

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

Acquisition Plan Action ID: VA249-18-AP-2069

1. **Contracting Activity:** Department of Veterans Affairs, VISN 09, Robley Rex VA Medical Center (Louisville, Kentucky), Network Contracting Office (NCO) 9. Purchase Requisition 603-18-3-2345-0008.
2. **Nature and/or Description of the Action Being Processed:** Design and construct a Positron emission tomography (PET)-Computed tomography (CT) Systems, Phase 2. The procurement action under review represents Phase 2, of a two-part project which began in FY2017. Phase 1 involving the relocation of existing medical equipment and the subsequent re-commissioning of said equipment. Phase 2 involves the design, site preparation and equipment installation of a new GE Discovery MI PET/CT System. Recent changes that occurred in FY17 with the Department of Veterans Affairs-National Acquisition Center (NAC) turnkey program has placed restriction limits on the amount of construction associated with equipment installation. Construction costs associated with turnkey projects now require that those costs cannot exceed thirty percent (30%) of the equipment purchase.

Historical and current information show High Technical High Cost (HTHC) equipment manufacturers use a "Preferred Vendors" list to provide design/build services. These "Preferred Vendors" have been skilled through training regimens from the manufacturer that span more than 100 classes, as well as hand-on guidance, where the manufacturer performs side by side project management, utilizing the preferred vendor for the equipment installation.

Design/Build projects involving High Technical High Cost (HTHC) medical equipment are specialized construction services, as the construction contractor is required to have the knowledge about the utility requirements related to installation, the structural steel required to support the equipment, the shielding requirements (where the contractor has consulted with a Psychist), power supply and certain other items that are specific only to HTHC medical equipment. In addition, the Preferred Vendor intentionally coordinates each phase of the Design/Build work with a specialist specific to that equipment manufacturer.

During Phase 1 of this project GE Healthcare representative Christopher Walker provided the Contracting Officer a listing of Preferred Vendors for the Midwest region in an email to the dated December 6, 2016 that identified three (3) contractors on the manufacturer's Preferred Vendors List. They are:

[REDACTED]

[REDACTED]

[REDACTED]

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As of January 29, 2018, the manufacturer has since added:

[REDACTED]

GE Healthcare's Preferred Vendor list, now consists of three (4) contractors. Since the proposed contract action- is the continuation to complete the PET/CT suite. It is the CO's intent to sole source the requirement to H&H Design Build LLC as the requirement represents a continuation of work. In accordance with Federal Acquisition Regulation (FAR) 6.302-1 (2)(ii) " *Supplies may be deemed to be available only from the original source in the case of a follow-on contract for the continued development or production of a major system or highly specialized equipment, including major components thereof, when it is likely that award to any other source would result in—*

(A) Substantial duplication of cost to the Government that is not expected to be recovered through competition; or

(B) Unacceptable delays in fulfilling the agency's requirements. (See 10 U.S.C. 2304(d)(1)(B) or 41 U.S.C. 3304(b)(2).) "

The GE Discovery MI PET/CT System represents a follow-on contract involving the continued development of highly specialized equipment systems.

- 3. Description of Supplies/Services Required to Meet the Agency's Needs:** Phase 2 of this project requires the design, site preparation and equipment installation in the former nuclear medicine room and hot lab, located on the second (2nd) floor of the Robley Rex VA Medical Center in Louisville, Kentucky. A new Positron emission tomography (PET)-Computed tomography (CT) System has been purchased and is planned for the project area in Phase 2. Work includes an approved design and the construction, of the existing Nuclear Medicine room, adjacent stress labs and material storage space to accommodate a new GE Healthcare Discovery MI PET/CT exam room, control room, equipment room, two (2) uptake rooms and hot lab. Work shall be in accordance with latest VA Construction Guidelines for this space and equipment manufacturer specifications. The contractor will be responsible for architectural, mechanical, and electrical design and construction. Design includes the preparation of complete drawings in AutoCAD 2012 or other format upon agreement with the VA. Specifications are to be in 2004 Master Construction Specification Format, and construction cost estimates per Veterans Affairs (VA) guidelines.

The design shall include all disciplines necessary for the completion of the project in accordance with VA guidelines and specifications. The new design will conform to current VA standards and provide adequate facilities for VA staff. The A/E team will include planning and design of infection control measures. The Independent Government Cost Estimate (IGCE) is [REDACTED]

[REDACTED]

4. Statutory Authority Permitting Other than Full and Open Competition:

- ☒ (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

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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):** Because the nature of this work involves the design, site preparation and installation of Highly Specialized medical equipment, H&H Design-Build is fully capable of performing the requirements of this procurement action as they have successfully performed similar work in scope and magnitude here at the Robley Rex VA Medical Center. H&H Design successfully performed Phase 1 of this project. H&H Design-Build works directly with hospitals, imaging and cancer treatment practices, equipment vendors (such as Philips, Siemens, GE Healthcare, etc.) and healthcare management service providers to fulfill requirements for specialized medical equipment. Healthcare design and construction is all that H&H Design Build does. They have completed over 500 imaging projects. They are experienced contractors in the design and construction of MRI, CT, PET, PET/CT, Catherization Labs, X-rays, Nuclear Medicine equipment and requirements. H&H Design-Build has been the Preferred Provider by manufacturers such as Siemens, Philips, and GE Healthcare to design and prepare the site for the installation of Highly Specialized Medical equipment purchased by the VA.

6. **Description of Efforts Made to ensure that offers are solicited from as many potential sources as deemed practicable:** On January 17, 2018, a Request for Information (RFI) was published on the government wide point of entry for procurement actions-Federal Business Opportunities (FBO) website. The announcement is being published for thirty (30) days seeking information on qualified firms possessing the specific capability of relocating, installing and providing site preparation for high dollar medical equipment by manufacturers such as Siemens, Philips, GE Healthcare, Toshiba Medical Systems, Varian Medical Systems and other similar manufacturers of highly specialized medical equipment. To date, the CO has received no responses from any firm that has demonstrated capability to perform this or a like requirement.

The efforts taken by the Contracting Officer to ensure that offers were solicited from as many potential sources is the posting seeking statements of capability from qualified firm, searching the CVE database, the SBA Dynamic small business search, and querying businesses that identified the applicable NAICS code on the SBA's dynamic small business search.

7. **Determination by the Contracting Officer that the Anticipated Cost to the Government will be Fair and Reasonable:** The Contracting Officer anticipates that the overall cost to the Government will be Fair and Reasonable. The steps to ensure fair and reasonable pricing will be a comparison of past pricing of similar work in scope and magnitude performed by H&H Design Build LLC at the medical center.

A detailed price breakdown will be required as part of the Offeror's price proposal. The proposed price will be analyzed for reasonableness. It will be analyzed for the different divisions of work to be performed, and the complexity of that work if any, and will be reviewed to ensure that it reflects a clear understanding of the requirement, and is consistent with the Offeror's technical proposal. The proposed price will also be compared with the Independent Government Cost Estimate.

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8. **Description of the Market Research Conducted and the Results, or a Statement of the Reasons**

Market Research Was Not Conducted: Market Research for this procurement consisted of a Request For Information on the government wide point of entry-Federal Business Opportunities website. Further research also includes a search of the Vetbiz database of verified SDVOSB and VOSB contractors in the Commonwealth of Kentucky, and/or the Kentucky-Indiana region. As described in section 4 above, market research, in accordance with Far Part 10 was conducted by the synopsis of the proposed acquisition, advising industry of the pending acquisition and soliciting inquiries from interested parties.

The query of the SBA's Dynamic Small Business database supports multiple firms listing a NAICS of 238290, with matches of 336 specific to the State of Kentucky through the listing at the Center for Verification & Eligibility (CVE) at the Vetbiz website. The CVE database does not have the capability to define searches by a specific locality.

9. **Any Other Facts Supporting the Use of Other than Full and Open Competition:** Other facts that support the use of other than full and open competition for this procurement action, is the nature of the specialized work involved is not suitable for full and open as many General Construction Contractors have limited if any experience with the design and construction of Highly Specialized Medical equipment. The Contracting Officer does not have a reasonable expectation that at least two or more SDVOSB are capable to perform the requirements of this project. Furthermore, of the four (4) GE Healthcare Preferred Vendors, only two (2) are small business concerns pursuant to FAR Part 19.

10. **Listing of Sources that Expressed, in Writing, an Interest in the Acquisition:** To date no sources have responded to the RFI expressing interest or the capability to perform. Furthermore, because this procurement is the result of a follow-on contract action, it is in the government's best interest to sole source this requirement to HH Design Build.

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:**

Maintain a listing of Preferred Vendors from manufacturers such as Siemens, Philips, GE Healthcare and other makers of high dollar medical equipment. Use the preferred vendor listing to identify those small business concerns listed in FAR Part 19.

The Contracting Officer will also encourage local SDVOSB and VOSB companies to pursue partnerships with these manufacturers, pursue training opportunities so that they can obtain a preferred vendor designation.

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.

Michael Day
Chief-Bio-Medical Engineering
Robley Rex VA Medical Center

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.

Roxie A. Keese
299082

Digitally signed by Roxie A. Keese
299082
Date: 2018.02.13 09:57:51 -05'00'

Roxie Ann Keese
Contracting Officer
Network Contracting Office (NCO) 9

Date

- b. One Level Above the Contracting Officer [Required over\$150K but not exceeding \$300K]: I certify the justification meets requirements for other than full and open competition.

Douglas Crowley 446500

Digitally signed by Douglas Crowley
446500
Date: 2018.02.13 09:37:49 -06'00'

Douglas Crowley
Branch Chief-Construction (West)
Network Contracting Office (NCO) 9

Date

- c. One Level Above the Contracting Officer (Required over\$300K but not exceeding \$700K): I certify the justification meets requirements for other than full and open competition.

Kenneth N.
Hooks 498714

Digitally signed by Kenneth
N. Hooks 498714
Date: 2018.02.13 09:57:09
-06'00'

Kenneth N. Hooks, Jr.
Division Chief
Network Contracting Office

Date

- d. Concurrence and Approval (Required over \$700K): I certify the justification meets requirements for other than full and open competition.

Linda S. Greaves 404790

Digitally signed by Linda S. Greaves
404790
Date: 2018.03.05 08:53:32 -06'00'

Linda S. Greaves
Director of Contracting
Service Area Office, Central

Date

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- e. 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

Digitally signed by Randy
L. Hays 534204
Date: 2018.03.06 09:00:46
-08'00'

Randy L. Hays
Acting Director, SAO Central
SAO Central Head of Contracting Activity

Date