

DEPARTMENT OF VETERANS AFFAIRS

Class Justification and Approval (J&A)

For

Other Than Full and Open Competition (>\$150K)

Acquisition Plan Action ID: VA250-16-AP-4975

- 1. Contracting Activity:** The Department of Veterans Affairs, VISN 10, Department of Veterans Affairs Medical Center, 4100 West Third Street, Dayton, OH 45428-9000, will enter into an Indefinite Delivery-Indefinite Quantity contract. This procurement action requires justification for other than full and open competition. This request is for a Class J&A to cover the base and option periods. A purchase request number is not currently available. A purchase request number is not currently available.
- 2. Nature and/or Description of the Action Being Processed:** This procurement action is named "Construction Indefinite Delivery-Indefinite Quantity (IDIQ)" for actions under \$500K. The purpose of this action is to procure construction services for preventative and routine maintenance, remodeling, replacement, and non-recurring maintenance projects which are planned for a number of trades. Work items will appeal to general, roofing, civil, plumbing, electrical, painting, mechanical, asbestos and lead abatement contractors. The pricing established in this solicitation will be representative of the typical work items commonly found in commercial construction or maintenance tasks. The Contracting Officer will use NAICS 236220 Commercial and Institutional Building Construction in the subsequent solicitation as the primary NAICS for the purpose of establishing a small business size standard of \$36.5M. This will be a new firm-fixed price contract initiative. This is a 5-year effort including a base year with four (4) one (1) year option periods and approval is sought for this effort. These periods are required in an effort to minimize the startup and sustainability costs incurred by the contractor for this effort and thereby lower the cost of this IDIQ to the Government.

The Athena Construction Group shall be asked to provide quotes on specific Task Orders (TO). The Contractor shall be expected to provide unit prices for common commercial elements including labor, equipment, and material costs to construct, maintain, repair, or reconstruct Department of Veterans Affairs' facilities. The contractors shall assemble a proposal for the basic contract and any future TOs and include subcontractor's pricing and qualifications for specialty items.

- 3. Description of Supplies/Services Required to Meet the Agency's Needs:** The Dayton VAMC facility has a need for a contractor to perform construction services under \$500K. These services range from painting, tiling, plumbing, electrical, heating and air conditioning repair, concrete work, minor demolition and construction, and various other maintenance or repair projects. These requirements are not complex or difficult to perform, but necessary for the safe operation of the facility. A qualified construction contractor is required to perform these construction services. Athena Construction Group is a certified Service-Disabled Veteran-Owned Small-Business with the capability to perform the construction services required by the Dayton VA Medical Center for station level engineering projects not exceeding \$500K. The FY 2017 estimated value, based on known requirements for FY 2017, is [REDACTED]. The facility anticipates projects of similar value will be

awarded in each option year. The maximum total contract value, inclusive of option years, will not exceed \$5M.

4. **Statutory Authority Permitting Other than Full and Open Competition:** The requirement is being procured under the authority of FAR Part 6.302-5 and the Veterans Benefits, Health Care and Information Technology Act of 2006. The determination only one (1) SDVOSB concern is available to meet the needs of the VA is not required in accordance to VAAR 819.7007(b). This sole source action is a business decision made by the Contracting Officer in accordance with VAAR 819.7007. The Contracting Officer asserts the following based on VAAR 819.7007: The maximum contract value will not exceed \$5M over the life of the contract which includes the option years; the justification will be made publicly available on FBO in accordance with FAR subpart 6.305; the SDVOSB concern has been determined to be a responsible contractor with respect to performance; an award is anticipated at a fair and reasonable price; and the firm is registered and verified as eligible in the VIP database, which will be checked again prior to issuance of RFP and prior to award.

The Contracting Officer is making this sole source decision per VAAR 819.7007(b). This is a business decision of the Contracting Officer and is in the best interests of the Government. NCO 10 has not met the required goals for contracting to Women-Owned Small-Businesses (WOSB) or Historically Underutilized Business Zone (HubZone) for the last six (6) years. Small business goals are a priority for NCO 10 and every effort is made to meet these goals. Using this contractor will provide NCO 10 with a mechanism to meet or exceed WOSB/HubZone mandated goals.

- () (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 [PL109-461]
- () (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):** The determination only one (1) SDVOSB concern is available to meet the needs of the VA is not required in accordance with VAAR 819.7007(b). Public Law 109-461, Veterans Benefit, Health Care and Information Technology Act of 2006 requires the Contracting Officer to set-aside open-market requirements for SDVOSBs if there is a reasonable expectation of receiving at least two proposals from an SDVOSB at a fair and reasonable price. The Contracting Officer has met with Athena Construction Services and discussed their capabilities in relation to the expected tasks. The Contracting Officer has determined Athena Construction Services is a qualified SDVOSB firm having the capability of meeting the needs of the VISN 10 Dayton facility for construction services under \$500K. The contractor will establish a physical presence off the Dayton VAMC in order to promptly engage with contracting and engineering personnel concerning these requirements.

The Contracting Officer is making this sole source decision per VAAR 819.7007(b). This is a business decision of the Contracting Officer and is in the best interests of the Government. NCO 10 has not

met the required goals for contracting to Women-Owned Small-Businesses (WOSB) or Historically Underutilized Business Zone (HubZone) for the last six (6) years. Small business goals are a priority for NCO 10 and every effort is made to meet these goals. Using this contractor will provide NCO 10 with a mechanism to meet or exceed WOSB/HubZone mandated goals.

This work is for routine and non-routine maintenance requirements at the facility which do not exceed \$500K. The pricing received on each task order will be evaluated by the Contracting Officer and will make a fair and reasonable determination.

Also, this is not a Requirements Contract. Under the resultant IDIQ the Government is not obligated to allow Athena to perform all maintenance work required by the facility. The Government reserves the right to set-aside for competition, any work required by the facility and not issue an RFP solely to Athena Construction Group, if the Contracting Officer determines such action to be in the best interests of the Government.

Market research was conducted to determine if other eligible SDVOSB firms were available to perform these construction services. In addition, based on the response received during the Invitation for Bid process when procuring construction services, the Contracting Officer is aware of numerous SDVOSB firms capable of providing these services. The Contracting Officer has determined to sole source these services to Athena Construction Services, which is a SDVOSB firm as well as a WOSB and HubZone company; and not provide the requirement for competition.

6. **Description of Efforts Made to ensure that offers are solicited from as many potential sources as deemed practicable:** This requirement will be a negotiated procurement with Athena Construction Services (ACS). Market research indicates numerous SDVOSBs capable of performing this service. NCO 10 has determined to sole-source to Athena Construction which is a SDVOSB and a WOSB & HubZone company. This will allow NCO 10 to meet additional socio-economical goals above and beyond our SDVOSB & VOSB goals. A competitive requirement will be used to provide the same service at the other VAMCs in Ohio, as well as the VAMCs in Indiana & Michigan. NCO 10 is in the process of soliciting SDVOSB to provide these construction services at the Chillicothe VAMC, Cincinnati VAMC, Cleveland VAMC, Fort Wayne VAMC, Indianapolis VAMC, Marion VAMC, Ann Arbor VAMC, Battle Creek VAMC, Detroit VAMC, and Saginaw VAMC facilities. This is a business decision made by the Contracting Officer to procure this requirement.
7. **Determination by the Contracting Officer that the Anticipated Cost to the Government will be Fair and Reasonable:** As this will be a negotiated contract, Athena Construction Services will provide a co-efficient to be evaluated for the IDIQ for the base and all option years. This co-efficient will be comprised of Athena's profit & overhead pricing to be included on all subsequent task orders. The Contracting Officer will evaluate the pricing IAW FAR 15.404-1(b) (ii). The proposed co-efficient will be compared with the profit and overhead pricing received on other projects performed at the Dayton VAMC. This comparison will allow the Contracting Officer to make a determination of fair and reasonable pricing.
8. **Description of the Market Research Conducted and the Results, or a Statement of the Reasons Market Research Was Not Conducted:** Market research was conducted for this requirement. The research was conducted via the VetBiz database using various NAICS and recorded the number of SDVOSB firms in Ohio registered under the NAICS. The market research report captures the results of

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Attachment 3: Request for Sole Source Justification Format >\$150K

the search. The search indicated adequate competition among SDVOSB contractors capable of performing these services. The availability of sufficient competition among Service-Disabled Veteran-Owned firms is established in Ohio area. This decision to sole source to Athena Construction Services is a business decision by the Contracting Officer in an effort to expand the field of viable firms competing for work in the NCO 10 area and to increase NCO 10's WOSB/HubZone small business percentages.

9. **Any Other Facts Supporting the Use of Other than Full and Open Competition:** This justification is to provide construction services to the Dayton VAMC for projects under \$500K. These projects have not yet been identified by the facility, but are normal maintenance, non-recurring maintenance, and repair projects performed during the course of maintaining a medical facility in operational condition. Since these projects are anticipated future projects specifications, engineering descriptions, statements of work, statement of objectives, and purchase descriptions have not been developed by the using services. Such documentation will be developed as requirements are identified by the facility.
10. **Listing of Sources that Expressed, in Writing, an Interest in the Acquisition:** Athena Construction.
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:** NCO 10 anticipates awarding a follow-on IDIQ through the competitive process. The intent of the VISN is to continue the procurement of this service after this contract expires and to make this service available for competition among SDVOSB firms.
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.
- Donald P. Tam 522751**

Donald P. Tam
Branch Chief, Construction Team 2
Network Contracting Office (NCO) 10

01-30-2017

Date

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

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

Donald P. Tam 522751

Donald P. Tam
Contracting Officer
Network Contracting Office (NCO) 10

01-30-2017

Date

Chapter VI: Other Than Full and Open Competition (OFOC) SOP
Attachment 3: Request for Sole Source Justification Format >\$150K

- b. **Division Chief (Required if over \$700k):** I certify that the foregoing justification is accurate and complete to the best of my knowledge and belief.

Scottie L.
Paramoure
322053

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Scottie Paramoure
Division Chief, Construction & Leasing
Network Contracting Office (NCO) 10

Date

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

TERRY L.
SPITZMILLER
394683

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Terry L. Spitzmiller
Director of Contracting
Network Contracting Office (NCO) 10

02/07/2017

Date

- d. **VHA SAO 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.

Linda S. Greaves
404790

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Linda S. Greaves
Acting Director, SAO Central Region
SAO Central Head of Contracting Activity (HCA)

02/07/2017

Date