

DEPARTMENT OF VETERANS AFFAIRS

Justification and Approval (J&A)

For

Other Than Full and Open Competition (>\$150K)

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 modification to Basic Ordering Agreement (BOA) VA244-15-A-0012 awarded with firm fixed price line items for community nursing home (CNH) services procured 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:** 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. Given that quantity of patients utilizing these services (as referenced in paragraph 1) is highly unpredictable, estimated value is highly variable. Given this variability, highest estimated procurement value of five year agreement is not expected to exceed \$500,000 for a five year agreement, beginning with effective date of BOA.
4. **Statutory Authority Permitting Other than Full and Open Competition:**
 - (1) 41 USC §3304(a)(1), as implemented by FAR 6.302-1. Only One Responsible Source and No Other Supplies or Services Will Satisfy and
 - (2) Section 4202 of the Clinger-Cohen Act of 1996) and is implemented by for restricting competition on this procurement via FAR 13.106-1(b)(2).
5. **Demonstration that the Contractor's Unique Qualifications or Nature of the Acquisition Requires the Use of the Authority Cited Above (applicability of authority):** Berlin Nursing and Rehabilitation Center, 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 and other variables. Berlin Nursing and Rehabilitation Center, having met all state inspection, insurance and licensing criteria required under current BOA, met the VA's requirement. By virtue of these facts, this makes Berlin Nursing and Rehabilitation Center uniquely qualified to provide the required CNH services on behalf of Erie

VAMC for qualified Veterans requesting such CNH services there. The consequences of not having the ability to modify the current BOA with Berlin Nursing and Rehabilitation Center would mean veterans receiving services must be moved which could ultimately result in a life threatening situation. The outcome of a competitive action for these services for respective veterans – to replace the existing agreement - could result in unacceptable delays in fulfilling agency requirements.

6. **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, utilized them from that time to 2014 at which time interim BOAs were awarded. Given the emergent need to continue this procurement as well as the unique qualifications described in paragraph 4 above, additional sources were not solicited.
7. **Determination by the Contracting Officer that the Anticipated Cost to the Government will be Fair and Reasonable:** Rates for the BOA with Berlin Nursing and Rehabilitation Center were determined fair and reasonable in accordance with FAR 13.106-3(2)(ii) when awarded.
8. **Description of the Market Research Conducted and the Results, or a Statement of the Reasons Market Research Was Not Conducted:** Notice of sole source award of current BOA was published in accordance with agency procedures. There were no inquiries or responses from industry. Given unique qualifications discussed in paragraph 5 above, no further market research was conducted. Notice of this action recorded in accordance with agency procedures.
9. **Any Other Facts Supporting the Use of Other than Full and Open Competition:** None.
10. **Listing of Sources that Expressed, in Writing, an Interest in the Acquisition:** None.
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:**
Competition was not sought because Berlin Nursing and Rehabilitation Center is currently providing services. The current BOA will continue as the services provided are medically necessary and interruptions could be life threatening.
12. **Approvals**
 - 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 Rand
Branch Chief
NCO 4

Date

- b. **Director of Contracting /Designee (Required \$150K and above):** I certify the justification meets requirements for other than full and open competition.

Jaimy Rand
Branch Chief
NCO 4

Date