

DEPARTMENT OF VETERANS AFFAIRS

Justification and Approval (J&A)

For

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

1. **Contracting Activity:** Department of Veterans Affairs, VISN 08, Network Contracting Office 8, Service Area Office – East, Station 675 – Orlando Medical Center

Purchase Request – 675-16-1-2229-0004

2. **Nature and/or Description of the Action Being Processed:**

This procurement is for an interim, sole source, fixed price, requirements contract for Radiopharmaceuticals in accordance with 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 Department of Veterans Affairs requires radiopharmaceuticals for the Orlando VAMC, Lake Baldwin OPC, and Viera OPC's Nuclear Medicine Service. Nuclear Medicine has an ongoing need for radiopharmaceuticals for PET/CT exams, as well as therapeutic procedures for each facility. The Veteran's exams are performed based upon the needs and orders of referring physicians, and all Nuclear Medicine exams require the injection or ingestion of a radiopharmaceutical.

A contractor provides daily routine radiopharmaceutical deliveries as well as emergent deliveries. Routine weekday (M-F) delivery times; Orlando VAMC and Lake Baldwin OPC, between 6:30 am and 7:00 am for 1st delivery (Viera OPC from 7:00am to 7:30 am) Monday through Friday. If a second delivery is required, it shall arrive before 11:30 am. Additional on demand deliveries occurring Monday-Saturday shall arrive within two (2) hours from the time the phone request was placed. The Contractor shall be required, as deemed necessary by the Orlando VA Healthcare System, to furnish such deliveries as specified, on Federal Holidays and during Non-working hours. All deliveries shall be made within two (2) hours after receipt of order. All charges incurred for delivery shall be included in the Fee Schedule to include fuel surcharges. Cut off for ordering is 45 minutes before delivery Monday through Friday and 4:30 am for first run and 8:15 am for second run on weekends. However, VA requires Emergency orders within one (1) hour during business hours and two (2) hours after hours of receiving the order by phone or electronic order (web ordering).

Contractor shall be able to provide emergency orders placed during regular work hours (Monday through Friday 6:00 am to 4:30 pm) within 60 minutes after receipt of phoned or faxed orders from the Orlando VAMC and the Lake Baldwin's OPC and within 90 minutes after receipt of phoned or faxed orders from Viera's OPC.

The total estimated value for the 100 days contract with one 3 months option is approximately \$465,180.60. The effective period of performance shall be 10/1/15 – 01/08/16 (Base with a 3 months option) to allow for a competitively awarded, long-term contract to be put in place.

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;
- (X) (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 Unusual and Compelling Urgency (FAR 6.302-2, 6.303-2(a)(9)(ii)):

The Contracting Officer is contemplating an award under the authority cited in FAR 6.302-2 based upon the fact that these radiopharmaceuticals are needed regularly and are essential for healthcare delivery capabilities and mission performance. The current contract expires 9/30/15 and the existing solicitation was protested on 9/25/15 and was due to close 9/27/15. To avoid a potential break in service caused by trying to transition another contractor to take over current operations, this interim contract shall be with the incumbent, Cardinal Health 414 LLC, 7000 Cardinal Place, Dublin, OH 43017, for a 100 days period with a 3 months option, in order to allow for a long-term contract action to be re-solicited, competed, and awarded.

Considering all of this, it is estimated that transitioning to a new contractor is estimated to take up to 60 days and such an interruption and/or delay in the continued supply of these essential radiopharmaceuticals to the patients requiring their use, could pose a potentially serious injury to the Government should Veteran care be adversely impacted. Therefore, an interim contract is required to avoid a potential break in services as a long-term contract is worked on. The need for the use of Unusual and Compelling Urgency was created as a result of corrective action in response to the GAO protest.

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

A competitive solicitation was protested under GAO file number B-412174. After a careful review of the protest grounds and the procurement file, the Agency elected to take action in order to correct the solicitation. These changes to the solicitation will better reflect the Agency requirement while facilitating maximum competition among potential offerors. Awarding the proposed 100 days interim contract to the incumbent will enable the Agency to continue to support critical veteran care while implementing the corrective actions necessary to further full and open competition. While other contractors may be able to provide radiopharmaceuticals, none can do so immediately without a break in service.

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

The contracting officer requested a quote from the incumbent contractor for the 100 day interim requirement. Pricing was compared to current pricing and determined to be both fair and reasonable. The incumbent will extend to the Government the same pricing as on VISN 8 contract number VA248-P-1318.

8. Description of the Market Research Conducted and the Results, or a Statement of the Reasons Market Research Was Not Conducted:

Market research demonstrates the existence of at least 5 contractors who may be capable of meeting agency needs.

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

While other contractors may be able to provide radiopharmaceuticals, none can do so immediately without a break in service. Therefore, issuing a sole source interim contract to the incumbent is in the best interest of the Government under these emergent circumstances.

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

TrillaMed, LLC
Cardinal Health
IBA Molecular
Triad Isotopes

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:

A long-term contract (Base and 4 options years) is currently being processed and this interim action is strictly for the continued delivery of radiopharmaceuticals until the long-term contract is awarded.

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.

Dr. John Hoy
Chief, Radiology
Orlando VAMC

Date

13. Approvals in accordance with the VHAPM, Volume 6, Chapter VI: OFOC SOP.

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

Pedro Catinchi
Contracting Officer
NCO 8/SAO-East/ Station 675

Date

Chapter VI: Other Than Full and Open Competition (OFOC) SOP
Attachment 3: Request for Sole Source Justification Format >\$150K

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

Kawan Afre
Division Chief
NCO 8 Commodities and Prosthetics

Date