

DEPARTMENT OF VETERANS AFFAIRS

Justification and Approval

Exception to Fair Opportunity Memo

Acquisition Plan Action ID: VA258-18-AP-0349

- 1. Contracting Activity:** Department of Veterans Affairs, VISN 22, *Carl T Hagen Medical Center* in Phoenix, AZ. Justification for other than Full and Open Competition for PR: 644-18-1-036-0120
- 2. Description of Action:** *This is an Open Market Purchase Order for Supplies of Normal Saline. This will be a Firm-fixed price contract. This is an Emergency request for supplies needed for Patient care.* Two Small Business Vendors have been identified as interested in providing quotes to meet this need. The proposed Emergency order will be an open market, firm fixed price contract with option to order additional supplies at the same price.
- 3. Description of Supplies or Services:** The order will be for between 30 and 60 cases of 100ml normal saline 0.9% NaCl. The number of bags per case varies between 80-96. The total estimate value is between \$20,000 and \$55,000.
- 4. 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)(A): The agency need for the supplies or services is so urgent that providing a fair opportunity would result in unacceptable delays.
- 5. Rationale Supporting Use of Authority Cited Above:** Currently there is a national shortage of Normal Saline products for medical use. This is due to a hurricane that shuttered large manufacturing plants for Saline products. The normal vendor for the VA is the manufacturer Baxter, which had it's manufacturing plant in Puerto Rico shut down since September 25, 2017. The FDA is currently involved in trying to get power restored to this plant as it continues to be closed due to lack of power. The VA has a NAC contract with Baxter, but they currently have no supply to meet VA need. The supply of normal saline is currently fluxuating daily with prices changing due to supply and demand market forces. Two small business were found that were interested in quoting on this request, these were the only sources found.
- 6. Efforts to Obtain Competition:** Currently there is a national shortage of Normal Saline products for medical use. This is due to a hurricane that shuttered large manufacturing plants for Saline products. The normal vendor for the VA is the manufacturer Baxter, which had it's manufacturing plant in Puerto Rico shut down since September 25, 2017. The FDA is currently involved in trying to get power restored to this plant as it continues to be closed due to lack of power. The VA has a NAC contract with Baxter, but they currently have no supply to meet VA need. The supply of normal saline is currently fluxuating daily with prices changing due to supply and demand market forces. Two small business were found that were interested in quoting on this request, these were the only sources found.

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

7. **Actions to Increase Competition:** Competition is anticipated as two vendors have expressed interest in quoting on this request. The Government will continue to conduct market research to ascertain if there are changes in the market place that would enable future actions to be competed. The FDA is also involved in trying to get the power turned on at the manufacturing plant to resume manufacturing, increase supply and eventually resolve the shortage. Once Baxter has supply then the VA can utilize the NAC contract and pricing for purchase of these supplies.
8. **Market Research:** As described previously, currently there is a national shortage of normal saline products for medical use. This is due to a hurricane that shuttered large manufacturing plants for Saline products. The normal vendor for the VA is the manufacturer Baxter, which had it's manufacturing plant in Puerto Rico shut down since September 25, 2017. The FDA is currently involved in trying to get power restored to this plant as it continues to be closed due to lack of power. The VA has a NAC contract with Baxter, but they currently have no supply to meet VA need. The supply of normal saline is currently fluxuating daily with prices changing due to supply and demand market forces. Two small business were found that were interested in quoting on this request, these were the only sources found. Once Baxter has supply then the VA can utilize the NAC contract and pricing for purchase of these supplies.
9. **Other Facts:** The Veteran Patients that the government is responsible for need this supply for ongoing medications and treatments. A decision not to move forward with this purchase puts the government liable for potential harm to Veteran patients and would therefore harm the government.
10. **Technical and Requirements 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

Theresa L.
Hamilton 520729

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Hamilton 520729
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11. **Determination that Anticipated Cost is Fair and Reasonable:** Costs are anticipated to be fair and reasonable as competition is expected between two vendors.
12. **Contracting Officer's Certification (required):** I certify that the foregoing justification is accurate and complete to the best of my knowledge and belief.

Approved by:
Contracting Officer
Edelma Galarza-Valentin

Edelma A Galarza-
Valentin 204754

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