

DEPARTMENT OF VETERANS AFFAIRS

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

- 1. Contracting Activity:** Department of Veterans Affairs, NCO- 15 CMOP.
- 2. Nature and/or Description of the Action Being Processed :** The Consolidated Mail Outpatient Pharmacy (CMOP) intends to enter into a short term, sole-source contract with Aphenia Pharma Solutions which has the necessary resources to accomplish the repacking function, including a secure and climate-controlled space for storage of product and they have the ability to service many geographically located CMOP's concurrently. The purpose of this contract is to provide the National CMOP program to receive repackaged pharmaceuticals from a FDA licensed repacker/distributor (contractor) of oral, solid pharmaceuticals. A bridge contract is required to maintain services during the solicitation phase [REDACTED]
[REDACTED] A bridge contract is needed for six (6) months to support the CMOPs until a new 5-year contract is awarded and implemented. The procurement will be a firm-fixed price contract to the incumbent contractor, Aphenia Pharma Solutions.
- 3. Description of Supplies/Services Required to Meet the Agency's Needs:** The CMOP Program requires a contractor to serve as a unit-of-use repacker and distributor for pharmaceuticals needed by VA patients. Under the program, CMOP will purchase the pharmaceuticals to be repacked, and provide for such products to the repacker for processing. The ordering CMOP facility will provide instructions for repacking of the product into various bottle sizes. The contractor will repack and ship repacked pharmaceuticals FOB Destination to the ordering CMOP, with receipt within seven calendar days, on an as-needed basis. The cost of handling and shipping of orders is a component of the contractor's pricing. Currently CMOP orders approximately seventeen million (17M) bottles per year on average, using various bottle sizes, to be repacked to meet the needs of CMOP. Failure to provide a bridge contract will result in impending serious delays of needed product delivery to our veterans and will place extreme burden on the individual CMOPs in order to provide these services. The proposed short term contracting action is for a Firm-Fixed Price IDIQ contract for the period of February 1, 2018 to August 31, 2018. [REDACTED]
[REDACTED].
- 4. Statutory Authority Permitting Other than Full and Open Competition:** This document sets forth the justification and approval for other than full and open competition for the acquisition described herein, under the authority of FAR 6.302-2 "an unusual and compelling urgency precludes full and open competition; and delay in award of a contract would result in serious injury, financial or other, to the Government. The statutory authority permitting other than full and open competition is 41 U.S.C. 253 (c) (1) .

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The current contract will expire January 31,2018 and it is imperative that we keep a contract in place or thousands of Veterans will be without their medications.

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

A long-term solicitation VA770-17-R-0417 is currently posted on FBO however; the solicitation requires extensive reviews to include QA, Legal, Director of Contracting, and VACO Review. Although significant time has been spent creating the procurement package, the RFP will not be awarded in time in conjunction with the ending contract. These services are critical for CMOP, to ensure uninterrupted repacking services and not compromise patient care. This request is to implement a bridge contract for base period of six (6) months which will provide time for the long-term contract to be awarded through competitive means.

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

In accordance with FAR Part 6, the contracting officer will post the approved Sole Source Justification and summary of the Repacker contract on FBO.gov for informational purposes only. The contracting officer has determined that competitive short term procurement is impractical and not in the best interest of the Government, it is necessary to allow services to remain uninterrupted until a new contract is awarded.

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

The previous solicitation was competed and pricing received was determined fair and reasonable by comparison of offerors prices received. The incumbent will not increase pricing for this requirement per quote reviewed. The option price is the lowest obtainable or the most advantageous offer, taking into account factors such as market stability and the usual duration of contracts such as this. Also, the pricing was evaluated against a current NAC contract price schedule VA797P-17-C-0025 and was determined to be fair and reasonable. The long-term solicitation VA770-17-R-0417 is expected to receive multiple quotes.

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 in accordance with FAR Part 10 and VAAR 810.001 for the RFP however; due to the significant time constraints a short-term contract is required to ensure no interruption in services. A search of the VIP database was completed utilizing keyword 'Pharmaceuticals Repacker,' with NAICS 561910. One company was listed with that NAICS returned, after reviewing the website and speaking with a manager at the company I was told they only are a parcel delivery service and do not repack. Another small business contacted the small business liaison expressing interest in repacking after a brief call and review of their website they cannot handle the volume of bottles CMOP requires and does not have space to quarantine products. A search of the Dynamic Small Business Search was completed utilizing keyword 'Pharmaceutical Repacker,' with NAICS 561910. No results were returned.

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

A solicitation is currently posted on FBO for a long-term contract. The main concern is to have a bridge contract in

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place while the long-term solicitation is awarded. The current contractor, Aphenia Pharma Solutions already has the current FDA and DSCSA required licenses. Awarding on a competitive basis at this time would not be feasible as a repacker company would not be ready to start work by 02/01/2018 due to delays contracting reviews and the credentialing process.

10.



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:**

A follow-on competitive action is planned and is currently being solicited VA770-17-R-0417 and will be awarded within the six month timeframe. Due to the delay in solicitation and award review, a long-term contract cannot be awarded by 1/31/2018 therefore; a bridge/interim contract is needed with the incumbent contractor.

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.

PETER J CARBREY
168392

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CARBREY 168392
Date: 2018.01.16 10:58:14 -06'00'

1/16/18

Peter Carbrey
National CMOP Logistics

Date

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.

Linda S. Bayer 387356

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387356
Date: 2018.01.16 11:02:15 -06'00'

Linda Bayer
Contracting Officer- NCO-15

Date

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.

SCOTT R FISCUS 381888

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Date: 2018.01.19 09:44:02 -06'00'

Scott Fiscus
Director of Contracting-NCO 15

Date

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- 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 \$68 million) or approve (\$700K to \$68 million) for other than full and open competition.

Randy L. Hays 534204
534204

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Hays 534204
Date: 2018.01.25 06:27:51
-08'00'

Randy L. Hays

Date

VHA Head of Contracting Activity (HCA)- SAO Central

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