

LIMITED-SOURCES JUSTIFICATION

1. Identification of the agency and the contracting activity.

This justification and approval is executed by the Strategic Acquisition Center located in Frederick, Maryland, on behalf of US Department of Veterans Affairs (VA), Veterans Benefits Administration (VBA), which administers the Medical Disability Examination (MDE) Program.

2. Nature and/or description of the action being approved.

The proposed action is for a single award, firm-fixed priced contract to David James, LLC, to provide VBA with financial audits of invoices and billing practices of existing contracts and invoices related to VA's MDE program. The period of performance for such services is anticipated to be a base period of three months, with three one-month options.

3. Description of the services required to meet the agency's needs (including the estimated value).

The Department of Veterans Affairs (VA) was granted authority to contract out for MDEs under Public Laws 104-275 and 108-183. Under this program, contractors provide MDEs by subcontracting with exam providers across the United States and in foreign countries to perform examinations of Veterans and Servicemembers. VBA requires contractor support to perform financial audits of invoices and billing practices of the various MDE contractors to determine if the invoicing documentation provides support of charges included in or omitted from a bill and to identify anomalies or questionable billing processes by the MDE providers.

The contractor shall be responsible to protect the privacy of any Veteran's personal information. The objective of the audit contract is to ensure the following:

1. Accuracy of all invoices and supporting documentation bill under the MDE contracts;
2. Ensure appropriate invoicing methodology to include financial controls, identification of trends and unusual patterns, reimbursement deficiencies, and to improve processes; and
3. Ensure services are provided in accordance with the examination protocol and invoicing requirements under the MDE contracts.

VBA will use resulting audit reports to protect against fraudulent claims and billing activity related to the MDE contracts, including remediation of contractor over-coding, improper unbundling processes, and inappropriate documentation processes.

Historically, a financial audit contract was in place to provide for audits of all MDE contracts administered by VBA; however, the most recent audit contract expired in January of 2016. The previous contractor was the accounting firm, David James, LLC. Since the previous audit contract expired, no replacement contract has been awarded. Currently, VBA is working with SAC-F to solicit and award a replacement audit contract, but such award is not anticipated to be made until June 2018, at the earliest.

On February 9, 2018, one of the MDE contractors (Medical Support Los Angeles (MSLA)) notified VA in writing of significant overbillings under its contracts with VBA. Specifically, MSLA self-reported accounting errors under its contract numbers VA119A-17-D-0010, and to a lesser extent, VA791-P-0105, resulting in numerous under- and over- billings that, when combined, amount to \$2,339,176.80 in total overbilling to VA. When questioned by the Contracting Officer, VBA indicated that it had inadequate resources to audit the prior invoices to verify MSLA's self-reported figures. With no audit contract in place, and an award not expected for such contract until June 2018 at the earliest, VBA has an urgent and compelling need for immediate audit support. The priority of such services is an audit of MSLA's contracts, but may extend to other MDE contractors', as VBA needs to ensure those contracts were billed correctly, as well. It is noted that the Contracting Officer notified VA's Office of the Inspector General (IG) of MSLA's apparent overbillings at the advice of VA's General Counsel. While it is not apparent that fraud or other criminal activity was at play in the overbillings, the mere possibility of such criminal activity necessitated intervention by the IG. Furthermore, while a solicitation for a more permanent audit contract is in process, VBA's need for independent audit of MSLA's and other MDE contractor invoices is critical at this time so VA can be assured it has not overpaid for MDE services on past and current contracts.

Following is the estimated value of the proposed contract action:

CLIN	DESCRIPTION	UNIT OF ISSUE	QTY	EST UNIT PRICE	EST TOTAL PRICE
0001	Project Management Plan & Monthly Report	EA	12	\$375.00	\$4,500.00
0002	Audit LHI Contract # VA119A-17-D-0009 POP: 1/13/17 - 6/27/17	EA	1	\$176,078.14	\$176,078.14
0003	Audit LHI Contract # VA791-P-0107 POP: 10/18/16 - 1/12/17	EA	1	\$88,039.07	\$88,039.07
0004	Audit MSLA Contract # VA119A-17-D-0010 POP: 1/13/17 - 6/27/17	EA	1	\$176,078.14	\$176,078.14

CLIN	DESCRIPTION	UNIT OF ISSUE	QTY	EST UNIT PRICE	EST TOTAL PRICE
0005	Audit MSLA Contract # VA791-P-0105 POP: 10/18/16 - 1/12/17	EA	1	\$88,039.07	\$88,039.07
0006	Audit QTC Contract # VA119A-17-D-0011 POP: 1/13/17 - 12/12/17	EA	1	\$352,156.28	\$352,156.28
0007	Audit QTC Contract # VA791-P-0146 POP: 10/18/16 - 1/12/17	EA	1	\$88,039.07	\$88,039.07
0008	Audit QTC Contract # 36C10X18D0013 POP: 12/13/17 - 03/31/18	EA	1	\$352,156.28	\$352,156.28
0009	Audit QTC Contract # VA119A-16-D-0038 POP: 4/1/16 - 3/31/18	EA	1	\$704,312.56	\$704,312.56
0010	Audit QTC Contract # VA119A-16-D-0059 POP: 7/1/16 - 3/31/17	EA	1	\$264,117.21	\$264,117.21
0011	Audit VES Contract # VA119A-17-D-0012 POP: 1/13/17 - 12/12/17	EA	1	\$352,156.28	\$352,156.28
0012	Audit VES Contract # VA791-P-0108 POP: 10/18/16 - 1/12/17	EA	1	\$88,039.07	\$88,039.07
0013	Audit VES Contract # 36C10X18D0014 POP: 12/13/17 - 03/31/18	EA	1	\$352,156.28	\$352,156.28
0014	Audit VES Contract # VA798-13-D-0002 POP: 12/31/15 - 12/30/16	EA	1	\$352,156.28	\$352,156.28
0015	Audit VES Contract # VA119A-16-D-0039 POP: 4/1/16 - 3/31/18	EA	1	\$704,312.56	\$704,312.56
0016	Audit VetFed Contract # VA119A-17-D-0045 POP: 1/13/17 - 6/27/17	EA	1	\$176,078.14	\$176,078.14
0016	Audit VetFed Contract # VA119A-16-D-0060 POP: 7/1/16 - 3/31/17	EA	1	\$264,117.21	\$264,117.21
0017	Travel (Not-To-Exceed)	LOT	1	\$10,000.00	\$10,000.00
TOTAL INDEPENDENT GOVERNMENT COST ESTIMATE (IGCE)					\$4,592,531.64

The following methodology was used in developing the above referenced IGCE. The proposed contract requires the audit of numerous MDE contracts, with each contract requiring audit of a specific period of performance. A "per audit" unit price was established, equating to an audit of six months' worth of invoices on a particular contract. The estimated "per audit" unit price is \$176,078; however, because each contract to be audited varies in the number of months to be audited, the "per audit" unit price was adjusted in relation to the total number of months to be audited. For example, if the total number of months to be audited was approximately 6 months, then the unit price for the audit would be equal to 1x the estimated "per audit" rate of \$176,078. If the total number of months to be audited was approximately 12 months, then the unit price of the audit would be equal to 2x the "per audit" rate, or \$352,156. If the total number of months to be audited was approximately 3 months, then the unit price of the audit would be equal to 0.5x the "per audit" rate, or \$88,039.07.

4. Identification of the statutory authority permitting other than full and open competition.

This acquisition is conducted under the authority of the Multiple-Award Schedule (MAS) Program which are primarily authorized under [41 U.S.C. 152\(3\)](#), Competitive Procedures, and [40 U.S.C. 501](#), Services for Executive Agencies. The statutory authority allowing a Contracting Officer to limit sources under such orders is found under [FAR 8.405-6\(a\)\(1\)\(i\)\(A\)](#), which allows orders to be placed against Federal Supply Schedules when an urgent and compelling need exists, and following the ordering procedures would result in unacceptable delays.

5. Demonstration that the proposed contractor's unique qualifications or the nature of the acquisition requires use of the authority cited.

VA has an urgent and compelling need for immediate support for financial audits of VBA's MDE contractor invoices and billing practices. VA has not had an MDE audit contract in place since January 2016. Due to the recent allegation of over \$2.3 million in overbillings under MSLA's MDE contracts, combined with the inability of VBA to independently verify MSLA's apparent overbilling or to adequately verify proper invoicing processes of its other MDE contractors, VBA requires contractor support to provide such independent audit services. While a new solicitation is expected to result an award of a longer term MDE audit contract, award will not be made until June 2018, at the earliest. The apparent overbilling by MSLA resulted in the Contracting Officer reporting the incident to VA's Office of the Inspector General (IG), and VBA needs to independently verify the overbillings in order to support its response to the IG investigation.

A sole source award to the previous audit contractor (David James, LLC) will allow for a reliable audit of the accuracy of MSLA's and other MDE contractors' invoices. Award to David James, LLC, will allow VBA to verify and respond to reported overbilling, and to provide assurance that vendors have not overbilled since the

previous audit contract expired (two years ago).

No other contractors (other than the incumbent) have the ability to immediately provide the required billing audit services without significant start-up delays in both developing systems and developing the necessary IT interfaces with VA. While the current need is also urgent and compelling, the basis of this need stems from performance issues of one of the contractors. MSLA has failed to meet the contractual ramp-up period and performance standards by which it was to begin receiving 100% of its contracted exam volume. VBA had to stop sending work to MSLA and re-direct their exams/ appointments to the Bridge contractors to cover their lack of performance. MSLA became so far behind in timeliness and quality that the Government obtained MSLA's agreement to enter into a Stop Work arrangement that will allow alternate contractors to provide the needed services, while VA and MSLA settle any outstanding issues on the contracts. Part of the resolution is to determine the exact amount of overbilling, as well as to provide VBA's overall perspective on overbillings on the MDE contracts to the IG.

Awarding a sole source contract David James, LLC is the most appropriate method to quickly address any misbillings on the MDE contracts and to ensure invoices are accurately billed going forward. David James, LLC is the only vendor prepared to begin performance following expiration of the previous audit contract without significant start-up delay. The total estimated value of this acquisition is \$4.6 Million.

If this action is not approved, VBA will not be able to independently verify accuracy in invoices billed for MDE services over the past two years. Once David James LLC completes its audit of the past MDE contracts, the new, longer term audit contract will be in place to provide continued audit services for the foreseeable future. The new audit contract is expected to be awarded to a Service Disabled Veteran Owned Small Business, and David James LLC will not be entitled to award of the longer term contract since it is not an SDVOSB.

6. Best Value Determination in accordance with FAR 8.404(d).

The proposed award to David James LLC represents the best value consistent with [FAR 8.404\(d\)](#). Services offered on the schedule are priced either at hourly rates, or at a fixed price for performance of a specific task, and GSA has already determined the prices of fixed-price services, and rates for services offered at hourly rates, under schedule contracts to be fair and reasonable. Therefore, ordering activities are not required to make a separate determination of fair and reasonable pricing, except for a price evaluation as required by [8.405-2\(d\)](#). By placing an order against a schedule contract using the procedures in [8.405](#), the ordering activity has concluded that the order represents the best value (as defined in FAR [2.101](#)) and results in the lowest overall cost alternative (considering price, special features, administrative costs, etc.) to meet the Government's needs in light of the urgent and compelling nature of the requirement. Although GSA has already negotiated fair and reasonable pricing, the Contracting Officer will seek

additional discounts before placing the order ([see 8.405-4](#)).

7. Market Research.

The Government performed extensive market research among schedule holders in preparation of the new audit contract projected to be awarded in June 2018, and is aware that numerous sources could potentially provide this short-term requirement. The new audit contract will be competed on GSA Schedule 00CORP (Professional Services Schedule (PSS)/Financial and Business Solutions (FABS), Category 520 7 (Financial & Performance Audits). This is the most appropriate category because these vendors perform finance related audits using Generally Accepted Government Auditing Standards. Each vendor in this schedule is a Certified Public Audit (CPA) firm. David James, LLC, is on this schedule and was the previous auditing firm used for the MDE contracts. There are 105 Small Business firms under this category; 13 VOSBs; and 6 SDVOSBs. However, insufficient time is available for the Government to hold a new competition and guarantee an immediate and thorough independent audit of the accuracy of all MDE vendors' invoices to respond to reported overbilling, and to provide assurances that vendors have not overbilled since the previous audit contract expired (two years ago). Furthermore, no other vendor besides David James LLC would be able to begin performance without significant start-up delays, because David James has been the only audit firm overseeing the MDE contracts in recent years and has the immediate infrastructure, experience, and prior knowledge base to immediately assume performance of the required services. Any other vendor would require reasonable ramp-up time and completion of a learning curve before such vendor would be ready to adequately perform the audits according to VBA's needs. As a result, no additional market research was conducted beyond what was recently prepared.

8. Any Other Facts Supporting this Justification.

If this action is not approved, VBA may suffer severe financial injury due to potential overpayments, because VBA currently has inadequate means to audit invoices billed over the past two years under the MDE program. Based on the self-reported overbillings of one of the five current MDE contractors, it is apparent that approximately \$2.3 million in overbillings has occurred. VBA needs an independent verification of the apparent overbilling, as well as an independent assessment of all other MDE contractor billings over the past two years.

9. Efforts to Obtain Competition.

In accordance with [FAR 8.405-6\(c\)\(2\)\(viii\)](#), following is a statement of the actions VBA is taking to remove or overcome any barriers that led to the restricted consideration of sources under this acquisition. VA is currently in the process of competing among SDVOSB vendors for award of a longer term audit contract; however, award is not anticipated until approximately June 2018. Accordingly, competition will be greatly increased for the longer term audit contract when

compared to this short term, sole source contract. Due to the urgent and compelling nature of the current audit requirement, there are no other actions that can be taken to increase competition for this particular requirement; however, significant competition will be provided for acquisition of the longer term, five-year contract for MDE audit services.

1. 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.

Pamela Miller
Program Manager
Veterans Benefits Administration (VBA)

Date

2. Determination of Best Value/Contracting Officer Certification: I hereby determine that the proposed contract actions will represent the best value to the Government and certify that this justification is accurate and complete to the best of my knowledge and belief.

Stephen Nickles
Contracting Officer
Strategic Acquisition Center - Frederick
Office of Acquisition Operations

Date

APPROVAL

Based on the foregoing justification, I hereby approve of this limited sources justification for the acquisition of Medical Disability Examination (MDE) financial audit services in the estimated total amount of \$4.6 million, pursuant to the authority cited in [41 U.S.C. 152\(3\)](#), Competitive Procedures, and [40 U.S.C. 501](#), Services for Executive Agencies, and implemented in [FAR 8.405-6\(a\)\(1\)\(i\)\(A\)](#), subject to availability of funds, and provided that the services herein described have otherwise been authorized for acquisition.

Clint Druk
Competition Advocate
Office of Acquisition Operations

Date