



Office of Construction & Facilities Management
425 I Street, NW
Washington, DC 20001
www.va.gov

**Justification and Approval for Other than Full and Open Competition
6.302-5 – Authorized or required by statute**

1. Identification of the agency and the contracting activity.

This Justification and Approval (J&A) for Other Than Full and Open Competition is executed by the Office of Construction and Facilities Management, Washington, DC on behalf of the East Orange Campus of the VA New Jersey Health Care System.

2. Nature and/or description of the action being approved.

This action is a non-competitive award (sole-source) with Seawolf Construction Corp. for the procurement of design-build construction to design, construct and renovate the existing space as needed to create a new PET-CT suite within the Radiation Oncology Service located in Main Building 1, A-Level at East Orange Campus.

3. A description of the supplies or services required to meet the agency's needs (including the estimated value).

The Contractor shall furnish all personnel, Material, equipment, training and oversight to provide the following professional scopes:

• **Design Package:**

The Design-Build team shall consist of a licensed A/E Professional that shall evaluate and design complete construction package including preliminary drawings, contract drawings and specifications for the renovation of PET CT Suite, Phase II at the East Orange NJ Campus.

The A/E shall evaluate the surrounding spaces (1800SF approximately) to the current PET CT Phase I project at the Radiation Oncology unit located in A- level, building 1, East Orange Campus.

• **Construction / Renovation for the defined SOW:**

The Design-Build Contractor shall completely replace, upgrade, renovate and/or augment existing systems and areas within all documented spaces to create the support space to the new PET-CT suite approx. 1800 sf, including the Hot Lab, Hot Patient Toilet room, (2) Quiet rooms, Quiet Stretcher room, Dressing rooms,

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Conference room, ADA toilet room, Clean and Dirty Utility rooms, and other spaces as needed to fulfill the service needs.

The extended installation shall include connections with existing utilities, structural support, Hazard removal, lead shielding, Hot lab Hood & specialty items, new HVAC, new lighting, new finishes, etc. as necessary to support the new system operation.

The proposed period of performance for this action is six (6) months. The total estimated value of the proposed action is \$ *Redacted*

4. An identification of the statutory authority permitting other than full and open competition.

~~The statutory authority permitting other than full and open competition for this~~ procurement is Public Law (PL) 109-461, Veterans First Contracting Program, as codified at 38 U.S.C. 8127 and 8128 and implemented at Veterans Affairs Acquisition Regulation (VAAR) Subsection 819.7007.

5. A demonstration that the proposed contractor's unique qualifications or the nature of the acquisition requires use of the authority cited.

38 U.S.C. 8127(c) permits a contracting officer to award a contract to a CVE verified SDVOSB using procedures other than competition if:

- (1) such concern is determined to be a responsible source with respect to performance of such contract opportunity;
- (2) the anticipated award price of the contract (including options) will exceed the simplified acquisition threshold (as defined in section 134 of title 41) but will not exceed \$5,000,000; and
- (3) in the estimation of the contracting officer, the contract award can be made at a fair and reasonable price that offers best value to the United States.

The proposed action meets all three of the requirements of 38 U.S.C. 8127(c). First, Seawolf Construction Corp. has been verified by CVE as owned and controlled by a service-disabled veteran Seawolf Construction Corp. provides General Construction, construction management, Consulting support services to the Government agencies. Further, Seawolf Construction Corp. has successfully provided services to the VA similar to the required services for approximately 10 years. Seawolf is also registered in the System for Award Management (SAM) as a small business under the applicable North American Industry Classification System (NAICS) code. As such, Seawolf Construction Corp. is determined to be a responsible source with respect to performance of this opportunity.

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Second, the anticipated award price of the contract is ~~Redacted~~ and, therefore, does not exceed the statutory threshold.

Finally, the contracting officer estimates that the award can be made at a fair and reasonable price that offers best value to the United States. The VA possesses ample historical pricing information that can be used to determine whether the proposed price is fair and reasonable and, depending on the contracting officer's analysis of the proposed price, to further negotiate the proposed price. Because Seawolf Const. has already competed for and been awarded a contract with the VA for similar services, it is likely that it will again be able to submit an offer providing best value to the United States. Most importantly, the contracting officer will not award a contract without first determining that the proposed price is fair and reasonable and the offer represents best value.

6. A description of efforts made to ensure that offers are solicited from as many potential sources as is practicable, including whether a notice was or will be publicized as required by Subpart 5.2 and, if not, which exception under 5.202 applies.

In accordance with 819.7007(b), the determination to make a sole source award to an SDVOSB is a business decision wholly within the discretion of the contracting officer; therefore, the requirement to ensure that offers are solicited from as many potential sources as practicable is not applicable to this procurement. In addition, 819.7007(c) further authorizes the contracting officer to make the award without first determining that only one SDVOSB source can meet the requirement.

A notice of the proposed action will be synopsized via the Government Point of Entry (GPE) in accordance with FAR Section 5.201, and the agency will make publicly available the justification required by 6.305(a) within 14 days after contract award.

7. A determination by the Contracting Officer that the anticipated cost to the Government will be fair and reasonable.

No award shall be made until the Contracting Officer determines the costs to the Government to be fair and reasonable. This determination will be based on the historical pricing data agreed to in one or more VA contracts for the same or similar services.

8. A description of the market research conducted (see Part 10) and the results or a statement of the reason market research was not conducted.

Market research was conducted using CVE's Vendor Information Pages (VIP) database to ensure that Seawolf Construction Corp. is verified by CVE as an SDVOSB. The VIP search confirmed that Seawolf is verified by CVE. In addition, Seawolf Construction Corp. is also registered in the SAM as a small business under the relevant NAICS code.

9. Any other facts supporting the use of other than full and open competition.

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The FAR allows restrictive provisions or conditions to the extent necessary to satisfy the needs of the agency or as authorized by law (FAR Subsection 11.002(a)(1)(ii)). As such, the Government has discretion to reasonably restrict competition as long as that requirement is needed to meet the agency's minimum need.

10. A listing of the sources, if any, that expressed, in writing, an interest in the acquisition.

None.

11. A statement of the actions, if any, the agency may take to remove or overcome any barriers to competition before any subsequent acquisition for the supplies or services required.

This sole source strategy is authorized by statute. No corrective action is required. However; a change in processes at the VA National Acquisition Center, necessitated the need for this non-competitive procurement. This method of procurement was deemed the most advantageous to meet mission timelines.

Due to the change in NAC process, the VA NJHCS will procure future High Tech - High Cost site preparation work using the NRM program. This will typically be achieved through competitive A/E procurement followed by competitive construction procurement.

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12. Certifications / Signatures.

Technical Representative Certification:

Pursuant to FAR Subsection 6.303(c), I certify that any supporting data that is my responsibility and which forms a basis for the justification is complete and accurate to the best of my knowledge and belief.

Michael M Bassily
208762

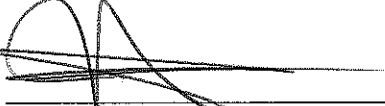
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Date: 2017.05.24 07:07:18 -04'00'

Michael Bassily
Assistant Chief, Facility Management Service
East Orange Campus of the VA New Jersey Health Care System

Date

Contracting Officer Certification/ Approval:

Pursuant to FAR Subsection 6.303-2(b)(12), I certify that this justification is accurate and complete to the best of my knowledge and belief and approval is thus provided.



Evenel Jean-Jacques
Contracting Officer
Office of Construction and Facilities Management

7/12/17
Date

Agency Competition Advocate Certification/ Approval:

The Agency Competition Advocate (see 806.501(a)¹) signature below meets the justification approving authority requirements in accordance with VAAR 806.304, Approval of Justification, Table 806.304-1 and FAR Section 13.501(a)(2)(ii). Proposed contract amount is over \$650,000 but not exceeding \$12.5² million.



James Wood
Agency Competition Advocate
Office of Constuction and Facilities Management

7/12/17
Date

¹ Reference VA Memorandum, Advocate for Competition Appointment , dated October 26, 2015

² Reference VA Class Deviation from Federal Acquisition Regulation 6.304(a)(1); VA Acquisition Regulation (VAAR) 819.7007(b) and VAAR 819.7008(b), dated December 27, 2012.