

DEPARTMENT OF VETERANS AFFAIRS

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

Acquisition Plan Action ID: VA261-18-AP-2304

Purchase Request/2237 Number: 459-18-1-2641-0012

1. **Contracting Activity:**

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

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

VISN 21's Pacific Island Health Care System, is in need of Community Nursing Home (CNH) services on the island of Maui to replace a provider agreement with Hale Makua Health Service that will expire on 31 January 2018. There is no mechanism to extend the provider agreement. The families of the four Veterans who are currently located at Hale Makua and who will be affected by the expiring provider agreement do not want to move their family members. The Veterans do not have family outside of the island of Maui.

The proposed Single Award five-year Indefinite Delivery Indefinite Quantity (IDIQ) Contract will be an open market sole source acquisition to Hale Makua Health Services in Kahului, Hawaii, DUNS: 077697993, in accordance with FAR 6.302-1 Only One Responsible Source and No Other Supplies or Services Will Satisfy Agency Requirements.

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.

- All nursing home facilities must have current Center for Medicare and Medicaid Services (CMS) certification (Medicare and/or Medicaid) and a State nursing home license.
- The VA requires CNHs to have bed capacity to ensure their ability to take referrals when requested. The CNH also must be able to accept VA referrals in a timely fashion (ideally within 24 hours of request).
- Provider visits must be provided at the rate of one (1) visit per month. Laboratory, x-ray, and other special services will be available to VA patients as needed. In addition, the care provided will include room, meals, nursing care, and other services or supplies commensurate with the VA-authorized level of care, without extra charge.
- The per diem rate(s) established in this IDC will include the cost of primary medical care, one (1) provider visit per month and needed consultation, drugs and routine supplies, laboratory, x-ray, and other special services authorized by VA, unless otherwise specifically excepted.

- Full attention shall be given to motivating and educating patients to achieve and maintain independence in the activities of daily living. Every effort shall be made to keep patients ambulatory and to achieve an optimal level of self-care.

The total estimated value of the proposed action is not to exceed (NTE) \$5,000,000 (inclusive of options).

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

- (X) (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):**

As prescribed in VHA Handbook 1143.2, for more than 35 years the CNH Program has maintained two cornerstones: some level of patient choice in choosing a nursing home close to the veteran's home and family, and a unique approach to local oversight of CNHs.

The quality of care for the veteran is accomplished through placement in a nursing home that is in close proximity to where the veteran and his/her family resides. Notably, in the VA's community nursing home program, the veteran's placement decision is made by VA, the veteran, and the veteran's family. The placement decision will be based on established VA contracts in the area. The geographic factor in these circumstances makes this requirement unique and, therefore, not subject to competition.

There are only three CNH's on the island of Maui, Hale Makua-Kahuli, the current provider agreement contractor, Hale Makua-Wilulu, which is not interested in doing business with the VA, and a Kula Hospital, a Kaiser Permanente facility, has not been responsive to the customers repeated inquiries.

Hale Makua Health Services currently has 4 veterans being treated at their Kahuli nursing home facility. The nursing home meets VA exclusion review quality of care standards. The nursing home has had a provider agreement contract with the VA since 2013 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 provider agreement 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:**

A query of Vet Biz using NAICS 623110 restricted to the state of Hawaii, produced no CVE businesses. A query using NAICS 623110 without restricting to Hawaii, produced 23 CVE business. Every business was emailed and none affirmed that they are capable of providing Nursing Home

services. A query on nursing home compare, made by the contracting specialist, confirmed there are only three nursing homes in the area.

In accordance with FAR 6.305(a), this action will be synopsisized 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 15.404-1(b)(2)(v). Pricing will be evaluated to be fair and reasonable based on a comparison to the Independent Government CostEstimate (IGCE) and established Medicare Resource Utilization Group (RUG) rates and or Medicaid by the state of Hawaii for nursing home facilities and established VA nursing home rates. The Government estimate was prepared based on 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:**

The contract specialist conducted market research using Medicare's website for nursing homes, reviewed available acquisition history and searched through the VA's Veteran Information Pages.

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. Since the Veterans are currently residing in the incumbent's facility, the VA does not intend on disrupting their care in order to place them at a different facility as it would not be in the Veteran's best interest.

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

The current provider agreement contractor, Hale Makua Health Services, is willing to continue to provide services for the veterans in place.

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 the future 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.

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.

Andrea P. Cline 1029769

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Date: 2018.01.24 14:05:48 -10'00'

Andrea Cline
CNH Coordinator
VA Pacific Islands Healthcare System

Date

13. Approvals in accordance with the VHAPM, Part 806.3: 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.

AMANDA J. SIMMONS 510708

Digitally signed by AMANDA J. SIMMONS

510708

Date: 2018.01.25 16:22:24 -08'00'

Amanda J. Simmons
Contracting Officer
Network Contract Office (NCO) 21

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.



Brooke C. Robison,
Director of Contracting
Network Contract 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 \$68 million) or approve (\$700K to \$68 million) for other than full and open competition.

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

01/26/2018

Date