

DEPARTMENT OF VETERANS AFFAIRS

Justification and Approval

For

Other Than Full and Open Competition

1. **Contracting Activity:** Department of Veterans Affairs, VISN 1, All Medical Centers
The U.S. Department of Veterans Affairs, Contracting Office VISN 1, proposes the following justification for the interim contract for the fabrication and delivery of eyeglasses on a basis of other than full and open competition for the VISN 1 Prosthetics Service Line.
2. **Nature and/or Description of the Action Being Processed:**
The nature of the requirement is the ability to award an interim six-week contract for the fabrication and delivery of eyeglasses based upon the VISN 1 Interim Eyeglass Contract VA241-15-D-0139 and past permanent contract V689P-3193 that uses a set price list for frames and lenses for the VA New England Healthcare System Prosthetics Service Line.
3. **Description of Supplies/Services Required to Meet the Agency's Needs:**
The Department of Veterans Affairs (VA) has an ongoing program to furnish eyeglasses to those veterans that require them and for those that are eligible for assistance, per Optometrist or Ophthalmologist prescription.

Justification for ONLY ONE RESPONSIBLE SOURCE AND NO OTHER SUPPLIES OR SERVICES WILL SATISFY AGENCY REQUIREMENTS: The said contract should be opened for competition; however, due to the complexity of the nature of the Statement of Work, this contract should be open for competition for one Contractor (Vision Associates of Rochester, dba Rochester Optical Manufacturing Company, Rochester, NY) who can provide the valuable service to the entire VISN 1 VA New England Healthcare System.

- VISN 1 Prosthetics provided the JOFOC and Statement of Work for the permanent VISN 1 contract first in July 2010, with subsequent revisions including September 2013 and Summer 2014.
- Given this continuing uncertainty and the absolute requirement to provide the highest quality of service for Veterans in VISN 1, VISN 1 Prosthetics and Contracting agreed:
 - VISN 1 must move forward with an interim contract (August 16, 2015 through September 30, 2015) for the provision of eyeglasses only – including use of statute 38 U.S.C. Section 8123:

VAAR 806.302-5(b)(1) allows an exception to full and open competition for prosthetic appliances in accordance with 38 U.S.C. § 8123.

38 U.S.C.
United States Code, 2010 Edition
Title 38 - VETERANS' BENEFITS

PART VI - ACQUISITION AND DISPOSITION OF PROPERTY
CHAPTER 81 - ACQUISITION AND OPERATION OF HOSPITAL AND DOMICILIARY
FACILITIES; PROCUREMENT AND SUPPLY; ENHANCED-USE LEASES OF REAL PROPERTY
SUBCHAPTER II - PROCUREMENT AND SUPPLY

Sec. 8123 - Procurement of prosthetic appliances

From the U.S. Government Printing Office, www.gpo.gov

§8123. Procurement of prosthetic appliances

The Secretary may procure prosthetic appliances and necessary services required in the fitting, supplying, and training and use of prosthetic appliances by purchase, manufacture, contract, or in such other manner as the Secretary may determine to be proper, without regard to any other provision of law.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1254, §5013; amended Pub. L. 94-581, title II, §210(e)(8), Oct. 21, 1976, 90 Stat. 2865; renumbered §5023, Pub. L. 96-22, title III, §301(b)(1), June 13, 1979, 93 Stat. 61; renumbered §8123, Pub. L. 102-40, title IV, §402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102-83, §4(b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405.)

This acquisition is expected to result in a firm fixed Price Indefinite Delivery/Indefinite Quantity interim contract for a six-week period (August 16, 2015 – September 30, 2015). A permanent Optician Services Contract (VA241-15-D-0078) was awarded on April 30, 2015. This interim contract meets the needs of VISN 1, while the incoming Contractor has new personnel vetted to perform. The realistic estimated dollar value for this interim contract is estimated to be **\$650,000.00** of VISN 1 Prosthetics Specific-Purpose Funding.

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; see also 38 U.S.C. 8123
- ☐ (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):

Vision Associates of Rochester, Inc. (dba Rochester Optical Manufacturing Company) Rochester, NY - holder of the past permanent and interim VISN 1 Eyeglass Contract - is uniquely qualified to provide the services outlined in the network eyeglass contract for the VISN 1 Prosthetics and Sensory Aids Program based upon the following:

VISN 1 patients requiring eyeglass services based on a VA Optometrist or Ophthalmologist's consult (eyeglasses of various lenses and frames, with specific dimensions and requirements for each patient) all require urgent delivery to both the patient's home and/or the VAMC itself. The cost to the government/VISN 1 Prosthetics and Sensory Aids would be exorbitant without an interim contract – the contract requires the vendor to provide/repair patient-ready eyeglasses in normal and urgent situations. If there was no contract, the government would be required to solicit for vendors who can provide the required services, forcing the government to pay extra for this immediate service, delaying patient care and delaying the purchase card reconciliation process.

The projected workload for this six-week period is approximately 11,000 pairs of eyeglasses network-wide. The government would be forced to pay other vendors to fabricate eyeglasses and provide the same type of electronic invoicing and timely reconciliation process on an adhoc basis while the vendor (minority-owned, small business) with the knowledge of the process would be able to continue this successful process during this interim period.

Patient care and purchasing reconciliation requirements will be adversely impacted without this interim contract – given the workload involved, eyeglasses will be delayed without a vendor able to fabricate timely and purchase card reconciliations and will not be completed in a timely fashion without an established, uniform process with one designated vendor.

The period to be covered by this contract will be August 16, 2015 through September 30, 2015.

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

For the permanent contract, the following was found by VISN Contracting:

- Sources Sought on GSA there were no responses.
- Sources Sought post for market research to see the availability of sources. Approximately 10 responses were received which included two of our mandatory sources. One certified SDVOSB and one Certified VOSB all other were small business.

The SAO East's Multi-VISN eyeglass procurement was discontinued. VISN 1 Contracting received SAO East and OSDBU approval to move forward with the permanent contract solicitation.

7. Determination by the Contracting Officer that the Anticipated Cost to the Government will be Fair and Reasonable:

The anticipated cost should be fair and reasonable to the government based on the using service estimate and it will be the same as the previous option year of the permanent contract and interim contract arrangement. The anticipated total cost to the government for the six-week period is approximately \$650,000.00 of VISN 1 Prosthetics Specific-Purpose Funding.

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 by VISN 1 Contracting, with assistance from the VISN 1 Prosthetics Service Line for the permanent contract.

Market research was conducted by contacting other VISN's requiring the same service. Sources sought were posted on FBO and GSA regarding the requirement.

9. Any Other Facts Supporting the Use of Other than Full and Open Competition:

N/A

10. Listing of Sources that Expressed, in Writing, an Interest in the Acquisition:

For the permanent contract:

- A source sought was issued in the FBO on 8/25/2010 and June 2013 by VISN 1 Contracting, requesting that parties express their interest in writing to the Contracting Officer.

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:

VISN 1 Contracting and VISN 1 Prosthetics and Sensory Aids will continue to work on vetting of the new Contractor for the permanent contract. In addition, at the conclusion of the permanently awarded contract, any following contracts will be competed to the utmost ability among small businesses, specifically with qualified SDVOSBs (Service Disabled Veteran-Owned Small Businesses).

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.

(This signature is the requestor's supervisor, fund control point official, chief of service, someone with responsibility and accountability.)

Alexander Dowgiallo, MA

Name: Alexander Dowgiallo, MA

7-24-15

Date

Title: VISN 1 Prosthetics Health Systems Specialist/COR

Facility: VISN 1 – VA New England Healthcare System

13. Approvals in accordance with FAR 6.304 *This part is filled out by Contracting Staff as part of the Justification*

- a. **Contracting Officer's Certification: (required)** I certify that the foregoing justification is accurate and complete to the best of my knowledge and belief.

Name: Timothy Wilson

Date

Title: Contracting Officer, Prosthetics Team

Facility: Network Contracting Office 1 (New England) (90C)

- b. **NCM/PCM:** I certify the justification meets requirements for other than full and open competition.

Name: Ronald W. Hirtle

Date

Title: Supervisory Contract Specialist, Division Chief

Facility: Network Contracting Office 1 (New England) (90C)