The contractor will only invoice and bill for the items actually delivered.

FAR13.5 Test Program: This procurement is for the receipt of Radiopharmaceutical Isotopes in accordance with FAR 13.5 Test Program for Certain Commercial Items and specifically FAR 13.501 Special Documentation Requirements, where acquisitions conducted under Simplified Acquisition Procedures are exempt from the requirements of FAR Part 6, but still require a justification using the format of FAR 6.303-2.

3. **Description of Supplies/Services Required to Meet the Agency's Needs:** The new Contract will be for 90 days of creation and delivery of Radio-pharmaceutical Isotopes to the Radiology Department at the RHJVA Medical Center. The contract will be effective on April 15th, 2015 and will be effective for a base period of 90 days, and have one option period of an additional 90 days. The base period and the option period will both have an estimated cost of \$123,750, for a total estimated cost of \$247,500.00. The anticipated period of performance will be Base: 15 April 2015 to 15 July 2015. The Option period, if needed, will be 16 July 2015 to 15 October 2015.

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;
- (XX) (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)**

b. **Unusual and Compelling Urgency (FAR 6.302-2, 6.303-2(a)(9)(ii))** – The contract awarded to Palmetto Isotopes, VA247-15-P-0052, for delivery of Isotopes from 9 October through 19 January 2015 was to maintain the delivery of isotopes until a long term contract could be awarded. This

contract action was extended until April 19th, 2015 to allow additional time to get the solicitation for the long term contract out for offers, and have a contract awarded by then. A solicitation was posted and closed on April 8, 2015. That solicitation was protested and the award cannot be made for the new long term contract. In the meantime, services must continue for the receipt of the isotopes for radiation studies in veteran patient to continue without interruption.

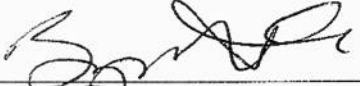
6. **Description of Efforts Made to ensure that offers are solicited from as many potential sources as deemed practicable:** Prior solicitation results for this service at this Medical Center have shown there are only a small number of companies that perform this service. This contract will serve as a bridge to ensure the required Radiopharmaceutical Isotopes continue to be delivered to the RHJVAMC while a long term contract is sought – either the existing solicitation will be allowed to stand upon resolution of the most recent protest or another one will be created. Award will be made to Palmetto Isotopes, the incumbent contractor, who has demonstrated excellent performance since October 1, 2015.
7. **Determination by the Contracting Officer that the Anticipated Cost to the Government will be Fair and Reasonable:** The cost will be the same as in the existing short term bridge contract VA247-15-P-0052, which was determined to be fair and reasonable on 10 October 2014.
8. **Description of the Market Research Conducted and the Results, or a Statement of the Reasons Market Research Was Not Conducted:** Market research was conducted for the current solicitation and posted on the Market Research Report filed under 534-15-2-062-0004. There is no reason to believe that Market Conditions have changed in the last month.
9. **Any Other Facts Supporting the Use of Other than Full and Open Competition:** NCO7 Staff Attorney [REDACTED] has provided the following information in support of this action:

“Interim contracts on a sole source basis to the incumbent are routine in the event protests and case law supports such actions ILO of override (see attached case law). Specifically, the court has held:

To be sure, this court has encouraged and approved bridge contract awards as an alternative to a formal override where the bridge contract merely maintains the status quo during the pendency of the protest. See, e.g., *Nortel Gov't Solutions, Inc. v. United States*, 84 Fed.Cl. 243, 250, 252 (2008) (holding that agency override decision was arbitrary and capricious, in part, because “the bridge contracts provide[d] a reasonable alternative”); *Access Sys. Inc. v. United States*, 84 Fed.Cl. at 243 (holding that award of bridge contract was not a de facto override because “the bridge contract [did] not disturb the status quo”); *Keeton Corrections, Inc. v. United States, Inc.*, 59 Fed.Cl. 753, 757-59 (2004) (holding that agency override decision lacked a rational basis where the agency could have continued awarding short-term, sole-source contracts to the incumbent contractor).”

10. **Listing of Sources that Expressed, in Writing, an Interest in the Acquisition:** Palmetto Isotopes is the incumbent and has stated they are interested in continuing to provide this service.
11. **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:** The long term contract solicitation protest will be resolved and that process will be allowed to move forward, or a new solicitation will be created to seek a long term contract.

12. **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.


Name Ben O'Dell
Title EA to ADPCS
Ralph H Johnson VA Medical Center

4/14/15
Date

13. **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.

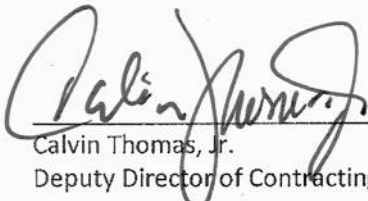
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Date: 2015.04.14 16:21:28 -04'00'

Ronnette Coffman
Contracting Officer
RHJVAMC

Date

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


Calvin Thomas, Jr.
Deputy Director of Contracting, NCO7

4-15-15
Date

RDJ
NCO7QA
4-15-15

