

DEPARTMENT OF VETERANS AFFAIRS

Justification and Approval (J&A) For Other Than Full and Open Competition (>\$150K)

Acquisition Plan Action ID: VA261-17-AP-5327

Purchase Request/2237 Number: 654-18-1-344-0003

1. **Contracting Activity:**

Department of Veterans Affairs, VISN 21, Network Contract Office (NCO) 21 for VA Sierra Nevada Health Care System.

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

The VA Sierra Nevada Health Care System is in need of Community Nursing Home (CNH) services in Auburn, California. The proposed single award five-year Indefinite Delivery Indefinite Quantity (IDIQ) contract will be for nursing home services through an open market solicitation to a single source to Aloe Holdings, LLC dba Auburn Oaks Care Center in accordance with Federal Acquisition Regulation (FAR) 13.106-1(b)(2) and FAR 13.5.

This procurement is for Nursing Home Services in accordance with FAR 13.5 Simplified Procedures for Certain Commercial Items and specifically FAR 13.501 Special Documentation Requirements, where acquisitions conducted under Simplified Acquisition Procedures are exempt from the requirements of FAR Part 6, but still require a justification using the format of FAR 6.303-2.

3. **Description of Supplies/Services Required to Meet the Agency's Needs:** The proposed action is to award an IDIQ Contract with a nursing home facility capable of furnishing the total medical, nursing, and psychosocial needs of VA beneficiaries. Community Nursing Home (CNH) facilities will:

- Have current Center for Medicare and Medicaid Services (CMS) certification (Medicare and/or Medicaid) and a State nursing home license.
- Have bed capacity to ensure their ability to take referrals when requested within 24 hours of request.
- Ensure provider visits once per month.
- Make laboratory, x-ray, and other special services available as needed.
- Provide care to include room, meals, nursing care, and other services or supplies commensurate with the VA-authorized level of care, without extra charge to the per diem rates
- Provide patient care tailored to patients' abilities in the Activities of Daily Living (ADL)

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The total estimated value of the proposed action is not to exceed (NTE) \$6,000,000.00 over the term of the IDIQ with Five (5) ordering periods.

4. **Statutory Authority Permitting Other than Full and Open Competition:** *41 USC §3304(a)(1), as implemented by FAR 6.302-1.*

- ☒ (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 6.302-5;
- ☐ (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):**

Analysis was conducted on the internet for similar CNHs in this area. Based on the services needed in Auburn, California there are limited CNHs available in the catchment area, and there is a geographic factor due to the requirement of the CNH to be close in proximity to the residence of the veteran and the veteran's family.

Aloe Holdings, LLC dba Auburn Oaks Care Center currently has five veterans being treated at their nursing home facility. The nursing home meets VA exclusion review quality of care standards. The nursing home has had a contract with the VA for several years and has consistently provided excellent care to our Veterans. It would cause medical hardship on the patients to move them, may disrupt treatment plans, and may be disruptive to family members if relocated to a different facility.

The current veterans require continued care at the nursing home facility beyond the current contract's expiration date and for an unknown period of time in the future. To avoid disruption to the patients, the VA must enter into a new contract with the current contractor.

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

The Contract Specialist (CS) posted sources sought announcement on FedBizOpps on August 24, 2016 with an expiration date of August 31, 2017. As of date, there has been no vendors who have responded to the posted sources sought.

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The Nursing Home Compare website

(<https://www.medicare.gov/nursinghomecompare/search.html?&bhcp=1&AspxAutoDetectCookieSupport=1>) was queried, to determine the availability of nursing homes in the Auburn, CA. Five (5) nursing homes were found within ten (10) miles from the center of 95603.

A search on Vetbiz.gov was conducted for NAICS Code "623110" in California with key word "nursing home care". There were ONE(1) SDVOSBs presented. In accordance with FAR 6.305(a), this action will be synopsized at award on the FBO and the justification will be made publicly available.

7. **Determination by the Contracting Officer that the Anticipated Cost to the Government will be Fair and Reasonable:** Fair and reasonable pricing will be determined in accordance with FAR 13.106-3(a). Pricing will be evaluated to be fair and reasonable based on a comparison to the Independent Government Cost Estimate (IGCE) and established Medicare Resource Utilization Group (RUG) rates and or Medicaid by the state of California for nursing home facilities and established VA nursing home rates. The Government estimate was prepared based established Medicaid RUG rates for various levels of care and established VA nursing home rates based on VA national guidelines for determining cost for VA nursing home contracts.

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

Market research conducted on a limited basis to the limitation of the geographic area. Research was conducted to establish CNH contract services located throughout the local VA's catchment area to provide nursing home services to Veterans near or as near as possible to family and friends. Market research for future agreements is dependent on the needs of the patients and resources of the VA Medical Center which is customarily administered by Social Work service.

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

VHA Handbook 1143.2 allows for a level of veteran choice in choosing a nursing home close to the veteran's home and family. The geographic factor in these circumstances makes this requirement unique and, therefore, not subject to competition.

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

No other nursing homes located in the same proximity as Auburn Oaks Care Center have expressed interest in establishing a contract with the VASNHCS. However, any nursing home that expresses interest in contracting with the VASNHCS shall be evaluated and considered for a contract, based on the VASNHCS geographical need, specific care needs, and quality of care.

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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:**

Based on the inherent nature of the service and in line with VA policy where the veteran and his/her family plays a role in determining which nursing home facility will provide treatment for the veteran, the opportunity to increase competition is limited. Notwithstanding the foregoing limitations, the Government intends to post an open and continuous Request for Proposal (RFP) in fiscal year 2018 to increase the number of community nursing home providers, so that when new beneficiaries are brought into the program they will have more available choices thereby increasing competition. This RFP will further publicize the VA's need for nursing homes in certain geographic areas across the VISN. Through these efforts NCO 21 anticipates it will increase the number of eligible nursing homes for its geographic regions.

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.

Jennifer D.

Duran 303859

Digitally signed by Jennifer D. Duran 303859
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Date: 2017.08.08 14:19:54 -07'00'

Jennifer Duran, LCSW
CNH Coordinator

Date

14. **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.

Claire K. Ursino
534459

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Claire Ursino
Contracting Officer
Network Contract Office (NCO) 21

Date

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- 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.

Samuel M. Harbin
Director of Contracting
Network Contracting Office (NCO) 21

Date

- 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.

Delia A. Adams, MBA, CPCM
Executive Director, Service Area Office West
Head of Contracting Activity (HCA)

08/11/17

Date