

DEPARTMENT OF VETERANS AFFAIRS

Justification and Approval

For

Other Than Full and Open Competition

Contract Action Unique PIID: VA260-16-D-0030 P00001

Contractor: Hood River Consulting Engineers, a CVE-verified SDVOSB concern

1. **Contracting Activity:** Department of Veterans Affairs, Network Contracting Office (NCO) 20 located at 5115 NE 82nd Avenue, Suite 102, Vancouver, WA 98662 on behalf of all facilities in the Veterans Integrated Service Network (VISN) 20. The Department of Veterans Affairs proposes to enter into a contract on the basis of other than full and open competition for architect-engineer (A/E) services.
2. **Nature and/or Description of the Action Being Processed:**
 - a. NCO 20 currently has indefinite delivery indefinite quantity (IDIQ) contract VA260-16-D-0030 with Hood River Consulting Engineers, Inc., (HRCE) a Service-Disabled Veteran-Owned Small Business (SDVOSB). This contract period of performance (POP) is currently a base year and four option years and has a maximum capacity of \$650,000.00 over the life of the contract. The contract is currently in the base year of performance, which will expire 08/12/2017 unless the option period is exercised, which the VA fully plans to do.
 - b. This action will modify the current contract to increase the maximum capacity from \$650,000.00 to \$5,000,000.00, an increase of \$4,350,000.00, over the entire life of the contract. The POP will not be extended.
 - c. The IDIQ contract was awarded on a sole source basis to HRCE in accordance with the authority at 38 USC §8127 – 8128. HRCE's SDVOSB status is effective until March 20, 2020 and they are located at 606 State Street, Suite 2B, Hood River, Oregon 97031.
3. **Description of Supplies/Services Required to Meet the Agency's Needs:**
 - a. The current contract provides A/E services specializing in the design of medical facilities, including cost estimating (budget or planning estimates and construction estimates) site planning, architecture, structural, geotechnical, mechanical, electrical, plumbing, sustainability and fire protection. Other areas of expertise include antiterrorism protection and traffic engineering.
 - b. As a result of the Supreme Court decision on the Kingdomware case dated June 2016, the VA Office of General Counsel (OGC) has issued guidance that the following process applies when dissolving SDVOSB, VOSB and SB socio-economic requirements. While, in theory, VOSB and SB concerns could be accessed, the practical impact of this guidance is that as long as the VA Rule of Two can be met at the SDVOSB level – and in VISN 20 it can be – there will not be a path to reach VOSB or SB concerns. This description starts at the point of exhausting all prior sources.
 - i. Solicit only SDVOSB concerns on existing IDIQ contracts if the VA Rule of Two can be met;
 - ii. If the VA Rule of Two cannot be met with the SDVOSB IDIQ contract holders, then solicit SDVOSB concerns on the open market;
 - iii. If the VA Rule of Two cannot be met on the open market with respect to SDVOSB concerns, then solicit from only VOSB concerns on existing IDIQ contracts;
 - iv. If the VA Rule of Two cannot be met with VOSB IDIQ contract holders, then solicit VOSB concerns on the open market;

- v. If the VA Rule of Two cannot be met on the open market with respect to VOSB concerns, then solicit from SB concerns on existing IDIQ contracts;
 - vi. If the VA Rule of Two cannot be met with SB IDIQ contract holders, then solicit SB concerns on the open market.
- c. As noted, VISN 20 is losing significant contracting capacity for meeting the A/E needs of its facilities. With the approval of this justification for other than full and open competition, NCO 20 will have the following IDIQ contract capacity available for A/E requirements until a new procurement can be initiated and contracts awarded. All contracts are with SDVOSB concerns.
- i. VA260-16-D-0006 | KMA, Inc. | Remaining Capacity \$19,952,389.65 | POP of a Base Year and Four Option Years | currently in the first option year;
 - ii. VA260-16-D-0010 | Schwab Engineering, Inc. | Remaining Capacity \$20,000,000.00 | POP of a Base Year and Four Option Years | currently in the first option year;
 - iii. VA260-16-D-0030 | HRCE | Initial Capacity \$650,000.00; Capacity Used \$99,135.00; Remaining Capacity (after this modification) \$4,900,865.00 | POP of a Base Year and Four Option Years | currently in the base year.
- d. By increasing the capacity of HRCE's contract to \$5,000,000.00, VISN 20 will recover a small portion of the IDIQ contract capacity it has lost due to the impact of the Kingdomware decision. This will provide a stop gap to ensure that VISN 20 requirements can be met until IDIQ contracts can be established for A/E services with SDVOSB concerns using restricted competition procedures that comply with 38 USC § 8127(d) and the Brooks Act.

4. **Statutory Authority Permitting Other than Full and Open Competition:** 41 USC § 3304(a)(1), as implemented by FAR 6.302-1.

- () (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 and 38 USC § 8127 – 8128;
- () (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:** Authorized or Required by Statute (**FAR 6.302-5**) In accordance with sections 502 and 503 of the Veterans Benefits, Health Care, and Information Technology Act of 2006 (38 U.S.C. § 8127 – 8128), as implemented by the Veterans Administration Acquisition Regulation (VAAR) 819.7007 Sole Source Awards to Service-Disabled Veteran-Owned Small Business Concerns, the contracting officer is contemplating the

award of a sole source contract to Hood River Consulting Engineers for A/E services. In accordance with VAAR 819.7007(b), the contracting officer is not required to determine that only one SDVOSB concern is available to meet this requirement.

6. **Description of Efforts Made to ensure that offers are solicited from as many potential sources as deemed practicable:** NCO 20 is in the early planning stages of issuing a new solicitation in accordance with 38 U.S.C. § 8127(d) for restricted competition to SDVOSB concerns for A/E services with the intent to award several IDIQ contracts.
7. **Determination by the Contracting Officer that the Anticipated Cost to the Government will be Fair and Reasonable:** Prior to awarding the IDIQ contract to HRCE, the contracting officer conducted price analysis by comparing the proposed disciplines, hourly rates, the overhead rate, and escalation factors to existing IDIQ contracts for the same or similar services. After negotiations, the contracting officer was able to determine HRCE's pricing to be fair and reasonable. Profit is addressed on each individual task order.
8. **Description of the Market Research Conducted and the Results, or a Statement of the Reasons Market Research Was Not Conducted:** HRCE is a verified SDVOSB firm. This modification is being made on a sole source basis to an SDVOSB firm in accordance with sections 502 and 503 of the Veterans Benefits, Health Care, and Information Technology Act of 2006 (38 U.S.C. §8127 – 8128). As such, no market research was conducted. Appropriate market research will be conducted prior to initiating the solicitation for additional SDVOSB A/E concerns.
9. **Any Other Facts Supporting the Use of Other than Full and Open Competition:** Based on the authority provided at 38 U.S.C. §8127(d), this contract modification will not violate the Competition in Contracting Act.
10. **Listing of Sources that Expressed, in Writing, an Interest in the Acquisition:** None. Reference paragraphs 6 and 8, above.
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:** There are no known barriers to competition. Reference paragraph 6, above. There should not be any barriers to competition on future acquisitions.
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.

Sheryl Chesnutt, Chief, Construction Branch 2
VHA Network Contracting Office 20

Date

13. Approvals and Certifications:

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

Charlene Duncan, Contracting Officer
VHA Network Contracting Office 20, Construction Branch 2

Date

Director of Contracting / Designee: I certify the justification meets requirements for other than full and open competition.

Stacia Nunn, Acting Director of Contracting
Network Contracting Office 20

April 6, 2017

Date

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 approve this action for other than full and open competition.

Delia A. Adams, MBA, CPCM
Executive Director, Service Area Office West
Head of Contracting Activity (HCA)

6^A april 2017

Date