

**DEPARTMENT OF VETERANS AFFAIRS**

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

**1. Contracting Activity:**

Department of Veterans Affairs, Network Contracting Office (NCO)18, in support of the Southern Arizona VA Health Care System (SAVAHCS).  
Purchase request # 678-16-2-253-0065.

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

This Justification for Other than Full and Open Competition is for SAVAHCS to enter into a new firm fixed price contract for the provision of **case management services** to Veterans and their families. These services will facilitate placement into subsidized housing through the tenant based, or project based voucher program administered by Housing and Urban Development (HUD) within specific areas of Indian Country. The services will be procured through the Housing and Urban Development-Veterans Administration Supportive Housing (HUD-VASH) "Housing First" model which the VA is mandated to use. This model houses the individual first, then provides support and case management to ensure that the Veteran sustains in housing and re-engages with the community at large.

**3. Description of Supplies/Services Required to Meet the Agency's Needs:**

There is only one responsible source for SAVAHCS to contract with, the Tohono O'Odham Ki-Ki Association, 51 Baboquivari Cir, Sells, AZ, 85634-000.

The national authority for this program is available at:

<https://www.federalregister.gov/articles/2015/10/21/2015-26748/implementation-of-the-tribal-hud->  
<http://www.va.gov/TRIBALGOVERNMENT/>  
<http://www.va.gov/homeless/hud-vash.asp>  
[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/public\\_indian\\_housing/programs/hcv/vash](http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/hcv/vash)

The VA's goals and objectives for this program include housing placement and the provision of case management and supportive services designed to enhance the housing stability and independent living skills of homeless or at-risk of homeless Veteran families occupying permanent housing nationwide. At a minimum, the Contractor is expected to provide the following housing placement assistance to facilitate the transition of Veterans and their families at-risk of homelessness or out of homelessness: coordination with the local Tribally Designated Housing Entity (TDHE); identification of housing eligible for rental using the subsidy; assistance with the housing application process; identification of and assistance to resolve placement barriers for referred Veterans (including credit and/or unresolved legal issues found during application process); identification and assistance in obtaining needed resources to facilitate the Veteran's move into decent, safe and sanitary housing, as determined by the TDHE.

Veterans will enter this program in two ways:

- A. Homeless Veterans or at risk of becoming homeless Veterans located by the Case Manager during outreach activities or referral from community resources (Indian Health Service or Tribal Health Service, other community social service programs, the community at large, etc.)
- B. Homeless Veterans or at risk of becoming homeless Veterans who are not presently living in tribal areas, but who are tribal members living outside of the tribe and wish to return to the tribe to obtain natural supports and other culturally specific assistance/community. These Veterans will be referred by the VA HUD-VASH liaison for consideration for the program.

The contract will be for a base year plus four one year option periods. The estimated value of the procurement for the base year is [REDACTED]; a total value including four option years is [REDACTED]

**4. Statutory Authority Permitting Other than Full and Open Competition:**

*41 USC §3304(a)(1), as implemented by FAR 6.302-1.*

- ( 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;

**5. Demonstration that the Contractor's Unique Qualifications or Nature of the Acquisition Requires the Use of the Authority Cited Above (applicability of authority):**

Health care service delivery in Indian Country is either administered by the federal government through the Indian Health Service or operated through an Indian Self-Determination ("638" contract or self- governance compact between the federally recognized tribal government and the Indian Health Service). This means there are two entities that provide health care within tribal communities: the federal government or Indian tribes. The ability for tribes to assume operations of health care service delivery from the Indian Health Service has been an option initially beginning in 1975 and continues through to this day with subsequent amendments and legislation providing opportunities for tribes to become increasingly independent from the Indian Health Service in terms of tribal control and management of health care operations within tribal communities. There is no "commercial market" or other vendor that tribes or the Indian Health Service compete with when it comes to health care service delivery in tribal communities.

What follows serves as additional background supporting justification for sole source contracting with tribal entities for purposes of case management support to the selected tribal HUD VASH sites, the SAVAHCS has determined a contract with the tribe to be the best service delivery option:

“On November 2, 1921, Congress passed the first piece of national legislation that laid the formal legal basis and authorization for federally sponsored Indian health care. Called the Snyder Act (42 Stat. 208), the law authorized the (then) OIA to “direct, supervise, and expend such moneys as Congress may from time to time appropriate, for the benefit, care and assistance of the Indians, “including among other things, “the relief of distress and conservation of [Indian] health.” (source: Caring and Curing, A History of the Indian Health Service, by James P. Rife and Capt. Alan J. Dellapenna, Jr. Copyright 2009)

As the federal/tribal relationship evolved, Congress has stated that the Indian Self-Determination and Education Assistance Act, 25 U.S.C. § 450 et seq, which authorizes Indian tribes to administer federal programs on reservations, was enacted to promote and reaffirm “the Federal Government’s unique and continuing relationship with, and responsibility to, individual Indian tribes and to the Indian people as a whole.” This law reaffirms Congress’s commitment to supporting tribal “planning, conduct, and administration” of “quality programs” for Indians. 25 U.S.C. § 450a(b). Further, federal grants are provided to assist tribal entities in exercising local control and decision-making in order to support local access, control and coordination of social services essential to self-sufficient communities.

“Although groundbreaking in its scope and intent to provide for permanent appropriations authority for Indian health programs and services, the Snyder Act did not provide meaningful standards by which to measure progress in Indian health status or other improvements in services. It was a step forward for Indian health care, but more steps needed to be taken.” (source: Caring and Curing, A History of the Indian Health Service, by James P. Rife and Capt. Alan J. Dellapenna, Jr. Copyright 2009) The Indian Health Care Improvement Act served as a significant step forward.

The Indian Health Care Improvement Act (IHCIA), 25 U.S.C. 1601 et seq, provides for greater Indian control of reservation health care and was passed to help fulfill "the Federal Government's historical and unique relationship with, and resulting responsibility to, the American Indian people." 25 U.S.C §1601(I). Along with the Snyder Act of 1921, the IHCIA forms the statutory basis for the federal government's delivery of health care to AI/ANs. IHCIA contains specific language calling for maximum Indian participation in the direction of health care services: "Congress declares that it is the policy of this Nation, in fulfillment of its special trust responsibilities and legal obligations to Indians . . . (3) to ensure maximum Indian participation in the direction of health care services so as to render the persons administering such services and the services themselves more responsive to the needs and desires of Indian communities." 25 U.S.C §1602.

While the Snyder Act, the Indian Self-Determination and Education Assistance Act and the Indian Health Care Improvement Act are not necessarily “VA authorities” they are authorities that apply to the provision of health care service delivery in Indian Country. For VA to attempt to pursue full and open competition to procure case management services to support the tribal HUD VASH sites would be contrary to existing statutes governing health care in Indian Country and contrary to established practice and policy in effect for well over 100 years.

Due to the unique aspect of this bringing HUD-VASH Program to American Indian/Alaska Native Veterans living on or near sovereign tribal lands requires exclusive knowledge of cultural properties, language, and customs specific to that sovereign tribe. No other contractor can perform or fulfill these requirements without this specific knowledge.

This program provides the housing subsidy from HUD with the case management and supportive services provided by VA to ensure Veterans have the assistance and support needed for an exit from homelessness to longstanding permanent housing. Veterans are expected to pay 30 percent of their adjusted income for their portion of the rent with the subsidy paying the balance of the locally determined fair market rent. The case manager assists the Veteran with housing placement and assists the Veteran to obtain recovery goals of the Veteran's choosing. The case manager also helps the Veteran to evaluate his or her quality of life to determine potential recovery areas the Veteran might want to address. The case manager is responsible for helping the Veteran to meet his or her tenancy requirements to sustain in housing. Additionally, the case manager provides or elicits other supportive services as needed by the Veteran or Veteran's family.

HUD-VASH is designed to serve homeless Veterans and their families, per the McKinney-Vento Act with the updated definition of "homeless" as found in the Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act of 2009. For this Program only, HUD further clarifies and defines "homeless" to incorporate *cultural variations* to homeless needs *specific to tribal locations*. Many homeless Veterans have co-morbid conditions that include serious mental illnesses, substance use disorders, and other serious medical conditions. VA intends to engage an adequately credentialed Contractor from the tribe receiving vouchers with the required ***cultural knowledge*** and competence to provide case management, supportive and housing placement services to HUD-VASH eligible Veterans and their families living on or near tribal lands.

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

A synopsis was issued on the government point of entry(www.fbo.gov) on 03/24/2016, notice number VA258-16-R-0318 and closed on 04/01/2016 in order to validate the only agency in Southern Arizona that has the cultural competencies is the Tohono O'Odham Ki-Ki Association, 51 Baboquivari Cir, Sells, AZ, 85634-000. See attached FBO Notice. No responses were received therefore the government intends to negotiate solely with Tohono O'Odham Ki-Ki Association. No further market research was conducted.

In order to limit dependency on this source the SAVAHCS will evaluate their long term goals in order to alleviate long term dependency on this source.

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

[REDACTED]

[REDACTED]. Prices will be determined fair and reasonable by price analysis before award.

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

The services must be provided by tribal programs where the sovereign nation is located and with the specialized knowledge that is maintained within the traditional tribal community. According to the attached Tribal Homelands in Arizona Map the only feasible tribal programs within Southern Arizona include the Pascua Yaqui Tribe or the Tohono O'Odham Nation. The Tohono O'Odham Nation was the only Tribal entity to receive the HUD vouchers (see attached document), therefore the only possible source for this acquisition.

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

The unique aspect of bringing the HUD-VASH Program to American Indian/Alaska Native Veterans living on or near sovereign tribal lands requires exclusive knowledge of cultural properties, language, and customs specific to that sovereign tribe. No other contractor can perform or fulfill these requirements without this specific knowledge.

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

The only source who has expressed interest in the acquisition is:  
Tohono O'Odham Ki-Ki Associate, 51 Baboquivari Cir, Sells, AZ, 85634-000

**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:**

As a result of the industry established restrictive availability of sources for this service, there are no further actions the agency can take at this time to remove barriers to competition.

- 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.

Marcus A. McGauley 282359

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Marcus McGauley  
Administrative Officer-Mental Health Care Line  
Southern Arizona VA Health Care System

**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.

LILLIAN D. Sepulveda 641465

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L.Danielle Sepulveda  
Contracting Officer, NCO 18

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

Jeffrey L. Sorensen  
1047969

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Jeffrey Sorensen  
Division Chief I, NCO 18