

DEPARTMENT OF VETERANS AFFAIRS

**Justification and Approval
For
Other Than Full and Open Competition**

- 1. Contracting Activity:** This "Justification for Other Than Full and Open Competition" for Community Nursing Home (CNH) Services is submitted by the Department of Veteran's Affairs, VISN 4, Philadelphia VA Medical Center (PVAMC), which is contractually supported by Network Contracting Office 4 (NCO4) Pittsburgh. A 2237 financial obligation document does not exist because the transactions are funded under the VA 1358 obligation.

- 2. Nature and/or Description of the Action Being Processed:** This action is to establish sole source Basic Ordering Agreements (BOAs) with the Community Nursing Homes (CNH) listed in the Table below. The BOAs are developed from a standard template promulgated from VA Central Office to the VA Medical Centers. A sole source action is necessary to replace provider agreements which were prohibited by VA Central Office three years ago. In this case, the facilities listed in the table below were not awarded BOAs through a competitive solicitation process recently completed. However the facilities do house long term VA patients and hence a sole source BOA is required to maintain services for those patients. Based on the long term nature of the arrangement to house VA patients, the sole source agreement is contemplated for two years. The agreements include a Cancellation Clause permitting the VA to cancel the agreement when patients are no longer housed in the facility. It is understood that current VA Policy, see VHA Procurement Manual Part 837-4 Community Nursing Home SOP, requires use of indefinite delivery contracts (IDC) for CNH services. However, at the time this procurement was planned and executed, BOAs were still an acceptable method. Accordingly, the competitive solicitation process discussed below was prosecuted utilizing BOAs versus IDCs.

Facility	Patients in Facility 6/27/17	Estimated Patients/\$\$ (Months 1-12)**	Estimated Patients/\$\$ (Months 12-24)**
Care One	2	2/\$204,000	1/\$102,000
Meadowview	11	11/\$1,122,000	5/\$510,000
Ambler	7	7/\$714,000	3/\$306,000
Silver Care	4	4/\$408,000	2/\$204,000
Towne Manor West	3	3/\$306,000	1/\$102,000
Total		\$2,754,000	\$1,224,000

** Estimates are based on \$8500 per month per patient. With no new referrals it is projected that less than half the patients will be in each facility after year 1 and the services will no longer be required after year 2. Estimate of \$8500 per month per patient based on data from nursing home BOAs at VA Pittsburgh and VA Lebanon.

*** It should also be noted that the BOA awards will be made at \$0 value. Commitment is incurred when a referral is made by the medical center and accepted by the CNH.

3. Description of Supplies/Services Required to Meet the Agency's Needs: Contractor shall provide CNH services to meet the total medical, nursing, and psychosocial needs of VA beneficiaries and any specialty care services as identified as a particular need in the CNH program. All nursing home facilities in VA's CNH program must have current Center for Medicare and Medicaid Services (CMS) certification (Medicare and/or Medicaid), a State issued nursing home license and shall meet VA developed quality of care standards utilizing CMS inspection criteria. Primary care/provider (medical doctor, nurse practitioner, and/or physician assistant) visits will be available at the rate of one (1) visit per month. Laboratory, x-ray, and other special services will be available to VA patients as needed. In addition, the care provided will include room, meals, nursing care, and other services or supplies commensurate with the VA-authorized level of care, without extra charge. Full attention shall be given to motivating and educating patients to achieve and maintain independence in the activities of daily living. Every effort shall be made to keep patients ambulatory and to achieve an optimal level of self-care.

4. Statutory Authority Permitting Other than Full and Open Competition:

- (X) (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 6.3025
- () (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: The five (5) facilities, identified in Section 2 above were selected by Veterans and their families as the CNH of choice for CNH services largely based on location. The facilities meet all State inspection, insurance, and licensing criteria required under VA CHN policy 1143.2. A life safety review was conducted by the PVAMC safety officer in accordance with policy as well. By virtue of these facts, this makes the five (5) facilities uniquely qualified to provide the required CNH services on behalf of VAPHS for qualified Veterans requesting such CNH services there. The consequence of not having the ability to award this agreement would mean the Veterans must be moved which could ultimately result in a significant inconvenience or at worse a life threatening situation. Hence the assumption is Veterans will offered the opportunity to move but will not be required to do so.

The five (5) aforementioned facilities have a proven track record of successfully providing CNH services to PVAMC. Rates for the agreements are based on nationally approved Medicare rates.

- 6. Description of Efforts Made to ensure that offers are solicited from as many potential sources as deemed practicable:** RFP VA244-16-R-0173 was released in June 2016 for CNH services. The requirements under the RFP were established to renew/replace existing provider agreements which were to expire or had already expired. The five (5) facilities listed in section #2 above were not selected through the competitive process in which over 30 proposals were received and evaluated. There were a total of 16 awards made from the RFP.

- 7. Determination by the Contracting Officer that the Anticipated Cost to the Government will be Fair and Reasonable:** Pricing under the new agreements is based on Center for Medicare published rates. Given that these rates are established by the Federal Government for all Medicare licensed providers, pricing is anticipated to be determined as fair and reasonable when a BOA is awarded.

- 8. Description of the Market Research Conducted and the Results, or a Statement of the Reasons Market Research Was Not Conducted:** Extensive market research was conducted and is documented for solicitation VA244-16-R-0173. The market research is located in the contract file.

- 9. Any Other Facts Supporting the Use of Other than Full and Open Competition:** None

- 10. Listing of Sources that Expressed, in Writing, an Interest in the Acquisition:** Not applicable.

- 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 were no barriers to the competitive process for this acquisition.

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.

Name

Title: Contracting Officer Representative
PVAMC

Date

13. Approvals in accordance with the VHAPM, Volume 6

- 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.

Nancy L. Porter
Contracting Officer, NCO4

- 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.

Benjamin P. Iachini
NCO4, Director of Contracting

- 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.

8/2/2017

Joseph P. Maletta
Director SAO East, Head of Contracting Activity (HCA)

Date