

DEPARTMENT OF VETERANS AFFAIRS

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

Acquisition Plan Action ID: VA259-18-AP-0414

1. **Contracting Activity:** Department of Veterans Affairs, Network Contracting Office 19 (NCO19) in support of the VA Eastern Colorado Healthcare Center.
2. **Nature and/or Description of the Action Being Processed:** This procurement is for an emergency sole source Community Nursing Home (CNH) in the city of Pueblo, Colorado. The current agreement ends on October 31, 2017 and there are currently 9 veterans in the nursing home. This is a short-term purchase order to allow time for the long-term Blanket Purchase Agreement to be awarded, this will be awarded under a Firm-fixed price with Purchase Order.

FAR13.5 Simplified Procedures for Certain Commercial Items: This procurement is for a CNH in Pueblo, Colorado 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:** A CNH in Pueblo, Colorado that provides the long-term care needs of veterans through a CNH Program that is certified as a Center for Medicare and Medicaid Services (CMS) and licensed by the state of Colorado. The care provided needs to meet the medical, nursing and psychosocial needs of the veterans to include provider visits at least once a month, acceptance of Veterans Affairs (VA) referrals in a timely fashion, laboratory and x-ray availability, and meals at no additional charge. The Rock Canyon Healthcare, Inc is currently providing services for nine (9) veterans who live in Pueblo, CO. This requirement is estimated to start November 1, 2017 and will run for four (5) months. The estimated value of the 5 months Purchase Order is \$501,450.00.
4. **Statutory Authority Permitting Other than Full and Open Competition:** 41 USC §3304(a)(1), as implemented by FAR 6.302-1 (a)(2).

() (1) Only One Responsible Source and No Other Supplies or Services Will Satisfy Agency Requirements per FAR 6.302-1;

(X) (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;

FAR13.5 Simplified Procedures for Certain Commercial Items: The authority for applying the Simplified Procedures for Commercial Items of FAR 13.5 is 41 U.S.C. 1901 and is implemented by restricting competition on this procurement via FAR 13.106-1(b)(2).

5. **Demonstration that the Contractor's Unique Qualifications or Nature of the Acquisition Requires the Use of the Authority Cited Above (applicability of authority):** The Medicare website

(medicare.gov) was utilized to find all available, certified nursing homes in the Pueblo, Colorado area. There are 10 CNH which holds the mandatory CMS certification required by the VA, only Rock Canyon Healthcare Inc. currently has patients.

6. **Description of Efforts Made to ensure that offers are solicited from as many potential sources as deemed practicable:** This is an emergency requirement and offers were not solicited. The Small Business Administration website and the VA's Vendor Information Pages (VetBiz) were used to find further competition but both sites failed to produce any results for Pueblo, Colorado. A search of the Medicare Nursing Home Compare website resulted in only ten (10) CNH within 5 miles of Pueblo. The Rock Canyon Healthcare, Inc is the only firm capable of providing the services described in Section III above without the Veteran's Health Administration experiencing unacceptable delays in fulfilling its requirements. The current agreement is with The Rock Canyon Healthcare, Inc and expires on October 31, 2017.
7. **Determination by the Contracting Officer that the Anticipated Cost to the Government will be Fair and Reasonable:** Each nursing home is issued their own Medicaid rate by the State Government on the State's letterhead; this is called the base rate. Medicaid base rates may differ from State to State, because States have developed different regulatory frameworks for Medicaid. The VA Geriatrics and Extended Care Offices determine the maximum add-on percentages that can be negotiated for each Medicaid category and is issued annually. The Contracting Officer then negotiates the nursing home add on percentage rates for each contract utilizing the maximum rate. The sum of the Medicaid base rate and the add-on percentage is the Medicaid per diem rate. The discount/add-on percentage will remain the same for the life of the Agreement. The contractor proposed prices will also be compared to historical pricing from other nursing homes in the county and in the state of Colorado to determine fair and reasonableness. The pricing from previous contracts of a similar nature will also be utilized to determine price fair and reasonable by the Contracting Officer.
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 in accordance with FAR Part 10 to ensure competition is sought to the maximum extent practicable. The Medicare website (medicare.gov) was utilized to find all available, certified nursing homes in the Pueblo, Colorado area, see attachment. A search of the Small Business Administration website utilizing the NAICS code 623110 (Nursing Care Facilities (Skilled Nursing Facilities)) for Pueblo returned no vendors. A search through VetBiz failed to produce any results for Pueblo, CO. As a result; it was determined that Rock Canyon Healthcare is the only firm capable of providing the CNH services in short notice. The current agreement (VA259-A-0029) ends on October 31, 2107, the Government currently has 9 patients in this Nursing Home which can not be moved before October 31, 2107.
9. **Any Other Facts Supporting the Use of Other than Full and Open Competition:** This is an interim purchase order for 5 months. The long term RFQ will be posted on FBO as Full and Open Competition. Currently, the VA has 9 patients that cannot be moved in this short notice.
10. **Listing of Sources that Expressed, in Writing, an Interest in the Acquisition:** No one has expressed interest in this Acquisition.
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:** While there are currently only three facilities capable of providing the mental health specialty care required for the patients, the contracting office will continue to seek new sources in the future.

- 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: Elizabeth K. Teska

Date

Title: Coordinator, Contract Nursing Home Program
VA Eastern Colorado Healthcare System

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.

David J. Medina
Contracting Officer, Specialized Branch Chief
Network Contracting Office 19

Date

- b. **One Level Above the Contracting Officer (Required over \$150K but not exceeding \$700K):** I certify the justification meets requirements for other than full and open competition.

Gary Arwood
Division Chief, I
Network Contracting Office 19

Date