



JUSTIFICATION AND APPROVAL FOR OTHER THAN FULL AND OPEN COMPETITION

1. **Contracting Activity:** Department of Veterans Affairs (VA)
Office of Acquisition Operations
Strategic Acquisitions Center – Frederick (SAC-F) (003B1H)
321 Ballenger Center Drive, Suite 125
Frederick, MD 21703
2. **Description of Action:** The purpose of this action is to establish a Firm-Fixed Price sole source contract with the Washington Metropolitan Area Transit Authority (WMATA) for participation in the SmartBenefits® Program. The period of performance is April 1, 2018 – September 30, 2018 with four 12-month option periods. The total estimated value of the proposed action is \$36,900,000 (inclusive of options).
3. **Description of Supplies or Services:** On April 21, 2000, President Clinton signed Executive Order (E.O.) 13150 titled "Federal Workforce Transportation." Section 2 of the E.O. required Federal agencies in the National Capital Region (NCR) to establish a transit pass fringe benefit program for personnel using mass transportation or qualified vanpools by October 1, 2000. Additionally, the Federal Employees Clean Air Incentives Act, 5 U.S.C. 7905, P.L. 103-172, December 2, 1993 (Incentives Act), was enacted as part of a national effort to improve air quality and reduce traffic congestion. The Incentives Act provides for the establishment of programs to encourage Federal employees to commute by means other than single-occupancy motor vehicles.

VA policies aim to promote and encourage the use of mass transportation for commuting to and/or from work to improve air quality and reduce traffic congestion. To comply with E.O. 13150, VA has instituted a "transit pass" transportation fringe benefit program for all qualified NCR VA personnel. VA manages its transit subsidy program, to include determining which of its employees are eligible for commuting benefits and ensuring program is administered in accordance with Internal Revenue Service (IRS) regulations (Qualified Transportation Fringe Benefits Law, Title 26, USC Section 132(f)).

The proposed action is to establish a contract with WMATA which will allow VA to access the SmartBenefits® program via the internet. SmartBenefits® is a web-based program allowing participating employers to assign the dollar values of transit benefit program participants' monthly certified commuting amount directly to the participant's SmarTrip® card. WMATA shall make the designated amounts of transit benefits available for each participant to download on his or her SmarTrip® card by VA Employee Transit Benefits in accordance with the solicitation and contract. There will be no additional cost to VA for participation in the SmartBenefits® program.

4. **Statutory Authority:** The statutory authority permitting other than full and open competition is 41 U.S.C. 3304(a)(1), and the Federal Acquisition Regulation (FAR) Subpart 6.302-1, "Only One Responsible Source and No Other Supplies or Services Will Satisfy Agency Requirements."
5. **Rationale Supporting use of Authority Cited Above:** WMATA is the sole provider of transit SmartBenefit® services in the NCR. SmartBenefits® and SmarTrip® are registered trademarks of WMATA. By being granted access to the WMATA

SOLE SOURCE JUSTIFICATION
VA Employee Transit Benefits

SmartBenefits® system, VA will be able to apply funding to qualified transit benefit program participant's SmarTrip® cards on a monthly basis. Participants may then use these funds directly on any qualified mode of transportation in the NCR with a SmarTrip® card reader, or allocate the funds to Commuter Direct so that they may be used towards the purchase of tickets or passes for modes of transportation that do not contain a SmarTrip® card reader. The SmartBenefits® system is unique to WMATA and is not available from any other source.

6. **Efforts to Obtain Competition:** Market research was conducted, as detailed in Section 8 below. Due to the nature of the services being procured there is no way for the contracting officer to increase competition. WMATA is the sole provider of public mass transportation in the NCR, and although the Department of Transportation offers services for transit benefits via TRANServe, it is not advantageous for the Government to procure services from TRANServe. See Section 8 below for rationale.
7. **Determination of Best Value:** The proposed contract action will represent the best value to the Government. The VA Office of Human Resources and Administration researched the authorized benefit amount per employee with the Internal Revenue Service (IRS) using the 2017 Transit and Parking Qualified Transportation Fringe Benefits For Taxable Years beginning in 2018. The monthly limitation under IRS Code 132(f)(2)(A) regarding the aggregate fringe benefit exclusion amount for transportation in a commuter highway vehicle and any transit pass is \$260.00. Further research was conducted on WMATA's website, previous contracts, and a verbal quote from WMATA, all of which indicated the price per employee for the SmartBenefits® program is \$260.00. Therefore, in accordance with FAR 15.404-1(b)(2)(ii) and (iv) the price is considered to be fair and reasonable based on established policy from the IRS, and the catalog and market pricing of WMATA.
8. **Market Research:** Market research was conducted by the customer and confirmed by the Contracting Officer and Contract Specialist on December 12, 2017; market research was conducted utilizing all mandatory, and any other available sources yielded the same results: WMATA is the sole provider of public mass transportation in the NCR and the SmartBenefits® system is unique to WMATA and is not available from any other source.

The Department of Transportation (DOT) offers administrative services for oversight of Transit Benefits for Government agencies in the NCR via TRANServe. However, DOT utilizes the same WMATA database that VA would be accessing under this action, and charges administrative fees in the amount of 4.5% to 5.3% for their services. These fees total approximately \$1,955,700.00 for the life of the proposed action. A direct contract with WMATA will have no additional costs and allow for more efficient oversight and management of benefits by VA program personnel.
9. **Other Facts:** Not applicable
10. **Interested Sources:** Not applicable
11. **Overcome Barriers:** Due to the requirements of Executive Order (E.O.) 13150 "Federal Workforce Transportation" and 26 CFR 601.602: Tax forms and instructions, Rev. Proc. 2014-61, there is little action that can be taken to remove barriers to competition.