

**DEPARTMENT OF VETERANS AFFAIRS**

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

**Acquisition Plan Action ID:** VA261-16-AP-6750  
**Contract / Modification No.:** VA261-16-D-0049, Mod P00006

1. **Contracting Activity:** Department of Veterans Affairs, Network Contracting Office 21, on behalf of San Francisco VA Medical Center (SFVAMC).
2. **Nature and/or Description of the Action Being Processed:** This justification and approval is to support an out-of-scope contract modification to extend the term of the contract for three months, from March 31<sup>st</sup>, 2017, to June 30<sup>th</sup>, 2017. The value of the contract extension is \$267,557.53. All other terms and conditions of the contract remain unchanged.
3. **Description of Supplies/Services Required to Meet the Agency's Needs:** The requirement is to provide home oxygen services for Veteran beneficiaries within the San Francisco VA Medical Center service territory. The volumes or amounts shown in the schedule are estimates only. The contractor shall provide all required supplies, materials, labor, supervision, transportation, patient education, and safety management and infection control. The value of the contract extension is \$267,557.53. All other terms and conditions of the contract remain unchanged. The current contract in place is set to expire March 31<sup>st</sup>, 2017, and the service supports the hospital's P&SAS department. The contract modification is to extend the existing contract while a long-term contract is being established.
4. **Statutory Authority Permitting Other than Full and Open Competition:** FAR13.5 Simplified Procedures for Certain Commercial Items: The authority for applying the Simplified Procedures for Commercial Items of FAR 13.5 is 41 U.S.C. 1901 and is implemented by for restricting competition on this procurement via FAR 13.106-1(b)(2).  
  
 (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):** Authorized or Required by Statute (FAR 6.302-1) – Home oxygen services are currently being provided by Apria Healthcare. Competing a three (3) month bridge contract could potentially cause unacceptable delays in delivering service. At this time, Apria Healthcare, LLC, a large business, is the only firm capable of providing the necessary supplies and services described in Section III above in a timely manner,

without the Veteran's Health Administration experiencing unacceptable delays in fulfilling its requirements. The purpose of this contract modification is to extend the existing contract while a long-term contract is being established.

6. **Description of Efforts Made to ensure that offers are solicited from as many potential sources as deemed practicable:** Concurrently with this short-term contract extension, VISN 21 (which includes SFVAMC) is seeking a long-term contract for same service (612-17-1-905-0001), which is being routed through the formal VHA contract review process, as required in cases of services contracts in excess of \$500K. Action taken to achieve maximum competition will be achieved through the new VISN-21-wide contract that is currently being processed.
7. **Determination by the Contracting Officer that the Anticipated Cost to the Government will be Fair and Reasonable:** The Contracting Officer has determined that the anticipated price for this out-of-scope contract modification will utilize the same monthly rates as those stated in current contract. These rates have already been determined fair and reasonable prior to contract award.
8. **Description of the Market Research Conducted and the Results, or a Statement of the Reasons Market Research Was Not Conducted:** As described in Section VI above, market research, in accordance with FAR Part 10, was conducted by synopsis of the proposed acquisition, advising industry of the pending acquisition and soliciting inquiries from interested parties. However, there is only one source capable of providing continuity of service at this time for the three-month contract extension: Apria Healthcare, LLC.
9. **Any Other Facts Supporting the Use of Other than Full and Open Competition:** This is contemplated to be an out-of-scope contract modification to extend the term of the contract for three month, in order to provide the needed supplies and services to VA patient beneficiaries, only for the duration of time that the new VISN 21 procurement action is pending award.
10. **Listing of Sources that Expressed, in Writing, an Interest in the Acquisition:** Apria Healthcare, LLC
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:** A five-year competitive contract action is currently going through formal VHA contract review procedures and will seek to maximize competition. This out-of-scope contract modification action will aid in the efforts of completing the five-year contract by extending existing contract with current incumbent, thereby allowing the VHA additional time to complete the VISN-wide contract action.
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.

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Kenneth Sarver  
Prosthetics Chief, San Francisco VA Medical Center

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April 12, 2017  
Date

**13. Approvals in accordance with the VHAPM, Volume 6, Chapter VI: OFOC SOP.** *This part is filled out by Contracting Staff as part of the Justification*

- 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.

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Angela Oppenheimer  
Contract Specialist / NCO 21

\_\_\_\_\_  
Date

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

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Brett Vegeto  
Director of Contracting or Designee / NCO 21

\_\_\_\_\_  
Date

- c. **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.

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Delia A. Adams  
VHA Head of Contracting Activity (HCA)

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Date