

DEPARTMENT OF VETERANS AFFAIRS

Justification and Approval

Exception to Fair Opportunity Memo

Acquisition Plan Action ID: VA258-17-AP-4589 | VA258-17-AP-5266

1. **Contracting Activity:** Department of Veterans Affairs, VISN 22, *Phoenix VAMC*
Justification for Other Than Full and Open Competition for: ACC Backfill Wall Protection Materials
644-17-3-256-0127 | 644-17-3-256-0153 Mental Health Wall protection
2. **Description of Action** The action expected is award a single contract based on RFQ posted to FBO, for the acquisition of supply with incidental install. This anticipated contract is intended to be made as a firm fixed price award to a single firm, with a one-time payment after completion of contract requirements. This acquisition will be made utilizing FAR Part 12 procedures, and will have a period of performance lasting 90 days from date of award.
3. **Description of Supplies or Services:** This contract is for Arcovyn Wall panels and installation for refurbishment of the ACC Veteran Medical and the Mental Health area at the Main Phoenix Campus. The action shall include the purchase of supplies: Arcovyn wall protection panels by C.S construction specialties and delivery and installation by Partitions & Accessories Company, division of L.R. Borelli, Inc. This product is used to protect the lower portion of walls from damage where crash rails are not present. Hand rails of the same product have already been installed in the ACC refurbishment product. This exact brand is needed to refurbish existing wall with protection panels that match color and function with all other panels throughout the ACC area and the Phoenix Area Medical System including CBOCS. The same product should continue to be used throughout the system to minimize costs, time for maintenance or replacement in future refurbishment projects or when panels need to be replaced due to wear and tear. Utilizing the same product will also ensure continuity of the visual flow and not provide for visual distractions for the Veterans. Referenced previous contract: **VA258-16-P-2880 | 644-A61315 | L.R. Borelli, Inc | \$159,520.00**
4. **The total estimated costs are as follows:**
 - a. ACC Wall protection supplies \$48,996 and installation \$4,899.60
 - b. Mental Health wall protection supplies \$82,017 and installation (not included in IGCE) \$8,2017 (10% of supplies)
5. **Statutory Authority:** The statutory authority permitting an exception to fair opportunity is Section 41 U.S.C. 4106(c) as implemented by the Federal Acquisition Regulation (FAR) Subpart 16.505 Subpart 16.505(b)(2)(i):

(X) FAR Subpart 16.505(b)(2)(i)(C): The order must be issued on a sole-source basis in the interest of economy and efficiency because it is a logical follow-on to an order already issued under the

contract, provided that all awardees were given a fair opportunity to be considered for the original order.

- 6. Rationale Supporting Use of Authority Cited Above:** This is a follow-on order to order VA258-16-P-2880 for Arcovyn Handrails and Crash guards for the ACC renovation/refurbishment project. The new contract for Arcovyn Wall panels will utilize the same Brand product and be installed by the same Contractor. The ACC renovation/refurbishment project is the same project the Vendor previously worked on and this is a logical follow-on. This wall protection order is a continuation of the project for installation of hand rails and crash guards, other wall protection items. The contractor has knowledge of the area and the supplies needed resulting in decreased time and waste. This contractor L. R. BORELLI, INC.; also doing business as: PARTITIONS & ACCESSORIES CO has experience installing these products and had installed them for this VA previously. An RFI was posted on FBO to determine other vendors to provide and install this product and no other responses were received from the RFI. A google search determined that a local interior design Vendor, MIb Design, in Chandler, AZ works with this product but is not registered in SAM and has not returned phone calls to the business. There is urgency to this procurement as the items are needed before new Specialty Veteran Clinics can be opened in the ACC. The urgency is a result of a known project that was not funded until right before the desired opening date for the new clinics. The clinics need to be opened as soon as possible to meet Veteran Medical needs.

The mental health wall protection is an add-on to this contract as it utilizes the same items and contractor, and is expected to result in cost savings for the government.

Additionally, based on the above market research efforts and results, In accordance with FAR Part 19.501(c) this acquisition cannot be set aside for any type of small business concern as there is no reasonable expectation of receiving 2 or more offers. Furthermore, the lack of expressed interest from any and all additional socio-economic concerns validates this acquisition's sole source status as in accordance with FAR Part 6.302-1, obtaining these follow on requirements through a new source, would cause duplication of cost to the government and would cause unnecessary delays resulting in delayed Veteran Care.

- 7. Efforts to Obtain Competition:** Market research was conducted, details of which are in the market research section of this document. An RFI was published on FBO and GSA was searched for this product and similar products. This effort did not yield any additional sources that can meet the Government's requirements. There is no competition anticipated for this acquisition. In accordance with FAR 5.301 and 16.505(b)(2), this action will be synopsisized at award on the Federal Business Opportunities Page (FBO) and the justification will be made publicly available.
- 8. Actions to Create Future Competition:** Post award synopsis will be posted to FBO. Market research is ongoing to determine changes in the market place or additional vendor interest. Additionally, the Veterans Affairs Contracting Community holds vendor fairs, and business outreach programs to obtain future potential contractors, and continues to expand the current SB, and SB/VOSB vendor

Chapter VI: Other Than Full and Open Competition (OFOC) SOP
Attachment 5: Request for Exception to Fair Opportunity Memo Format

listings. To date, no other capable sources for this specific requirement have been identified or recommended.

9. Market Research: Market research was conducted using GSA to review for the brand name or comparable products. Comparable products are available but installation is not included with the product purchase and another contract would be needed for installation. Past purchases at this VA include the original package that this is a follow on to: **VA258-16-P-2880|644-A61315| L.R. Borelli, Inc| \$159,520.00** A google search determined that a local interior design Vendor, MIb Design, in Chandler, AZ works with this product but is not registered in SAM and has not returned phone calls to the business. The VA lists 104 actions for Construction Specialties, the manufacturer of Arcovyn Wall covering. This is usually included in the general construction costs in new or renovated areas, but for this renovation the purchase of these was delegated to interior design. Though a multitude of general construction firms could be located under the applicable NAICS, after Q&A and additional inquiry, none expressed interest or general practice of fulfilling this requirement in its entirety. Several of the companies simply refused to bid as the current value of this requirement was not economically feasible to induce performance.
10. Other Facts: The product is a brand name but the manufacturer of this product has a limited number of vendors they work with to ensure the product is installed properly and the vendor has experience and training for proper installation. If using another product, it will not provide a match for the already installed materials, different cleaning and maintenance requirements would prove burdensome. It would be confusing to have different products performing the same purpose with different manufacturers and installers. The government would require increased cost for maintenance and cleaning, and increased training. There is high potential for confusion and damage of the product- requiring increased replacement costs, due to different cleaning requirements from all other areas of the hospital. It would also degrade the visual appearance of the newly renovated area furthering a perception of poor coordination at the VA. This would be harmful to the Veterans who may not seek treatment at the VA due to perceptions associated with poor visual aesthetic.
11. Preparer Certification: I certify that the supporting data under my cognizance, which are included in this justification, are accurate and complete to the best of my knowledge and belief.
Prepared by: Theresa Hamilton, Contracting Specialist
12. Determination that Anticipated Cost is Fair and Reasonable: A determination by the contracting officer that the anticipated cost to the Government will be fair and reasonable. The RFQ will be posted to FBO to allow maximum opportunities for competition. Sans competition, historical pricing and pricing for similar items will be used.

Chapter VI: Other Than Full and Open Competition (OFOC) SOP
Attachment 5: Request for Exception to Fair Opportunity Memo Format

- 13. Contracting Officer's Certification (required):** I certify that the foregoing justification is accurate and complete to the best of my knowledge and belief. Date: 8/22/2017

Prepared by: Theresa Hamilton, Contracting Specialist

Approved by: Nathan McCoy, Contracting Officer