

# DEPARTMENT OF VETERANS AFFAIRS

## Justification and Approval

### For Other than Full and Open Competition

September 8, 2011

1. **Contracting Activity**

Department of Veterans Affairs  
Network Contracting Activity 8  
5201 Raymond Street  
Orlando FL 32803

2. **Nature and/or Description of the Action Being Processed:** This action is for a new Firm fixed Price Contract for Construction Services to be awarded to Blue Cord Design and Construction, LLC. Address: 1837 Edgewater Drive, Orlando FL 32804.

3. **Description of Supplies/Services Required Meet the Agency's Needs:** The contractor shall remove and replace the roof on the domiciliary buildings 519, 519a, 520, 521, 522, the elevator roof and all other overhangs at the Orlando Lake Baldwin Campus. This project is based on emergent requirement to prevent water leakage into the domiciliary which will effect patient health and safety and also result in and damage to the contents of the facility. The period of performance is 90 days from issuance of notice to proceed. The estimated cost of this project is between \$100,000 to \$250,000.

4. **Salutatory Authority Permitting Other Than Full and Open Competition:** The authority permitting other than full and open competition for this requirement is 41 USC §253(c), as implemented by FAR 6.302-5, Authorized or required by statute. Furthermore, Public Law (PL) 109-461, the Veterans Benefits, Health Care, and Information Technology Act of 2006. Title V, Sections 502 and 503 as codified at 38 U.S.C. §§ 8127 and 8128 is applicable which authorizes the Department of Veterans Affairs to sole source requirements to responsible Service Disabled Owned Veterans Small Business (SDVOSB) at dollar thresholds between the simplified acquisition threshold and \$5 Million.

( ) (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

(X) (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 Authority Cited Above (applicability of authority).** Under the Authority of 38 USC

8127-8128 Sections 502 and 503 of Public law (P.L.) 109-461, FAR Part 6.302-5(b) (6) and VAAR 819.7007, Sole Source awards or to services disabled veteran-owned small business concerns.

- (a) A contracting officer may award contracts to SDVOSB concerns on a sole source basis provided:
    - (1) The anticipated award price of the contract (including options) will not exceed \$5 million;
    - (2) The requirement is synopsisized in accordance with FAR Part 5.
    - (3) The SDVOSB concern has been determined to be a responsible contractor with respect to performance; and
    - (4) Award can be made at a fair and reasonable price.
  - (b) The contracting officer's determination whether to make a sole source award is a business decision wholly within the discretion of the contracting officer. A determination that only one SDVOSB concern is available to meet the requirement is not required.
  - (c) When conducting a SDVOSB sole source acquisition, the contracting officer shall ensure businesses are registered and verified as eligible in the VIP database prior to making an award.
  - (d) The anticipated award price of this action is less than \$500K. A separate determination of the contractor's responsibility has been made in accordance with FAR 9. 104-3(d)(1). A sole source award is proposed pending negotiation of fair & reasonable price.
  - (e) Blue Cord Design and Construction meets all of the requirements specified in the aforementioned public law. Blue Cord Design and Construction is determined responsible in accordance with FAR 9.104-1, Responsible Perspective Contractor.
  - (f) Blue Cord Design and Construction was selected based on successful completion of projects of similar scope and magnitude. In addition, Blue Cord exceeded or meet the customers expectations for these projects in the areas of performance, cost, past performance and delivery of service. By awarding this contract to Blue Cord with out delays, the risk of damage to interior areas of the domiciliary due to leaks in the roof will be significantly reduced.
6. **Description of Efforts Made to ensure that offers are solicited from as many potential sources as deemed practicable:** The Department of Veterans Affairs (VISN 8) intends to solicit from only one Offeror. Due to the urgency of this requirement, the time required to solicit from multiple vendors would further delay the start and completion of this project.
7. **Determination by the Contracting Officer that the Anticipated Cost to the Government will be Fair and Reasonable:** To determine fair and reasonableness of Blue Cord's pricing, the contracting officer will utilize price analysis techniques specified at FAR Part 15.404-1 (b) (2) (ii) and (v). To be more accurate in the comparative analysis, Blue Cord's price proposal will be required to be submitted in a similar format as the independent estimate so individual cost element breakdown and terms may be evaluated on their own merit for reasonableness. The sole source award is pending negotiation of fair & reasonable price.
8. **Description of the Market Research Conducted and the Results, or a Statement of the Reasons Market Research Was Not Conducted:** Market research has been conducted using VETBIZ and the anticipated NAICS code. The results indicated that an adequate number of Service Disabled Owned Veteran Small Business firms are available to perform the requirement. However due to the urgency of the requirement, the solicitation and evaluation of multiple offers would delay the start and completion of this project.
9. **Any Other Facts Supporting the use of Other than Full and Open Competition:** The urgency of having this project completed prohibits the use of full and open competition. The basis for this decision is that

existing roof leaks are resulting in damage to the internal domiciliary structure. In addition, the leaking roof may result in mold which would have a negative effect on medical staff and occupants.

10. **Listing of Sources That Expressed, in Writing, and Interest in the Acquisition:** Based on the Contracting Officer's market research inquiry, Astor Construction Company expressed and interest in performing the requirement. However, the Contracting officer's determination whether or not to make a sole source award is a business decision wholly within the discretion of the Contracting Officer. The determination that only one SDVOSB concern is available to meet the requirement is not required. The Contracting Officer therefore has determined that a sole source award to Blue Cord Design and Construction Company is in the best interest of the Department of Veteran Affairs.

11. **Statement of Actions If Any, the Agency May Take to Remove Barriers to Competition Before Making Subsequent Acquisitions for the Supplies or Services Required:** The agency will identify and define the requirement as soon as practicable. After award, a sources sought process will be implemented where the requirement is advertised. Vendors from the open market will be invited to provide solutions and subsequently submit proposals that are intended to meet the Government's requirement.

12. **Requirement Certification:** I certify that the requirement outlined in this justification is a Bona Fide Need of the Department of Veteran 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: Jeffrey Birdsong

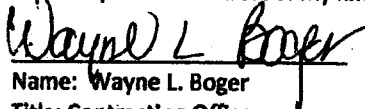
Title: Chief, FMS

Facility: Orlando VA Medical Center

9/8/11  
Date

13. **Approvals in accordance with FAR 6.304**

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

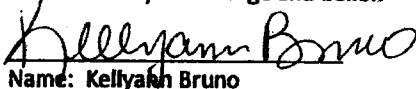
  
Name: Wayne L. Boger

Title: Contracting Officer

SAO East, NCA 8, Construction Team 3

8 Sept 2011  
Date

- b. **Product Line Supervisor:** I certify that the foregoing justification is accurate and complete to the best of my knowledge and belief.

  
Name: Kellyann Bruno

Title: Supervisory Contracting Officer

SAO East, NCA 8, Construction Team 3

13 Sept 2011  
Date