

## JUSTIFICATION FOR OTHER THAN FULL AND OPEN COMPETITION

1. Contracting Activity: Department of Veterans Affairs (VA)  
Office of Acquisition Operations  
Technology Acquisition Center  
23 Christopher Way  
Eatontown, NJ 07724
2. Description of Action: The proposed sole source action is for a 4-month firm-fixed price (FFP) contract for maintenance and support services on the Private Branch Exchange (PBX) Voice Systems (VS) and all associated peripheral equipment located throughout the Bay Pines VA Health Care Center (VAHCS) with Mission Critical Solutions (MCS), 8510 Sunstate Street, Tampa, Florida 33634.
3. Description of Supplies or Services: This action will provide for critical technical support and maintenance services for all existing VSs located at the Bay Pines VA Medical Center, Veterans Centers, various Outpatient clinics, Community Based Outpatient Clinics, and Community Resource and Rehabilitation Centers throughout the Bay Pines VAHCS. The period of performance will be 4 months from contract award. The total estimated value of this effort is \$258,729.56.
4. Statutory Authority: The statutory authority permitting other than full and open competition is 41 U.S.C. 3304 (a)(2) as implemented by the Federal Acquisition Regulation (FAR) Subpart 6.302-2 entitled, "Unusual and Compelling Urgency."
5. Rationale Supporting Use of Authority Cited Above: VA, Office of Acquisition Operations, Technology Acquisition Center (TAC) awarded contract VA118-13-C-0040 to True Communications, Inc. (TrueComm), a Service-Disabled Veteran-Owned Small Business on June 16, 2013 to provide technical support and maintenance on all PBX VS at the Bay Pines VA Medical Center, Veteran Centers, outpatient clinics, community based outpatient clinics, and community resource and rehabilitation centers throughout the Bay Pines VAHCS. This included maintenance and support for all VS software, hardware, and cabling components, as well as replacement for all failed components. The period of performance of this contract included a base year, and three 12-month option periods.

In February 2015 the Contracting Officer (CO) was notified that TrueComm's primary subcontractor, MCS, had not been provided payment in 10 months, and was facing financial strain. The CO engaged TrueComm in an attempt to resolve the issue. TrueComm confirmed that MCS had not been provided payment in accordance with the parties' subcontract. An agreement was made among the parties to structure an escrow account to establish an assignment of claims where MCS would receive all contractual monthly payments until TrueComm's outstanding debt was liquidated. The account was established between the parties and the bank, and it was formalized in the contract via modification P00006 on April 29, 2015. The contract was modified under P00007 to segregate Option Period 2 into multiple 3-month increments in order to protect the Government, as there was continued uncertainty about TrueComm's ability to perform due to financial instability and cash flow

concerns. Option Period 2A was awarded under modification P00007, extending the contract period of performance by 3-months, with an end date of September 15, 2015. Since the assignment of claims was established all payments have gone directly to MCS, which compounded TrueComm's cash flow issues. Due to the lack of funding TrueComm continues to encounter cash flow issues, and has been unable to meet payroll on several occasions. Most recently this resulted in TrueComm employees ceasing work under the contract from August 13, 2015 through August 14, 2015, causing limited performance only being provided by the subcontractor, MCS. A Cure Notice was sent to TrueComm on August 19, 2015 requiring a plan of action detailing specific steps TrueComm proposed to take in order to cure the performance and financial issues, however no response was received. The CO was also made aware that TrueComm had terminated its employees supporting the contract on August 21, 2015.

The CO has worked diligently to salvage the contract and restore acceptable operations to the Bay Pines VAHCS PBX system, however, TrueComm is currently in breach of its contract. Therefore, VA must terminate the contract immediately and award a contract under the stated statutory authority to MCS to ensure continuity of PBX maintenance and support to ensure critical telecommunications capabilities across the Bay Pines VAHCS.

Previously, this effort was competed as a Service-Disabled Veteran-Owned Small Business set-aside. The acquisition lead time alone to award for this strategy is at least 4 months. VA intends to award this effort immediately to limit a lapse in support until a new competed contract can be executed. Awarding this effort will provide sufficient time for the requiring activity to update the requirements based on emerging VS needs within the Bay Pines VAHCS and perform sufficient market research, as well as comply with all acquisition process statutory and regulatory requirements. No other acquisition strategy will allow for a competed contract to be awarded in the necessary timeframe to preclude a break in PBX maintenance services to the Bay Pines VAHCS. Awarding a sole source contract to MCS reflects the least amount of risk to ensure the Bay Pines VAHCS critical PBX system remains operational. MCS has previously provided this support for over 12 years as a prime contractor before assuming its subcontractor role under the TrueComm contract. Therefore, MCS currently has the expertise and personnel in place to continue performing this work. Even if an award could be made to another vendor in the required timeframe the unplanned transition to a new company would pose significant risk as new contractors must receive access to the sites and systems, and be brought up to speed on the current VS infrastructure. Any break in maintenance and support of the VAHCS PBX system could result in telecommunications system failure and down time without the ability to recover. This would put Veteran patient lives at risk and severely disrupt Bay Pines VAHCS hospital and clinic operations.

6. Efforts to Obtain Competition: Competition is expected on the future procurement. Other than full and open competition is only being utilized due to the current circumstances described in section 5 above. In accordance with FAR 5.202,

## VA Bay Pines PBX Sustainment and Support

this action will not be synopsisized as the Government would be seriously injured if this urgent action were further delayed would possibly lead to a break in service as detailed in section 5. This justification will be posted on the Federal Business Opportunities webpage within 30 days after contract award.

7. Actions to Increase Competition: VA fully intends to compete any future effort as market research dictates.

8. Market Research: Although sources other than MCS are likely capable of providing the required maintenance services, due to VA's critical requirements to ensure seamless continuity of the required maintenance described herein, a sole source award with MCS is the only acquisition strategy that will prevent a significant break in service given their existing resources are already on-site providing support across the Bay Pines VAHCS. Any break in maintenance and support of the VAHCS PBX system could result in telecommunications system failure and down time without the ability to recover. This would put Veteran patient lives at risk and severely disrupt Bay Pines VAHCS hospital and clinic operations. VA fully intends to compete any future PBX maintenance requirements beyond this proposed contract consistent with market research.

9. Other Facts: None.