

DEPARTMENT OF VETERANS AFFAIRS

Justification and Approval (J&A)
For
Other Than Full and Open Competition (Over the SAT)

Acquisition Plan Action ID: VA263-18-AP-11013

1. **Contracting Activity:** Department of Veterans Affairs, VISN 23, *Sioux Falls Medical Center* For Requisition Number **438-17-4-485-0044** for Nursing Home Services.
2. **Nature and/or Description of the Action Being Processed:** Maximum contract limit increase for 8 months will be awarded by modification to an existing VA Indefinite Delivery Contract (IDC) contract **VA263-17-D-0125** with **Avera St. Mary (dba Marys House) Pierre SD.**
3. **Description of Supplies/Services required to Meet the Agency's Needs:** *This is a modification to an IDC for Nursing Home services estimated at \$55,000.00, the total estimated value of the acquisition will be \$550,000.00 with this modification.*
4. **Statutory Authority Permitting Other than Full and Open Competition:** Per 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):**

This is a justification to increase the Maximum Order Limit (MOL) of an indefinite quantity contract for nursing home services for contract number **VA263-17-D-0125** between the Department of Veterans Affairs in Sioux Falls South Dakota and the Riverview Healthcare Community Nursing Home under the authority of FAR 6.302-1, because only one (1) responsible source is capable of performing these services and because the quality of patient care necessitates the modification for the increase.

The Department of Veterans Affairs places patients in nursing homes that have a convenient locale to the patients' family and friends for patient care reasons. Once the Veterans are placed in a nursing home it is not desirable to move them based on patient care reasons and because nursing home patients may have fragile medical conditions and doing so could compromise their health. Such may be adverse to Veteran care. Thus, patient care is the basis for viewing the current facility as the only responsible source. Presently, patients are residing in the Riverview Healthcare Community, so there is only 1 nursing home that can meet this requirement. The circumstances require an increase to the maximum order limit for the contract for an eight month period of time in the amount of \$550,000.00.

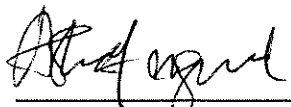
6. **Determination by the CO that the Anticipated Cost to the Government will be Fair and Reasonable:** Medicaid is a State-based program and each State regulatory program differs from state to state. If a Medicaid program is followed, the State issues a Medicaid rate letter to the nursing home listing its Medicaid rate. Since Medicaid rates are typically low, a percentage add-on is often negotiated to the base rate to arrive at the Medicaid per diem rate. South Dakota uses RUGS III for the categories of medical services.

Notably, a Medicaid rate is considered fair and reasonable on the face of the established State rate. The percentage add-on to the base rate is traditional, as the VA desires quality health care for its veterans in nursing homes. The percentage add-ons for **Avera St. Mary (dba Mary's House) Pierre SD** were found to be fair and reasonable at the time of contract award and those rates are not changing. Because the Medicaid rate is often much lower than Medicare rates, the percentage add-on is reasonable in view of the VA's desire for quality medical services. These rates are considered fair and reasonable, because the percentage add-ons are consistent with previous rates and add-ons in the industry. Fairness to the VA and the nursing home is apparent because an add-on percentage was negotiated, and such does not exceed Medicare rates. For all of the aforementioned reasons, the Medicaid rates are considered fair and reasonable.

Description of the Market Research Conducted and the Results, or a Statement of the Reasons Market Research Was Not Conducted: Market Research was not conducted because the reason for sole source of this modification is patient care.

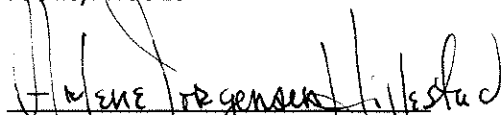
7. **Any Other Facts Supporting the Use of Other than Full and Open Competition:** *None.*
8. **Listing of Sources that Expressed, in Writing, an Interest in the Acquisition:** *Not applicable.*
9. **A Statement of the Actions, if any, the Agency May Take to Remove or Overcome any Barriers to Competition before Making subsequent acquisitions for the supplies or services required:** *Not applicable.*
10. **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.
11. **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.



Name: Ashraf Moghul
Title: Contract Specialist
Facility: NCO23

05-11-18
Date



Name: Arlene Jorgensen Hillestad
Title: Contracting Officer
Facility: NCO23

5-11-18
Date