

**U.S. DEPARTMENT OF VETERANS AFFAIRS  
VETERANS HEALTH ADMINISTRATION**

**Justification and Approval (J&A)  
For  
Other Than Full and Open Competition**

**1. Contracting Activity:**

Department of Veterans Affairs, Network Contracting Office (NCO) 15, Consolidated Mail Outpatient Pharmacy (CMOP) Acquisitions, 3450 S. 4<sup>th</sup> Street Trafficway, Leavenworth, KS 66048

**2. Nature and/or Description of the Action Being Processed:**

This action is the purchase of Enterprise ASP Maintenance support to the Department of Veterans Affairs Pharmacy Benefits Management (PBM) / Emergency Pharmacy Service (EPS) of Hines, IL, for the DynaMed EPS Cache application. Support includes performing all updates, revisions, patches, quick fixes (known collectively as enterprise updates), and enhanced telephone support as related to the operation of the DynaMed EPS cache application. NAICS Code is 541512 (Computer Systems Design Services) and Product Service Code (PSC) is D319 (IT and Telecom – Annual Software Maintenance Plans).

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

Enterprise ASP Maintenance Support provides all updates, patches and quick fixes on an “as available and as needed” schedule. It also remotely monitors the application and underlying hardware to ensure software availability. Contractor will analyze and test these enterprise updates as they relate to the operation of the DynaMed EPS cache application. Contractor will then inform PBM/EPS when it can safely install the enterprise updates in the DynaMed EPS Production and Test Environments at Hines CMOP. Finally, Enterprise ASP Maintenance support includes: Internet Application Server Enterprise Edition; DynaMed Application; Current OS Server environments (Linux); hardware on-site maintenance; and enhanced telephone customer support. The DynaMed application is licensed and is the intellectual property of the Information Control Management Corporation (ICMC).

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

41 USC §3304(a)(1), as implemented by Federal Acquisition Regulation (FAR) 6.302-1: *Only one responsible source and no other supplies or services will satisfy agency requirements.*

**5. Demonstration that the Contractor's Unique Qualifications or Nature of the Acquisition Requires the Use of the Authority Cited Above:**

Information Control Management Corporation (ICMC), DUNS: 176739233, 12321 Middlebrook Road, Germantown, MD 20874-1581, is the creator of the EPS Cache application software and over the life of the contract has provided software modifications unique to the VA EPS service's requirements. Since this Contractor owns the source code and proprietary maintenance rights of this application, it is impossible for any other company to provide support for this application. The National CMOP has been satisfied with the software and maintenance, which has helped meet CMOP needs in support of providing quality service to Veteran patients. Furthermore, to change the software and maintenance at this time would be cost-prohibitive due to having to reconfigure systems. The program office estimates there would a delay of at least 3 months (potentially longer depending how long it takes vendor to transfer data from the old system), and this would cost roughly \$1.2 million dollars for each quarter lag in service, due to value of the expired inventory that would be present in the All Hazard Emergency Caches in the field if the Government were to undergo reconfiguration and could not appropriately rotate that inventory.

**6. Description of Efforts Made to ensure that offers are solicited from as many potential sources as deemed practicable:**

As this is the only source able to provide such support for this requirement and as the Contractor has proprietary rights to source code and maintenance of software, it was not practicable for the Contracting Officer to solicit offers from other sources.

**7. Determination by the Contracting Officer that the Anticipated Cost to the Government will be Fair and Reasonable:**

This procurement is for one (1) base and up to four (4) option years. The Contracting Officer will review proposed pricing of Contractor to ensure price fair and reasonableness in accordance with FAR 13.106-3 (a)(2), including comparison to the government cost estimate and historical contract pricing. Estimated cost is \$335,524.62.

**8. Description of the Market Research Conducted and the Results, or a Statement of the Reasons Market Research Was Not Conducted:**

Market research was conducted by the Contracting Officer to see if any additional sources could provide this service and validate their ability to provide this service from the proprietary rights holder and incumbent Contractor. A Request for Information (RFI) was posted to [www.fbo.gov](http://www.fbo.gov) on 5-8-2017 with response deadline of 6-8-2017. No capability statements were submitted by Contractors. Absent such responses, the Program Office determined that none had the capability, as Contractors did not respond and could not validate the following as was required on the RFI:

**Offerors submitting capability statements would need to document and validate their ability to provide such support to the CMOP PBM through approval as an authorized dealer or agent of the proprietary rights holder ICMC. ICMC is the current incumbent Contractor on Contract VA797M-13-C-0055 for this maintenance and support.**

Thus, it was verified by the Contracting Officer that Contractor had sole proprietary source code and maintenance support rights, and conducting further market research and competitive solicitation was not likely to yield other potential sources at this time that could supercede the proprietary rights requirement of incumbent Contractor.

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

Not Applicable

**10. Listing of Sources that Expressed, in Writing, an Interest in the Acquisition:**

First Call Technologies

Ryno Network Services, Inc.

V2 Technologies, Inc.

**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:**

At present, there is no anticipated need for competition beyond this contract as long it is verified by the Government that Contractor has proprietary rights. However, if these proprietary rights expire and/or the Government has identified alternate software and enterprise needs due to programmatic or budgetary changes, the Government will conduct robust market research with the intent to identify potential sources and ensure a competitive solicitation going forward with emphasis on setting aside (in order of priority) to Service Disabled Veteran Owned Small Businesses, Veteran Owned Small Businesses, and other Small Businesses. Full and Open Competition would be considered only if set-aside options cited above are not practicable.

**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.



4-11-2017

\_\_\_\_\_  
Jennifer Zacher, Assistant Chief Consultant  
VA Pharmacy Benefits Management Services

\_\_\_\_\_  
Date

**13. Approvals:**

**Contracting Officer:**

I certify that the foregoing justification is accurate and complete to the best of my knowledge and belief.

\_\_\_\_\_  
Douglas H. Reed  
Contracting Officer, NCO 15/CMOP Acquisitions

\_\_\_\_\_  
Date

**Branch Chief (as authority delegated by Director of Contracting):**

I certify the justification meets requirements for other than full and open competition.

\_\_\_\_\_  
Linda S. Bayer  
Supervisory Contract Specialist, NCO 15/CMOP Acquisitions

06-13-2017

\_\_\_\_\_  
Date