

DEPARTMENT OF VETERANS AFFAIRS
Justification and Approval
For
Exception to Fair Opportunity Memo

Acquisition Plan Action ID: VA263-16-Q-0776, Steam Valve with Actuator

1. **Contracting Activity:** Department of Veterans Affairs, VISN 23, Minneapolis VA Health Care System
2. **Description of Action:** The proposed brand name procurement is for a Bray steam valve with actuator.
3. **Description of Supplies or Services:** Air Handling Unit 5-49 steam valve is leaking and is unable to accurately control the discharge air temperature.
4. **Statutory Authority:** The statutory authority permitting an exception to fair opportunity is Section 41 U.S.C. 4106(c) as implemented by the Federal Acquisition Regulation (FAR) Subpart 16.505 Subpart 16.505(b)(2)(i):

() FAR Subpart 16.505(b)(2)(i)(A): The agency need for the supplies or services is so urgent that providing a fair opportunity would result in unacceptable delays.

(X) FAR Subpart 16.505(b)(2)(i)(B): Only one awardee (brand) is capable of providing the supplies or services required at the level of quality required because the supplies or services ordered are unique or highly specialized.

() FAR Subpart 16.505(b)(2)(i)(C): The order must be issued on a sole-source basis in the interest of economy and efficiency because it is a logical follow-on to an order already issued under the contract, provided that all awardees were given a fair opportunity to be considered for the original order.

() FAR Subpart 16.505(b)(2)(i)(D): It is necessary to place an order to satisfy a minimum guarantee.

() FAR Subpart 16.505(b)(2)(i)(E): For orders exceeding the simplified acquisition threshold, a statute expressly authorizes or requires that the purchase be made from a specified source". The statutory authority permitting an exception to fair opportunity for this action is 38 U.S.C. 8127(c), known as the Veterans First Contracting Program which provides the authority to directly contract with a Service-Disabled Veteran-Owned Small Business (SDVOSB) or a Veteran-Owned Small Business (VOSB).

() FAR Subpart 16.505(b)(2)(i)(F) In accordance with section 1331 of Public Law 111-240 (15 U.S.C. 644(r)), contracting officers may, at their discretion, set aside orders for any of the small business concerns identified in 19.000(a)(3). When setting aside orders for small business concerns, the specific small business program eligibility requirements identified in part 19 apply.

5. **Rationale Supporting Use of Authority Cited Above:** This is a brand name justification in support of FAR 11.105, Items Peculiar to One Manufacturer. This steam valve manages the functioning of Air Handling Unit 5-49, which supports air functioning in direct patient care areas of the hospital. The Requesting Service is requesting this specific brand of steam valve because the rest of the air handling operation throughout the entire hospital uses this valve brand. Using the same valve brand throughout the entire air handling system, reduces the time and money spent for training staff on new/unfamiliar valves. Also, the entire air handling system can be expected to operate better if all steam valves are the same brand. This brand valve is essential to the Government's requirements and market research indicates other valve brands lack the operation continuity as it related to the performance of the air handling system.

6. **Efforts to Obtain Competition:** The Request for Quotations will be posted on Fed Biz Opps to all verified Service Disabled Veterans Owned Small Businesses (SDVOSBs) and Veterans Owned Small Businesses (VOSBs).

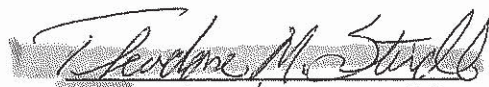
7. **Actions to Increase Competition:** The Government will continue to conduct market research to ascertain if there are changes in the market place that would enable future actions to be competed.

8. **Market Research:** The following market research was conducted:

- Vet Biz Opps - 34 SDVOSBs/VOSBs
- Ability One – no steam valve results
- GSA – showed steam valve results, but only two SDVOSBs/VOSBs

9. **Other Facts:** This procurement cannot be modified to enhance competition because this particular valve brand is imperative for the successful performance of the hospital's air handling system and the quality of air and temperature that it puts out.

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. *(This signature is the requestor's supervisor, fund control point official, chief of service, someone with responsibility and accountability.)*


Name Theodore M. Steidl
Title Maintenance Supervisor
Facility Minneapolis VA Medical Center


Date

11. **Determination that Anticipated Cost is Fair and Reasonable:** A determination by the contracting officer that the anticipated cost to the Government will be fair and reasonable: With the help of the Requesting Service, the Contracting Officer will compare quotes received by the Requesting Service with the quotes received via RFQ on FBO.

12. Contracting Officer's Certification (required): I certify that the foregoing justification is accurate and complete to the best of my knowledge and belief.

_____	8/19/2016
Name Chris Gauthier	Date
Title Contracting Officer	
Facility NCO 23, VHA Contracting, Minneapolis	

13. Approvals in accordance with the [VHAPM, Volume 6, Chapter VI: OFOC SOP](#).

- a. **Director of Contracting /Designee (Required over \$150K but not exceeding \$700K):** I certify the justification meets requirements for other than full and open competition.

_____	_____
Name	Date
NCO/PCO XX Director of Contracting or Designee	
Facility	

- b. **VHA HCA Review and Approval:** I have reviewed the foregoing justification and find it to be complete and accurate to the best of my knowledge and belief and recommend approval (if over \$13.5 million) or approve (\$700K to 13.5 million) for other than full and open competition.

_____	_____
Name	Date
VHA Head of Contracting Activity (HCA)	

- c. **VA Deputy Senior Procurement Executive Approval (over \$13.5 million but not exceeding \$68 million):** I have reviewed the foregoing justification and find it to be complete and accurate to the best of my knowledge and belief and approve for other than full and open competition.

_____	_____
Name	Date
Deputy Senior Procurement Executive (DSPE)	
Office of Acquisition and Logistics	
Department of Veterans Affairs	

- d. **VHA Senior Procurement Executive Approval (over \$68 million):** I have reviewed the foregoing justification and find it to be complete and accurate to the best of my knowledge and belief and approve for other than full and open competition.

_____	_____
Jan R. Frye	Date
Deputy Assistant Secretary for Acquisition and Logistics	
Senior Procurement Executive (SPE)	
Department of Veterans Affairs	