

DEPARTMENT OF VETERANS AFFAIRS

Justification and Approval (J&A)

For

Other Than Full and Open Competition (>\$150K)

Acquisition Plan ID VA261-18-AP-1607

Purchase Request 662-18-2-9615-0020

1. Contracting Activity:

Department of Veterans Affairs, VISN 21, Network Contract Office (NCO) 21, on behalf of VA San Francisco Healthcare System.

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

VISN 21's Medical Centers require Community Nursing Home (CNH) services to be issued via task order against established Basic Ordering Agreements (BOA) until the BOA's are converted to Indefinite Delivery Indefinite Quantity (IDIQ) contracts. The task orders are issued on a non-competitive basis in accordance with FAR 6.302-1 Only One Responsible Source and No Other Supplies or Services Will Satisfy Agency Requirements. Annual costs vary between the CNH's depending upon the veterans' level of care needs. The subject action is for a task order against BOA VA261-15-A-0033, Beverly Health and Rehabilitation Services Inc; Golden Living Center – Santa Rosa for an anticipated amount of \$510,894 for services from 2/1/2018-3/31/2019. The BOA is expected to convert to an IDIQ in fiscal year 2020.

3. Description of Supplies/Services Required to Meet the Agency's Needs:

The proposed action supports issuance of a non-competitive task order against an established BOA to a Nursing Home facility/ies 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 each task order 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 **\$510,894.**

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.

The CNH contractor currently has veterans being treated at their nursing home facility under an existing task order due to expire January 31, 2018. The nursing home meets VA exclusion review quality of care standards. The nursing home has an existing BOA which was awarded within the last four years and has consistently provided excellent care to our veterans. It would cause medical hardship on the patient(s) to move, may disrupt treatment plans, and may be disruptive to family members if relocated to a different facility.

The veteran(s) require an anticipated 12 months of continued care at the nursing home facility beyond the current task order expiration date. To avoid disruption to the patients, the VA must execute a task order with the existing contractor.

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

No efforts were made to solicit additional offers as it is not practicable to do so under the circumstances.

The veterans currently in place are well cared for and do not wish to be moved to a new location. The VA has no interest in moving elderly veterans and disrupting lives provided the facility is meeting the veterans needs at a fair and reasonable price. Since the current CNH with an existing BOA is doing just that, no efforts have been made to seek other sources at this time.

In accordance with FAR 6.305(a), this justification will be made publicly available and posted to the Government Point of Entry (FBO) as the exceptions listed in FAR 5.202 do not apply.

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 if pricing differs from the established BOA or if conditions warrant such determination. In such cases, pricing will be evaluated to be fair and reasonable based on a comparison to the Independent Government Cost Estimates (IGCE), established Medicare Resource Utilization Group (RUG) rates, Medicaid by the state of California for nursing home facilities and established VA nursing home rates. The IGCE is based upon specific BOA rates, which were established based upon Medicaid RUG rates for various levels of care and established VA nursing home rates in accordance with 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:

Market research was limited to a review of Medicare's website for nursing homes along with a review of prior acquisition history due to the nature of the action.

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 veterans are currently residing in the facility, the VA does not intend on disrupting their care to conduct competitive acquisitions as the potential of moving and ultimately placing them in different facilities would not be in the veteran's best interest.

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

The listed contractor is willing to continue to provide services for the veterans in place under the existing BOA.

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 fiscal year 2018 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. This RFP will

further publicize the VA's need for nursing homes in certain geographic areas across the VISN. The Government intends to convene quarterly source selection panels. Through these efforts, NCO 21 anticipates an increase in the number of eligible nursing homes for its geographic regions. Additionally, as the BOA for which this non-competitive task order is being issued is set to expire in 2020, conversion to a competitive IDIQ is anticipated at/prior to that time.

- 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.

Andreana Ososki
GPEC Business Manager
VA San Francisco 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
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.

Thor S. Vue
Chief, Division I
Network Contracting Office (NCO) 21

Date