

**DEPARTMENT OF VETERANS AFFAIRS**  
**Justification and Approval**  
**For**  
**Exception to Fair Opportunity Memo**

**Acquisition Plan Action ID:** VA263-18-AP-2163

- 1. Contracting Activity:** Department of Veterans Affairs, NCO 23, St. Cloud VA Health Care System, 4801 Veterans Drive, MN 56303. Organization Activity: Minneapolis VA Health Care System (MVAHCS), One Veterans Drive Minneapolis, MN 55417, 618-18-2-6065-0027.
- 2. Description of Action:** Firm fixed price replacement bridge delivery order for a base plus one option year to Blue Tech Inc through their SEWP Contract for Medicalis software maintenance and upgrades, advanced analytics and tech support for VISN 23.
- 3. Description of Supplies or Services:** This delivery order is to purchase yearly software maintenance and upgrades, annual advanced analytics and 24/7 helpdesk web based technical support for VISN 23's Medicalis software license and related hardware for a base plus one option year through Blue Tech Inc NASA SEWP contract.



Period of Performance: Base 2/2/18 – 2/1/19, Option Year 1 2/2/19 – 2/1/20

- 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):
  - FAR 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.
  - FAR Subpart 16.505(b)(2)(i)(B): Only one awardee is capable of providing the supplies or services required at the level of quality required because the supplies or services ordered are unique or highly specialized.
  - 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.
  - FAR Subpart 16.505(b)(2)(i)(D): It is necessary to place an order to satisfy a minimum guarantee.
  - FAR Subpart 16.505(b)(2)(i)(E): For orders exceeding the simplified acquisition threshold, a statute expressly authorizes or requires that the purchase be made from a specified source". The statutory authority permitting an exception to fair opportunity for this action is 38 U.S.C. 8127(c), known as the Veterans First Contracting Program which provides the authority to directly contract

VHAPM Part 816.5—Indefinite-Delivery Contracts  
Attachment 1: Request for Exception to Fair Opportunity Memo Format

with a Service-Disabled Veteran-Owned Small Business (SDVOSB) or a Veteran-Owned Small Business (VOSB).

( ) FAR Subpart 16.505(b)(2)(i)(F) In accordance with section 1331 of Public Law 111-240 (15 U.S.C. 644(r)), contracting officers may, at their discretion, set aside orders for any of the small business concerns identified in 19.000(a)(3). When setting aside orders for small business concerns, the specific small business program eligibility requirements identified in part 19 apply.

5. **Rationale Supporting Use of Authority Cited Above:** This procurement is a replacement bridge delivery order to provide software maintenance and support for the last 2 years of the Medicalis software license awarded through VA263-13-F-2099 to Blue Tech Inc on NASA SEWP. When that delivery order was awarded in September of 2013 it was awarded for a period of more than 5 years without the appropriate authority and approvals. The order had an activation of 120 days that wasn't completed for 492 days further extending the total period of performance of the order. The period of performance for the option years was changed in 2016 to align with the delayed activation with the fourth option year going through 2/1/2020. With these changes the total period of performance of the order would have been over 6 years and 4 months. The order is currently in the 2<sup>nd</sup> option year which goes through 2/1/2018. Since the delivery order was inappropriately awarded and modified for a period of over 5 years without the proper approvals and authority the decision was made not to exercise the 3<sup>rd</sup> option year to allow the delivery order to expire. This bridge delivery order to Blue Tech Inc through NASA SEWP is to provide the software maintenance and support that would have been provided through option years 3 and 4 had the previous order been awarded with the appropriate approvals and authority. VISN 23 has a continued need for the software maintenance and support for their Medicalis software license, which was purchased through Blue Tech Inc and is valid through 2/1/2020.
6. **Efforts to Obtain Competition:** Since this bridge contract is to replace the existing SEWP order that was awarded for more than 5 years in error and this bridge is to cover the remaining 2 years of software maintenance and support no competition was available. At the end of the two years the government will complete market research and compete a new order for software licenses and maintenance per agency guidelines.
7. **Actions to Increase Competition:** When this replacement bridge order is complete the government will complete market research and compete a new order for software licenses and maintenance per agency guidelines.
8. **Market Research:** VetBiz was searched under the NAICS code 541519 which produced 2100 results, adding the keyword Medicalis produced zero results. GSA was searched for Medicalis and produced zero results. NASA SEWP was searched for Medicalis which produced one result, Blue Tech Inc, a small HubZone business. No sources sought was posted as this order is a replacement bridge to cover the 2 previously awarded years of software support and service that was awarded to Blue Tech Inc through NASA SEWP. When these 2 previously awarded years are complete, new market research will be conducted per agency guidelines.
9. **Other Facts:** NA

- 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.



- 11. Determination that Anticipated Cost is Fair and Reasonable:** The pricing for this replacement bridge contract is the same pricing that was included as part of the original delivery order off SEWP. These prices were determined fair and reasonable at the time of the original SEWP order (VA263-13-F-2099) and since the price and period of performance is not changing the price for the replacement bridge order is anticipated to be fair and reasonable.

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



- 13. Approvals in accordance with [VHAPM Part 806.3 Other Than Full and Open Competition SOP](#).**

- a. **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.

