DEPARTMENT OF VETERANS AFFAIRS

Justification and Approval (J&A)
For
Other Than Full and Open Competition (>$150K)

Acquisition Plan Action ID: VA249-15-AP-1875

1. Contracting Activity: Department of Veterans Affairs, VISN 9, Network Contracting Office (NCO) 9, 1639 Medical Center Parkway, Suite 400, Murfreesboro, Tennessee 37129 and [redacted] is submitting this justification for Other than Full and Open Competition to negotiate a sole-source lease of approximately 18,916 Net Usable Square Feet (NUSF) of Medical Office Space in Louisville, Kentucky in accordance with 41 U.S.C. § 3304(a)(1). The Purchase Request Number, (2237), for this lease procurement is [redacted]

2. Nature and/or Description of the Action Being Processed: The proposed acquisition is for a Firm Fixed Price Lease using succeeding, superseding, and expansion acquisition procedures, as applicable. This acquisition is for a leasehold interest of approximately 18,916 Net Usable Square Feet (NUSF) of real property space to be utilized for a Community Based Outpatient Clinic (CBOC) for the provision of Community Based Medical Care. This is a sole source action to enter in a succeeding lease with WMC2, LLC, (current lessor), for space located in Newburg Medical Plaza, 3430 Newburg Road in Louisville, KY for ten (10) years, (five (5) years firm and five (5) years non-firm). The anticipated lease date is July 1, 2016 through June 30, 2026.

   In accordance with the delegation of authority from the General Services Administration (GSA), DKY04121-001, the proposed acquisition shall comply with all applicable laws, Executive Orders (EO's), regulations, Office of Management and Budget circulars, the GSAM, GSA Leasing Desk Guide, and GSA's Realty Service Letters and Lease Acquisition Circulars that implement laws, EO's and regulations as well as FMR Bulletin C-2. Additionally the lease will comply with OMB Circular A-11 and related appendices and will be scored accordingly.

   The government currently possesses a leasehold interest of approximately 9,999 NUSF of medical space located in the Newburg Medical Plaza under Lease Number V603R-018 which will expire June 30, 2016. A Succeeding Lease, to included expanded space, is required on or before July 1, 2016.

   The current location is centrally located to accommodate a broad area of Veteran population and is accessible to public transportation. The Veteran population served by this clinic relies heavily on public transportation. The current Lessor has maintained the property with considerations for the Veteran population needs and has shown outstanding responsiveness to address situations which are beyond its control. During natural disasters such as tornadoes and ice storms the Lessor acts quickly to restore normalcy while minimizing interruptions to patient care.

   Expanding existing space is required for the provision of Community Based Outpatient Care in furtherance of VHA, [redacted] mission objectives in providing timely outpatient medical services to the Veteran. Patient satisfaction is paramount to the mission of the VA. The Veteran population that receives their primary care from the current location also, in many cases, receives their mental health care at this location as well. The Veterans are able to make dual

appointments on the same day making it more convenient for the Veteran and more cost effective for the VA in relation to travel reimbursements costs.

3. <u>Description of Supplies/Services Required to Meet the Agency's Needs</u>: The Newburg CBOC is a fully functional primary care clinic providing multiple services including primary care, social work service, women's health, nutrition, mental health, and pharmacy services to approximately 8,500 Veterans in the Louisville Metro area. [redacted] a continuing need for the provision of these services as well as a need to expand the services offered at this location. The additional square footage will be utilized as a Women's Health Center which will include a Women's Medical Director/Patient Aligned Care Team, (PACT), with a second all-woman Veteran PACT Team. Gynecological Services and a radiology suite will also be included in the space. In addition to Primary Care and Women's Health Center, a Geriatric Outpatient Center will co-locate providing expertise in Geriatrics, Dementia, Frailty, and Palliative Medicine. The current Newburg lease will expire June 30, 2016.

   This requirement is for an expansion of the current clinical space to a total of 18,916 Net Usable Square Feet of Medical Space for a term of ten (10) years, (five (5) years Firm, five (5) years Non-firm), for a total estimated annual un-serviced lease value [redacted] over the ten (10) year term as determined by the Fair Market Appraisal performed October 13, 2015. Tenant Improvement cost will not be amortized and therefore are not included.

   Information from advertisement (Sources Sought):

   The Department of Veterans Affairs [redacted] currently occupies space in a building under lease in Louisville, KY that will be expiring June 30, 2016. The Government requires medical office space yielding approximately 18,916 Net Usable Square Feet (NUSF). The lease term requirement is for 10 years, (5 year firm, 5 year non-firm term). The space must be available for occupancy by July 1, 2016. Space within or fronting on the following boundaries will be considered:
   North: I-64, South: I-264, East I-65, West: I-65.

   The space must be on no more than one floor or two contiguous floors and will need to accommodate the following: physician group practice for Primary Care (PACT), Mental Health, Geriatric Outpatient Center, and a Women's Health Center, to include utilities, restrooms, janitorial, offices, a break room, a conference room, and 125 parking spaces. The space must be located within 1/2 mile walking distance to public transportation, restaurants, shopping, and banks.

4. <u>Statutory Authority Permitting Other than Full and Open Competition:</u>

   (X) (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;
   ( ) (6) National Security per FAR 6.302-6;
   ( ) (7) Public Interest per FAR 6.302-7;

CITATIONS: 41 U.S.C. 3304(a)(1); GSAM 570.402-1(b)

5. **Demonstration that the Contractor's Unique Qualifications or Nature of the Acquisition Requires the Use of the Authority Cited Above (applicability of authority):** 41 U.S.C. § 3304(a)(1) allows an executive agency to use other than competitive procedures when the property or services needed are available from only one responsible source and no other property or services will satisfy the needs of the executive agency. A follow-on contract for property may be procured through other than competitive procedures when it is likely that award to another source would result in substantial duplication of cost to the Federal Government that is not expected to be recovered through competition or result in unacceptable delay in fulfilling the agency's needs, 41 U.S.C. § 3304(b)(2)(A and B).

   GSAM 570.402-1(b) permits the contracting officer to enter into a Succeeding lease under either of the following conditions: (1) the contracting officer does not identify any potential acceptable locations and (2) the contracting officer identifies potential acceptable locations, but a cost-benefit analysis indicates that award to an offeror other than the present lessor will result in substantial relocation costs or duplication of costs to the Government, and the Government cannot expect to recover such costs through competition.

   [redacted]. Subsequent market research [redacted] verified previous findings and failed to produce any properties capable of meeting the Agency's requirements.

   In accordance with GSAM 570.106, an advertisement was placed via a Sources Sought Notice, VA24915AP1875, on the Federal Business Opportunities website, www.FBO.gov, issued 1-23-2015. The following is a brief description of its contents:

   > The Department of Veterans Affairs [redacted] currently occupies space in a building under lease in Louisville, KY that will be expiring June 30, 2016. The Government requires medical office space yielding approximately 18,916 Net Usable Square Feet (NUSF). The lease term requirement is for 10 years, (5 year firm, 5 year non-firm term). The space must be available for occupancy by July 1, 2016. Space within or fronting on the following boundaries will be considered: North: I-64, South: I-264, East I-65, West: I-65.
   >
   > The space must be on no more than one floor or two contiguous floors and will need to accommodate the following: physician group practice for Primary Care (PACT), Mental Health, Geriatric Outpatient Center, and a Women's Health Center, to include utilities, restrooms, janitorial, offices, a break room, a conference room, and 125 parking spaces. The space must be located within 1/2 mile walking distance to public transportation, restaurants, shopping, and banks.

   No responses were received.

   A Cost Benefit Analysis indicates a succeeding lease with the incumbent Lessor is in the best interest of the Government since the Government cannot expect to recover relocation and duplication costs through competition. Expanding into space co-located adjacent to the existing clinic allows for expansion for a Women's Health Center which will accommodate two Women's Health PACT Teams

and gynecological service as well as a radiology suite including mammography, DEXA scan, and ultrasound. Cost Benefit Analysis utilizing the Succeeding Superseding Lease Decision Tool indicates an Aggregate Cost Savings associated with Staying in Place [redacted]. Accordingly, WMC2, LLC is the only firm capable of providing the property and services without the Veteran's Health Administration experiencing substantial duplication of cost that could not be expected to be recovered through competition and unacceptable delays in fulfilling its requirements.

<u>Summary Table from Succeeding Superseding Lease Decision Tool</u>

<u>Cost Benefit Analysis</u>	
Gross Aggregate Contract Value of Current Location	[redacted]
Gross Aggregate Contract Value of Available Building with lowest rental rate	[redacted]
Aggregate Cost Savings associated with Staying in Place	[redacted]

[redacted]

The current location is centrally located to accommodate a broad area of Veteran population and is accessible to public transportation. The Veteran population served by this clinic relies heavily on public transportation. The current Lessor has maintained the property with considerations for the Veteran population needs and has shown outstanding responsiveness to address situations which are beyond its control. During natural disasters, such as tornadoes and ice storms, the Lessor acts quickly to restore normalcy while minimizing interruptions to patient care.

Expanding existing space is required for the provision of Community Based Outpatient Care in furtherance of VHA, [redacted] mission objectives in providing timely outpatient medical services to the Veteran. Patient satisfaction is paramount to the mission of the VA. The Veteran population that receives their primary care from the current location also, in many cases, receives their mental health care at this location as well. The Veterans are able to make dual appointments on the same day making it more convenient for the Veteran and more cost effective for the VA in relation to travel reimbursements costs.

WMC2, LLC is qualified and eligible to receive an award under all applicable laws and regulations. WMC2, LLC, NAICS Code 531120, is a Small Business. WMC2, LLC is able to comply with the required performance schedule considering all its existing commercial and Government business commitments, has a satisfactory record of integrity and business ethics, and has the necessary organization, experience, accounting and operational controls applicable to services to be performed. No adverse reports regarding WMC2, LLC have been reported to FAPIIS. A review of EPLS provides neither exclusions nor adverse reports.

In accordance with 41 U.S.C. § 3304 (a) (1), the agency's minimum needs can only be satisfied by property or services available from only one responsible source and no other type of property or services will satisfy the needs of the agency.

6. <u>Description of Efforts Made to ensure that offers are solicited from as many potential sources as deemed practicable</u>: In accordance with GSAM 570.106, an advertisement was placed via a Sources Sought Notice, VA24915AP1875, on the Federal Business Opportunities website, www.FBO.gov, issued 1-23-2015. The following is a brief description of its contents:

   The Department of Veterans Affairs [redacted] currently occupies space in a building under lease in Louisville, KY that will be expiring June 30, 2016. The Government

requires medical office space yielding approximately 18,916 Net Usable Square Feet (NUSF). The lease term requirement is for 10 years, (5 year firm, 5 year non-firm term). The space must be available for occupancy by July 1, 2016. Space within or fronting on the following boundaries will be considered: North: I-64, South: I-264, East I-65, West: I-65.

The space must be on no more than one floor or two contiguous floors and will need to accommodate the following: physician group practice for Primary Care (PACT), Mental Health, Geriatric Outpatient Center, and a Women's Health Center, to include utilities, restrooms, janitorial, offices, a break room, a conference room, and 125 parking spaces. The space must be located within 1/2 mile walking distance to public transportation, restaurants, shopping, and banks.

No responses were received.

Prior to issuance of the above posting, the Contracting Officer completed a thorough search of the market [redacted] within the delineated area [redacted]. A Cost Benefit Analysis indicates a succeeding lease with the incumbent Lessor is in the best interest of the Government since the Government cannot expect to recover relocation and duplication costs through competition (see Summary Table, paragraph 5 above). Subsequent market research [redacted]

7. <u>Determination by the Contracting Officer that the Anticipated Cost to the Government will be Fair and Reasonable</u>: An Independent Fair Market Appraisal of the subject property was conducted and costs were determined reasonable in comparison with current and previous costs for the same or similar properties in accordance with Federal Acquisition Regulation (FAR) 6.303-2(a)(7). It is therefore the determination of the Contracting Officer that the anticipated cost to the Government is considered fair and reasonable.

8. <u>Description of the Market Research Conducted and the Results, or a Statement of the Reasons Market Research Was Not Conducted</u>: The Contracting Officer completed a thorough search of the market [redacted] available properties containing the required square footage of space within the delineated area that could potentially meet the Agency's requirements ([redacted] Subsequent market research [redacted] failed to produce any properties capable of meeting the Agency's requirements.

   A search of excess United States Postal Service, (USPS), property produced no currently available real property in Louisville, Kentucky capable of meeting the Agency's needs. A search of GSA's inventory of Owned and Leased Properties along with the National Historical Building Register also failed to produce any available real property that could meet the Government's needs.

   As described in paragraph 6 above, market research, in accordance with FAR Part 10 was conducted by synopsis of the proposed acquisition, advising industry of the pending acquisition and soliciting inquiries from interested parties. No responses were received.

9. <u>Any Other Facts Supporting the Use of Other than Full and Open Competition</u>: None.

10. **Listing of Sources that Expressed, in Writing, an Interest in the Acquisition:** WMC2, LLC, 3430 Newburg Road, STE 158, Louisville, Kentucky 40218-5409 (Lessor) – 18,916 NUSF of medical office space located at 3430 Newburg Road, Louisville, Kentucky 40218. No other sources have expressed an interest in this acquisition written or otherwise.

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:** No additional acquisition actions are contemplated at this time. This action approves the requirement for the limited source acquisition. For future acquisitions of this nature, if it is determined that the cost of construction is not a viable alternative and there is a continuing need for such lease space prior to the expiration of the lease, Contracting will engage the using service in the early planning stages and conduct market research to determine the market's availability of space and fair market value of space within the delineated area.

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.

Connie Smalley — 12-29-15

Connie Smalley
Administrative Officer
Robley Rex VAMC

Date

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

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

Pamela K. Dodd — Digitally signed by Pamela K. Dodd DN: cn=Pamela K. Dodd, o=NCO 9, ou=Services Team East, email=pamela.dodd@va.gov, c=US Date: 2015.12.30 10:55:36 -06'00' — 12/30/2015

Pamela K. Dodd
Lease Contracting Officer
NCO 9

Date

    b. **Division Chief/Designee:** I certify that the foregoing justification meets requirements for other that full and open competition.

Kenneth N. Hooks
498714

Digitally signed by Kenneth N. Hooks 498714
DN: dc=gov, dc=va, o=internal, ou=people, 0.9.2342.19200300.100.1.1=kenneth.hooks@va.gov, cn=Kenneth N. Hooks 498714
Date: 2015.12.29 11:36:35 -06'00'

Kenneth N. Hooks
Division Chief
Network Contracting Office (NCO) 9

Date

c. **Director of Contracting /Designee:** I certify the justification meets requirements for other than full and open competition.

For Susan Nagel

Digitally signed by Susan Nagel
DN: cn=Susan Nagel, o=NCO 9, ou=NCO 9, email=susan.nagel2@va.gov, c=US
Date: 2015.12.30 13:25:02 -06'00'

12/30/2015

Linda S. Greaves
NCO 9 Director of Contracting
Network Contracting Office (NCO) 9

Date

d. **Acting Chief Procurement and Logistics Officer (10NA2)/HCA:** I certify the justification meets requirements for other than full and open competition.

Randy L. Hays 534204

Digitally signed by Randy L. Hays 534204
DN: dc=gov, dc=va, o=internal, ou=people, 0.9.2342.19200300.100.1.1=randy.hays@va.gov, cn=Randy L. Hays 534204
Date: 2016.01.05 08:12:26 -08'00'

Randy L. Hays
Acting Director, SAO Central Region
SAO Central Head of Contracting Activity (HCA)

Date