

## LIMITED SOURCES JUSTIFICATION

ORDER >\$150,000

FAR PART 8.405-6

Acquisition Plan Action ID: VA257-18-AP-3767

- 1. Contracting Activity:** *Department of Veterans Affairs, VISN / Network Contracting Office (NCO) 17, Central Texas VA HealthCare System (CTVHS), Temple and Waco Medical Centers. Purchase Request# 674-18-2-5166-0013, Water Quality Sampling Contract.*
- 2. Description of Action:** *This acquisition is conducted under the authority of the Multiple-Award Schedule Program (41 U.S.C. 251 and 40 U.S.C. 501). NCO 17 CTVHS Contracting Team proposes a sole source, firm fixed price task order award with Phigenics. The award will be a task order with a base year and 4 option years under GSA eBuy Schedule 03 FAC, SIN 871 210 (Water Conservation).*

Order against: ☒ FSS Contract Number: GS-21F-0041Y / 03FAC -871 210

Name of Proposed Contractor: **Phigenics**

Street Address: **1701 Quincy Ave Suite 32**

City, State, Zip: **Naperville, IL 60540-6683**

Phone: **(757) 705-0546**

### **3. Description of Supplies or Services:**

*The estimated value of the proposed action is \$3,337,800 (Base plus 4 Option Years)*

*This project enables CTVHCS to meet monitoring and sample requirements for VHA Directive 1061, drinking water monitoring for Texas Commission for Environmental Quality (TCEQ) and most importantly, increase legionella mitigation and risk prevention for our Veterans, employees and visitors. It also provides maintenance and calibrations of our continuous monitoring equipment uniquely provided by Phigenics. It provides for sample collection at our three major campuses (Temple, Waco and Austin) with occasional sample collection at different outpatient clinics if deemed necessary by CTVHCS.*

| Performance Year | Pricing        | Performance Period    |
|------------------|----------------|-----------------------|
| Base             | \$667,560.00   | 6/01/2018 – 5/31/2019 |
| Option Year I    | \$667,560.00   | 6/01/2019 – 5/31/2020 |
| Option Year II   | \$667,560.00   | 6/01/2020 – 5/31/2021 |
| Option Year III  | \$667,560.00   | 6/01/2021 – 5/31/2022 |
| Option Year IV   | \$667,560.00   | 6/01/2022 – 5/31/2023 |
| Total            | \$3,337,800.00 |                       |

**(4) IDENTIFY THE AUTHORITY AND SUPPORTING RATIONALE (see 8.405-6(a)(1)(i)(A), (B), and (C) or 8.405-6(b)), AND IF APPLICABLE, A DEMONSTRATION OF THE PROPOSED**

**CONTRACTOR'S UNIQUE QUALIFICATIONS TO PROVIDE THE REQUIRED SUPPLY OR SERVICE.  
(CHECK ALL THAT APPLY AND COMPLETE)**

☐ An urgent and compelling need exists, and following the ordering procedures would result in unacceptable delays.

☒ Only one source is capable of providing the supplies or services required at the level of quality required because the supplies or services are unique or highly specialized;

☒ In the interest of economy and efficiency, the new work is a logical follow-on to an original Federal Supply Schedule order provided that the original order was placed in accordance with the applicable Federal Supply Schedule ordering procedures. The original order must not have been previously issued under sole source or limited source procedures.

*In accordance with FAR 16.505(b)(2)(i)(C), it is recommended that these services be contracted as a Logical Follow-On contract to meet this need. VHA Directive 1061 was issued in August 2014. A Solicitation was issued in April 2014 via GSA FSS 03FAC – 871 210 as a competitive Total Small Business Set-Aside. The requirement was for water sampling, analysis and reporting. There were 2 offers received and an award (VA257-14-F-2134) was subsequently issued to Phigenics as a Base year with 4 Option years in the amount of \$117K per year. A second requirement was awarded for \$372,859.72 as a one-year contract to Phigenics LLC on December 22, 2015, under contract number GS-21F-0041Y / VA257-16-F-0622 to provide a Continuous Monitoring of Engineering Controls Program in addition to 2 Potable Water Analytic (PWA) Base Monitoring Systems and 5 Secondary Disinfection Systems, maintenance for these systems, and validation testing. A Limited Sources Justification was approved and the contract was issued as an "Emergency" under FAR Part 6 as "Urgent and Compelling". A task order was issued off the GSA Federal Supply Schedule 03 FAC, SIN 871 210 (Water Conservation). It was determined that Phigenics was the only company that could provide all the necessary services to ensure the CTVHCS met the requirements for the VHA Directive 1061. In fact, Phigenics was the only company out of 28 companies registered under SIN 871 210 as a small business that submitted a proposal for this contract.*

*As Phigenics provided the original equipment, they have the expertise to provide continued maintenance and service to the equipment in addition to providing uninterrupted facilitation of the CTVHCS Management Program and validation testing. Sample collection, shipping procedures and culture methodology is not standardized. Changing vendors would undoubtedly change the results due to differences in these factors, and would disrupt the trend analysis done to prevent legionella. Due to the data being maintained in Phigenics website, Phigenics is the only company than can access and update the sample results. Phigenics staff are the only trained and certified personnel authorized to perform work on this equipment.*

*For these reasons and the fact Phigenics has an extensive working knowledge of not only our water systems, also VHA Directive 1061 a Logical Follow On Contract should be executed with Phigenics to include PWA maintenance, Water Management Program, and validation testing.*

☐ Items peculiar to one manufacturer:

☐ A patent, copyright or proprietary data limits competition. The proprietary data is: (If FAR 8.405-6(a)(2)iii before posting. Do not include specific proprietary data. Only mention the type of equipment, procedure, etc. to show that proprietary supplies or services are being procured.)

☐ These are “direct replacements” parts/components for existing equipment.

☐ The material/service must be compatible in all aspects (form, fit and function) with existing systems presently installed/performing. Describe the equipment/function you have now and how the new item/service must coordinate, connect, or interface with the existing system.

**(5) DESCRIBE WHY YOU BELIEVE THE ORDER REPRESENTS THE BEST VALUE CONSISTENT WITH FAR 8.404(d) TO AID THE CONTRACTING OFFICER IN MAKING THIS BEST VALUE DETERMINATION:**

*The anticipated price to the government is considered fair and reasonable based upon analysis of pricing information provided by other VA facilities for the same services and from our own experience. Phigenics has previously provided analytical services for legionella testing to CTVHCS and the prices paid are basically the same that we would pay today. The previous contracts were VA257-14-F-1773, VA257-14-F-2134 and VA257-16-F-0622 and range in price from \$48 to \$120 per sample. The pricing varies from contract to contract and from facility to facility because different facilities require different types of samples and so forth. Given the volume of testing needed for the Central Texas facility, the price will be higher for the overall contract amount. However, the per sample price will be in a reasonable price range.*

*The pricing for this requirement will be determined Fair and Reasonable because the Government will issue a task order with a pre-approved vendor and will benefit from “most-favored customer” pricing with GSA Schedules. In addition, GSA FSS pricing is already considered Fair and Reasonable, plus customers can negotiate further discounts at higher volumes.*

**(6) DESCRIBE THE MARKET RESEARCH CONDUCTED AMONG SCHEDULE HOLDERS AND THE RESULTS OR A STATEMENT OF THE REASON MARKET RESEARCH WAS NOT CONDUCTED:**

*Market research was conducted to verify pricing by calling other VA facilities. Sample prices ranged from \$98 to \$124 for legionella sample collection and analysis. The continuous monitoring equipment is produced for Phigenics. Additionally, the data from all our continuous monitoring and sampling is maintained on the Phigenics website and made available to the Water Safety Committee members for risk assessment and data trending. Changing vendors would require replacing the continuous monitoring equipment and would create a break in our sampling continuity and cause increased prices of over \$100,000. Currently, EPA has not approved a standardized method for analysis of legionella samples. Laboratories providing legionella analysis must belong to the Center for Disease Control (CDC) ELITE program.*

*A Sources Sought notice was issued by the Contract Specialist to determine if there were any companies, especially total small businesses, that could provide the sampling, data reporting and repository, monitoring system maintenance and repairs. There were a total of 3 firms that responded to the Sources Sought; 1. Hyperion Biotechnology (SDVOSB) – although they were*

CDC ELITE certified, they acknowledged that they did not have their Microbiology accreditation and didn't offer monitoring system maintenance and the web-based tracking system greatly needed by the facilities. 2. A&B Labs (Small Hubzone) – they are also CDC ELITE; however, they also don't have the Microbiology accreditation nor web-based tracking system. 3. Precision Sourcing (SDVOSB) – they are not CDC ELITE but would subcontract out to NALCO. They would not be able to meet the requirements of the "Limitations on Subcontracting" clause 52.219-14.

A search of the Vetbiz Registry under NAICS 541380 (Testing Laboratories) yielded a total of 224 firms. However, when including the keyword Legionella, only 3 were found. Neither one had the full certifications or accreditation needed for this requirement but are in the process of trying to obtain the additional microbiology certifications.

**(7) ANY OTHER FACTS SUPPORTING THE JUSTIFICATION:**

CTVHS purchased the continuous monitoring equipment but did not include the maintenance and repair services into the purchase; therefore, it is essential to the government to ensure that there is a task order in place to repair the equipment when needed.

VHA Directive 1061 requires that Legionella testing is conducted by a laboratory that has both a CDC ELITE certification as well as an environmental Microbiology accreditation by a nationally recognized accrediting body, such as EMPAL, NELAP, etc. There are currently only 2 SDVOSB's that are listed as CDC ELITE certified and neither have the microbiology accreditation required.

Since there is no standard sampling and analysis method for legionella, this means that any time you change vendors, your percent positive results are highly likely to increase. The Central Texas Veterans Health Care System (CTVHCS) is currently in the middle of a lawsuit that was filed against the facility and VHA. It would be perilous for us to change vendors now while we are amid a lawsuit.

**The "Rule of Two" has been addressed and the Contract Specialist searched the VetBiz site and issued a Sources Sought Notice via FBO.gov with the results mentioned in paragraph 6 above.**

**(8) A STATEMENT OF THE ACTIONS, IF ANY, THE AGENCY MAY TAKE TO REMOVE OR OVERCOME ANY BARRIERS THAT LED TO THE RESTRICTED CONSIDERATION BEFORE ANY SUBSEQUENT ACQUISITION FOR THE SUPPLIES OR SERVICES IS MADE:**

In situations involving continuous monitoring equipment of drinking water, it is difficult to remove barriers to competition because each company builds things uniquely and a company different from Phigenics would not be trained to calibrate, maintain or repair the current equipment. The CTVHCS is satisfied with the quality and operation of the installed equipment, its maintenance and repair. CTVHCS currently does not have the sufficient budget to replace the current continuous monitoring equipment. Considerations for new equipment will be made when the existing equipment reaches the end of its life cycle span in roughly 3 to 5 years. Furthermore, once the lawsuit has been settled and we reach a point of equilibrium in our system, we could possibly change systems or split the requirement up and create separate contracts for new equipment and maintenance and sampling and reporting.

**(9) 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. I understand that processing of this limited sources justification restricts consideration of Federal Supply Schedule contractors to fewer than the number required by FAR Subpart 8.4. *(This signature is the requestor's supervisor, fund control point official, chief of service-or someone with responsibility and accountability.)*

Raye A. Griffin 350454 Digitally signed by Raye A. Griffin 350454  
Date: 2018.03.29 10:23:21 -05'00'

SIGNATURE

2 Mar 2018

DATE

Raye Ann Griffin

NAME

Chief, Safety

TITLE

ADOW/Safety

SERVICE LINE/SECTION

Central Texas VA Health Care System (674)

FACILITY

**(10) APPROVALS IN ACCORDANCE WITH THE VHAPM Part 806.3 OFOC SOP:**

**a. CONTRACTING OFFICER'S CERTIFICATION (required):** I certify that the foregoing justification is accurate and complete to the best of my knowledge and belief.

Bryan T Boland 662031 Digitally signed by Bryan T Boland  
662031  
Date: 2018.04.17 07:20:39 -05'00'

CONTRACTING OFFICER

DATE

Bryan T. Boland, Branch Chief – Services 1

NAME AND TITLE

NCO17 – Station 671

FACILITY

**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.

Jeffrey S. Morris 1567009 Digitally signed by Jeffrey S. Morris 1567009  
Date: 2018.04.17 14:58:22 -05'00'

Jeffery S. Morris  
NCO 17, Division 1 Chief

DATE

**HIGHER LEVEL APPROVAL (Required for orders over \$700,000):**

**c. VHA SAO HCA REVIEW AND APPROVAL (over \$700,000 to \$68 million):** I have reviewed the foregoing justification and find it to be complete and accurate to the best of my knowledge and belief and approve for restricting consideration of the Federal Supply Schedule contractors to fewer than the number required by FAR Subpart 8.4.

Delia A. Adams, MBA, CPCM  
Executive Director, Service Area Office West  
Head of Contracting Activity (HCA)

27 April 2018  
DATE