

DEPARTMENT OF VETERANS AFFAIRS

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

Acquisition Plan Action ID: VA258-16-AP-1072

1. **Contracting Activity:** Department of Veterans Affairs, Southern Arizona VA Health Care System; VHA NCO18 Services Branch 1, 678-16-1-620-0057
2. **Nature and/or Description of the Action Being Processed:** This action is to procure solar panel and system maintenance, cleaning services, and repairs. Southern Arizona Veterans Affairs Health Care System (SAVAHCS) needs a service contract in place to prevent the breakdown of the current system and to preserve warranties currently in place from the installation. This will be awarded as a new contract action. SAVAHCS currently does not have a contract in place to provide routine maintenance and cleaning. Without these services all workmanship and manufacturer warranties will become void. NCO 18 intends to award a firm-fixed price contract via other than full and open competition. REC Solar (3550 Broad St. Ste. 105, San Luis Obispo, CA) is a large business with a size standard of \$36.5M under NAICS code 237130. If another contractor performs these services other than the installer, the workmanship warranties will become void. The estimated award date is 03-01-2016 with a seven month base period and four one year option periods.
3. **Description of Supplies/Services Required to Meet the Agency's Needs:** The Contractor shall furnish all parts, labor, equipment, qualified personnel, qualified supervision, and transportation necessary to provide training, maintenance, repair, inspection and cleaning of the thirteen SAVAHCS Solar PV inverters and arrays. The anticipated cost for such services is \$45,000.00 for the base year and approximately \$50,000.00 a year for each of the four option years for a total contract value of approximately \$245,000.00. These costs were derived from the IGE provided by the requesting service Margaret Bowman. Market research also validated the accuracy of these costs via the contracting specialist Steven Jeffers contacting REC Solar's sales representative Michael Borger who stated that the approximate cost for the recommended annual service to protect SAVAHCS' solar panel and system is \$50,000.00. The intended Period of Performance is a base year (03-01-2016 to 09-30-2016) and four one year option periods with a contract completion date of 09-30-2020).
4. **Statutory Authority Permitting Other than Full and Open Competition:**
 - (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;

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() (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):** REC Solar installed this multi-million dollar system at SAVAHCS. If REC Solar, as the original installer, does not perform these services, then the workmanship warranties will be voided. Because of the original equipment being valued at millions of dollars, it is imperative that the government maintain the workmanship warranties on the installed equipment to protect its investment. This could lead to substantial duplication of costs to the government were this requirement to be competed. Competition could also lead to unacceptable delays in fulfilling the agency's needs for maintaining the solar panels and system. Therefore, it is in the government's best interest to sole-source these services to the original installer REC Solar. REC Solar is the only capable firm of providing these highly specialized maintenance and repair services and REC Solar will ensure that all warranties stay intact and are not voided.
6. **Description of Efforts Made to ensure that offers are solicited from as many potential sources as deemed practicable:** Market research was conducted to determine if any other company can perform these maintenance services without invalidating the workmanship warranties. The government did not reveal any possible sources. Therefore, no further action was taken to solicit other sources once market research revealed that procurement from any other sources would cause the government to invalidate workmanship warranties. This would be unacceptable and not advantageous to the government. A sources sought was not and will not be posted because IAW FAR 5.202(5) Exceptions which states, "the proposed contract action is for utility services other than telecommunications and only one source is available." Solar power is an alternative utility solution other than telecommunication services and any other source other than original provider (REC Solar) will not be advantageous to the government because all workmanship warranties shall be voided if another company other than REC Solar provides service. A sources sought will cause unacceptable delays and it would be a futile effort because it would cause the government substantial duplication of costs if another company were to be considered. However, in effort to meet the requirements in FAR 6.303-1(a) the contracting officer will not enter into negotiations until the approved justification and approval is posted on www.FBO.gov.
7. **Determination by the Contracting Officer that the Anticipated Cost to the Government will be Fair and Reasonable:** The anticipated cost will be fair and reasonable and based off of published price lists and other preventive maintenance programs that REC Solar currently provides to the commercial sector. Pricing will be validated and compared prior to contract award. The base period is estimated at \$45,000.00 and each option year is anticipated to cost \$50,000.00 according to the IGE and market research. The total anticipated cost for base plus four option years is \$245,000.00. Price analysis to include published price lists and other similar contracts in the commercial market will be used to determine price fair and reasonable.
8. **Description of the Market Research Conducted and the Results, or a Statement of the Reasons Market Research Was Not Conducted:** Market research confirmed that REC Solar would void their workmanship warranties if another company performed any work on SAVAHCS' solar system that they installed. Market researched confirmed that it would not be fiscally responsible to void warranties on a multi-million dollar system proportionally to the cost of a maintenance plan that would keep all warranties in place. Market research was conducted IAW FAR 10.002(2) Procedures which states, "Techniques for conducting market research may include any or all of the following".

OFOC SOP Revision 04

Original Date: 03/22/11

Revision 04 Date: 10/01/2015

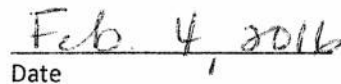
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Therefore the following technique was utilized: FAR 10.002(2) (v) "Participation in interactive, on-line communication among industry, acquisition personnel, and customers." Margaret Bowman is the customer and confirmed in email dated 1-5-2016 that "voiding the warranty would be unacceptable". The contractor REC Solar representative Michael Borger confirmed that if any other company were to be awarded a contract to provide service on the solar panels and equipment that it would void of their workmanship warranties. A copy of their workmanship warranty is in the ECMS file for reference. Daniel Thiel is the contracting officer and he, along with the contracting specialist Steven Jeffers, concluded this was sufficient market research and complied with FAR 10.002(1) which states, "The extent of market research will vary, depending on such factors as urgency, estimated dollar value, complexity, and past experience". Urgency is a factor because if these services are not provided then all warranties will be voided. The estimated dollar value is only \$245,000.00 which is a very low value compared to the multi-million dollar solar panel system and equipment that this service will protect. This is not a complex requirement and experience shows that sole-sourcing to REC Solar is the best option to protect the government's equipment and financial interests.

9. **Any Other Facts Supporting the Use of Other than Full and Open Competition:** REC Solar is the installer and is responsible for all workmanship warranties.
10. **Listing of Sources that Expressed, in Writing, an Interest in the Acquisition:** Not Applicable.
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:** If it is determined in the future that warranties will not be affected, then opening this requirement up for full and open competition will be considered.
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.



Name: Margaret Bowman
Title: Energy Manager
Facility: SAVAHCS



Date


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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.



Name: Daniel C. Thiel
Title: Contracting Officer



Date

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

Name: Sabrina J. Smith
NCO 18 Director of Contracting or Designee

Date