

JUSTIFICATION FOR OTHER THAN FULL AND OPEN COMPETITION

- 1. Contracting Activity:** Department of Veterans Affairs (VA)
Office of Acquisition Operations
Strategic Acquisition Center - Frederick (SAC-F)
(003B1H) 321 Ballenger Center Drive, Suite 125
Frederick, MD 21703
- 2. Description of Action:** This proposed sole source action is to modify contract VA798-11-D-0003 awarded to QTC Medical Services, Inc. (QTC), on November 1, 2010, for a total 5-year ceiling value of \$1.1 billion. This contract is one of two Medical Disability Examination (MDE) contracts to acquire the services of private physicians to support the Veterans Benefits Administration (VBA), Office of Compensation Services. Section 9 of Public Law 104-275 authorizes VBA to contract for MDEs, but limits the number of VA Region Offices (VAROs) that may contract for MDEs to 12 through the end of Fiscal Year (FY) 2015. The public law allows for a total of 15 VAROs to be serviced beginning in FY 2016. As such, VBA wishes to increase the number of VAROs supported by the MDE contracts from 12 to 15 beginning October 1, 2015. This particular modification adds Philadelphia, PA, and Columbia, SC, to the Eastern Region currently handled under the contract VA798-11-D-0003 with QTC. The modification to QTC's contract also increases the contract value by \$20,651,400, which is a 1.7% increase from \$1,194,450,106 to \$1,215,101,506 in the total contract ceiling value.
- 3. Description of Supplies or Services:** The contract is for MDEs provided by contracted physicians in support of VBA, Office of Compensation Services. The proposed modification is to increase the number of VAROs from 12 to 15, adding two VAROs located in Philadelphia, PA, and Columbia, SC, to the existing VAROs served under the contract with QTC. By adding these VAROs, approximately 18,774 additional disability examinations can be ordered for Veterans served by these two additional regions of the country_ Contract VA798-11-D-0003 expires on December 30, 2015, but VBA intends to extend the contract through June 30, 2016, to allow sufficient time for a replacement contract, currently in full and open competition, to be awarded. This also allows time for any non-incumbent firm a 60-90 day ramp-up time to be at 100% capacity in accordance with the terms of the replacement contract. The contract includes the clause at FAR 52.217-8, Option to Extend Services, which will allow services to continue at the rates specified in the contract which were previously found fair & reasonable. Historically, the amount of funding obligated each year has exceeded the amount needed to fund exams for the year.
- 4. Statutory Authority:** The statutory authority permitting other than full and open competition is 41 U.S.C. § 3304(a)(1) as implemented by the Federal Acquisition Regulation (FAR) 6.302-1 entitled, "Only One Responsible Source and No Other Supplies or Services Will Satisfy Agency Requirements."
- 5. Rationale Supporting Use of Authority Cited Above:** VA has been under intense scrutiny for the time it takes to complete the Veterans' claim process. QTC, the incumbent MDE provider, is the only source capable of providing the additional required services while meeting all of the Agency needs. FAR 6.302-

1(b)(1)(i) is appropriate when there is a reasonable basis to conclude that the agency's minimum needs can only be satisfied by only one supplier with unique capabilities. The current contractor possesses the unique capabilities to begin work on day one of award without significant ramp-up time. QTC already provides examinations at or near military bases within the proximity of Philadelphia, PA and Columbia, SC. QTC has the existing network of physicians that have already received the required VA training to process MDE exams for the new region offices. No other vendor has the existing network of physicians in the required regions that have received the requisite VA training in MDE exams. Additionally, QTC has established and tested the required information technology interfaces with VA. Any other vendor would be required to coordinate with VA to link its IT systems with VA, receive the proper approvals, and complete all testing to ensure the IT linkages work properly. Only QTC has the existing contract pricing, the existing network of providers, and the existing IT interfaces needed in order to service the new region offices. No other vendor possesses these unique qualifications without requiring a significant amount of time to obtain these qualifications; therefore, no other vendor can support the effort in a timely manner or in a manner that is cost effective to the Government. By the time any other vendor obtained these qualifications, the current contract will have expired and the replacement contract that is already in the acquisition phase will have been awarded. For these reasons, only QTC possesses the unique capabilities to begin work without significant delay.

Service under this modification will be for approximately the last six months of the contract, depending on when the modification is finalized and when the replacement contract is awarded. VA is in the process of competitively soliciting a new contract that will replace the existing MDE contract which expires in December 30, 2015; however, award of the new contract will not be made in time to meet the current requirement of adding the two new regions to the contract. Therefore, it would be virtually impossible for the Government to provide the additional services during the remainder of the existing contract should it be required to compete the additional services among multiple vendors.

The additional work contemplated by the proposed modification is necessary to maximize the availability of disability benefits to Veterans. Congress' recent expansion of the number of VAROs that can be serviced by the MDE contract provides VA with an opportunity complete a maximum number of MDE exams and an expeditious process for Veterans to obtain disability benefits. It is not feasible to provide a separate competition for the services needed for the Philadelphia, PA, and Columbia, SC, VAROs prior to the end of the current contract and the beginning of the new contract in approximately March 2016. As a practical matter, the only reasonable means to expand these services prior to the end of the existing contract is to allow the current contractor to provide the additional services.

6. **Efforts to Obtain Competition:** No other provider can immediately perform the required exams. This modification will, however, meet the Veterans' exam needs while the VA conducts an acquisition using full and open competition. No reasonable means to acquire the services from another firm exists based on the

circumstances described in Section 5. The proposed action and this justification will be posted on the Federal Business Opportunities (www.fbo.gov) website within 14 days after award.

7. **Actions to Increase Competition:** The existing contract expires on December 30, 2015; however, as noted in Section 3, the period of performance under the existing contract will be extended through approximately June 30, 2016 once 52.217-8 is exercised in a future modification. A new MDE solicitation, VA119A-15-R-0150, is currently being competed and is expected to be awarded in March 2016. The new contract will include the additional sites covered in this J&A. The new contract is being competed as full and open, unrestricted competition. As such, all qualified vendors have an opportunity to compete for the requirement that will replace the existing contract.
8. **Market Research:** Market research, through two RFI's, previous contract actions, and a pre-proposal conference, revealed that five companies nationwide are capable of performing these services. However, only QTC can perform these services immediately at the two specified locations. No reasonable means to acquire the services from another firm exists based on the circumstances described in Section 5. The proposed action will be posted on the Federal Business Opportunities (www.fbo.gov) website within 14 days after award.
9. **Other Facts:** The provision of medical exams by non-VA physicians was authorized by Public Law (P.L.) 104-275 with specific limitations. In 2010, at the time of contract award, P.L. 104-275 authorized VBA to privately source exams for a maximum of 10 VAROs. With the recent passage of Section 241 of the Consolidated and Further Continuing Appropriations Act, 2015, the number of VAROs that can be serviced was increased from 10 to 12 (during FY 2015) and from 12 to 15 (during FY 2016). Specifically, Section 241 of the Consolidated and Further Continuing Appropriations Act, 2015, amended Subsection (b) of section 504 of the Veterans' Benefits Improvements Act of 1996 (P.L. 104-275; 38 U.S.C. 5101).

This contract is one of two Medical Disability Examination (MDE) contracts to acquire the services of private physicians to support the Veterans Benefits Administration (VBA), Office of Compensation Services. The second contract, VA798-11-D-0010, was awarded to VetFed Resources, Inc. (VetFed) on November 1, 2010, for a total 5-year ceiling value of \$1.1 billion. A separate modification to increase the total contract ceiling and add Oakland, CA, to the Western Region is currently in process.

10. Technical and Requirements Certification: I certify that the supporting data under my cognizance, which are included in this justification, are accurate and complete to the best of my knowledge and belief.

Signature: _____ Date: _____
VBA Program Manager

11. Fair and Reasonable Cost Determination: I hereby determine that the anticipated price to the Government for this contract action will be fair and reasonable based on historical pricing and a price analysis.

Signature: _____ Date: _____
Contracting Officer

12. Procuring Contracting Officer Certification: I certify that this justification is accurate and complete to the best of my knowledge and belief.

Signature: _____ Date: _____
Contracting Officer

13. Statement of Legal Sufficiency: I have reviewed this justification and find no legal objection.

Signature: _____ Date: _____
VA Office of General Counsel

Concurrence

Based on the foregoing justification, I concur with the modification to contract VA798- 11-D-0003 for MDE services, in the estimated amount of \$20,651,400, on an other than full and open completion basis pursuant to Section 41 U.S.C. 3304(a)(1), subject to availability of funds, and provided that the property and services herein described have otherwise been authorized for acquisition.

Signature: _____ Date: _____

Head of Contracting Activity
Office of Acquisition Operations

Approval

Based on the foregoing justification, I approve the modification to contract VA798-11-D-0003 for MDE services, in the estimated amount of \$20,651,400 on an other than full and open competition basis pursuant to Section 41 U.S.C. 3304(a)(1), subject to availability of funds, and provided that the property and services herein described have otherwise been authorized for acquisition.

Signature: _____ Date: _____

Associate Deputy Assistant Secretary for
Procurement Policy, Systems, and Oversight