

DEPARTMENT OF VETERANS AFFAIRS

Justification and Approval (J&A)

For

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

Acquisition Plan Action ID: VA249-17-AP-4807

1. **Contracting Activity:** Department of Veterans Affairs (VA), Veterans Integrated Service Network 9, Nashville VA Medical Center (626), and Network Contracting Office (NCO) 9. The applicable 2237 number is 626-17-3-4210-0030.
2. **Nature and/or Description of the Action Being Processed:** This two phase design-build project requires a contractor to prepare the site and coordinate with the vendor for the installation of the new equipment within the footprint of the space. The design-build contractor shall provide all technical design and construction services, supervision, labor, materials, tools, and equipment necessary for a complete engineering and construction project for this requirement. This work shall include, but is not limited to, mechanical, electrical, architectural, structural, controls, fire protection, tiling, demolition, industrial hygiene, and testing and balancing. This design-build project will require developing design documents based on provided schematic drawings to include all architectural, mechanical, electrical and plumbing drawings to complete required work. This requirement will be awarded as a firm-fixed-price contract.

3. **Description of Supplies/Services Required to Meet the Agency's Needs:**

Contractor is to furnish all materials (unless otherwise noted) expertise, labor, equipment, tools, supervision, transportation, and infection control necessary to accomplish the following:

1. Renovate approximately 3600 sq. ft. of current Sterile Processing Service's (SPS) space;
2. Improve work and staff flow utilizing containment;
3. Monitor to ensure continued compliance; and
4. Maintain environmental conditions.

The estimated cost of this requirement is \$866,241.00. The period of performance for this requirement is 180 calendar days.

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

- () (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;
- () (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 6.302-5) – In accordance with VA Acquisition Regulation 819.7007(a), which implements 38 U.S.C § 8127(c), this requirement is being sole sourced to BES

Design/Build, LLC (BES). A determination that only one SDVOSB concern is available to meet the requirement is not required. The above referenced authority is being utilized due to the steam sterilizers, cart washer, and washer-disinfectors repeatedly being put out of service due to overheating (heat build-up) and mechanical failures. Changes in the elevation of the cart wash ramps monopolize adjacent spaces which inhibit the staff and work flow. The current work flows create issues with cross-contamination. Existing flooring does not meet the current standard and should be seamless. One washer-disinfector has been deemed unrepairable by biomedical personnel. All equipment is approaching or beyond life expectancy. Each time a piece of equipment is put out of service it adversely affects patient care by causing delays in instrument reprocessing. As a result, Operating Room procedures have been delayed, wait times are being increased, and appointments have been cancelled without a foreseeable rescheduling date due to SPS being unable to reprocess instrumentation in a timely manner. As a result of this pressing need, 38 U.S.C § 8127(c).

BES is a Certified Service Disabled Veteran Owned Small Business (SDVOSB) contractor fully capable of meeting the requirements for this procurement as they have successfully performed similar work in scope and magnitude per their statement of capability (See P02 BES Statement of Capabilities). BES has successfully completed over 10+ similar design-build and construction projects. BES is currently performing the site preparation of the Mobile SPS Unit at the Nashville VAMC and is familiar with the equipment requirements needed for the space. Furthermore, BES has in-house design capabilities which provides improved communication between the construction element and the design portion so that the final product can be completed on time and at cost.

6. **Description of Efforts Made to ensure that offers are solicited from as many potential sources as deemed practicable:** This action will be synopsized on the GPE in accordance with VAAR Clause 819.7007 for proposed contract actions that are expressly authorized or required by statute.
7. **Determination by the Contracting Officer that the Anticipated Cost to the Government will be Fair and Reasonable:** The anticipated proposal will be fair and reasonable based on a cost and price analysis of the proposal and a comparative assessment of the independent government cost estimate and current market conditions for a site preparation projects. The cost and price analysis will be conducted by the CO reviewing the requested certified cost and pricing data in accordance with FAR 15.403-4 (a) (1) Requiring certified cost or pricing data (10 U.S.C. 2306a and 41 U.S.C. chapter 35). Additionally, a detailed price breakdown will be required as part of the Offeror's price proposal. The proposed price will be analyzed for reasonableness. It will be analyzed for the different divisions of work to be performed, and the complexity of that work if any, and will be reviewed to ensure that it reflects a clear understanding of the requirement, and is consistent with the Offeror's technical proposal.
8. **Description of the Market Research Conducted and the Results, or a Statement of the Reasons Market Research Was Not Conducted:** Limited market research was conducted for the above referenced project as BES is a known SDVOSB at the Nashville VA Medical Center and has been the prime contractor for multiple contracts where the undersigned CO was the actual CO on. BES is a current MATOC contractor at TVHS, Mountain Home VA Medical Center, Louisville VA Medical Center and at the Memphis VA Medical Center. The contractor has successfully performed on multiple contracts in aggregate total excess of \$20M dollars at the Memphis VA Medical Center.

A statement of capabilities was requested from four current MATOC contractors at the TVHS on May 2, 2017 for the above referenced project. The statement of capabilities were due on May 3, 2017. BES provided proof of capability to determine that BES is capable of performing and meeting the existing requirements of this procurement action.

9. **Any Other Facts Supporting the Use of Other than Full and Open Competition:** N/A

10. **Listing of Sources that Expressed, in Writing, an Interest in the Acquisition:** The recommended source, BES, was one of four sources that was spoken to regarding this requirement. Valiant Construction, LLC, was not interested in providing this requirement to TVHS. The names of the other two TVHS MATOC holders that were interested in this acquisition included:

- a) Semper Tek, Inc.
- b) Patriot Construction, LLC.

After reviewing all three capability statements, given the fact that the undersigned CO has personal knowledge of the contractor's successful past performance at the Nashville VA Medical Center, in-house design capabilities, experience with similar projects in the past, the undersigned CO has determined that BES could successfully complete the requirements for project 626-17-510.

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:**

Being that this requirement is intended to be procured under the authority of 38 U.S.C. § 8127 (c), a contracting officer of the VA may award a contract to a SDVOSB using procedures other than competitive procedures if—

- a. Such concern is determined to be a responsible source with respect to performance of such contract opportunity;
- b. 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
- c. 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.

Accordingly, the contracting officer will not attempt to overcome any barriers to achieve competition for this requirement. However, the contracting officer will consider other competitive procedures when the contracting officer has determined that the probative value of competition outweighs the prejudicial effect of utilizing 38 U.S.C. § 8127 (c).

12. **Requirements Certification:** I certify that the requirement outlined in this justification is a Bona Fide Need of the VA 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.

Craig A.

Hrobak 228451

Craig A. Hrobak

Chief, Engineering Service

Tennessee Valley Health Care System

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.

STEPHEN A.

CLABOUGH

711859

Stephen A. Clabough

Contracting Officer

Network Contracting Office 9

5-2-2017

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.

Susan F.

Nagel 234493

For

Kenneth N. Hooks, Jr.

Division Chief

Network Contracting Office 9

Digitally signed by Susan F. Nagel
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5/12/2017

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.

Susan F.

Nagel 234493

Susan F. Nagel

Acting, Director of Contracting

Network Contracting Office 9

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- c. **VHA SAO IICA 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

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Linda S. Greaves

Acting, SAO Director, Central Region (10NA2)

SAO Central Head of Contracting Activity (HCA)

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