

DEPARTMENT OF VETERANS AFFAIRS

**Justification and Approval (J&A)
For
Other Than Full and Open Competition (>SAT)**

Acquisition Plan Action ID: VA242-18-AP-6937

1. **Contracting Activity:** Department of Veterans Affairs, VISN 2, VA Western New York Healthcare System (VAWNYHS), Network Contracting Office (NCO) 2
Purchase Request: 528-18-3-4992-0021
Acquisition Plan: VA242-18-AP-6937
2. **Nature and/or Description of the Action Being Processed:**
This is a new Firm Fixed Price contract for construction at the Buffalo VAMC.
3. **Description of Supplies/Services Required to Meet the Agency's Needs:**
Project Number 528-18-s58, Install Signa Artist 1.5T MRI Equipment at the Buffalo VA Medical Center. The contract is to complete site preparation work for the new GE Signa Artist 1.5T MRI machine. This construction will be a sole source requirement as a result of it being part of a previously subcontracted design-build project under a VA NAC awarded contract. The design is completed and is proprietary to M.E.I.D. Construction, LLC, Construction Division. The Contractor shall furnish labor and materials and perform work for this project as required by their drawings and specifications. Work includes Heating, Ventilating & AC, Chiller Controls, Electrical, Finishes and necessary removal of existing structures and construction and certain other items. The construction work includes structural support for the equipment and mechanical work in the Radiology MRI exam, equipment and control rooms as well as a roof top chiller.
The estimated cost is \$337,500.
The contract completion time is 90 days.
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 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):**
The Department of Veterans Affairs (VA), through the National Acquisition Center (NAC) placed an order with GE Healthcare for a Signa Artist 1.5T MRI under Delivery Order No. VA18-00103553. The GE Healthcare order included turnkey design and construction services to complete the requirement. This order included the requirement for preparation of construction documents for

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the project. Subsequent to the issuance of the order by NAC, a change in VA policy relating to compliance with FAR Part 22 determined that the NAC would no longer process turnkey equipment orders where the site preparation cost exceeded 20% of the value of the equipment price. Therefore, the site preparation work for this order needs to be acquired by the local NCO2 so that the equipment can be purchased and installed through the NAC order.

The NAC order provides for GE Healthcare, through its subcontractor M.E.I.D., LLC, to complete the site preparation construction work associated with general construction and electrical work for the MRI scanner room, the MRI system component room, and the MRI control room. The site preparation work that exceeds the 20% limitation and that will be acquired by the NCO2 contracting office includes the remaining construction work, including structural support for the equipment and associated mechanical work.

GE Healthcare subcontracted the design-build construction work to M.E.I.D., LLC, a small business, which in turn subcontracted the site preparation architectural and engineering design work to IPD Engineering. IPD Engineering completed the construction documents on April 6, 2018 and submitted these professionally stamped documents to M.E.I.D., LLC.

At issue here is that the subject construction contract, which includes the remainder of the site preparation work necessary for installation and use of the MRI scanner, must be awarded to M.E.I.D., LLC for the following reasons:

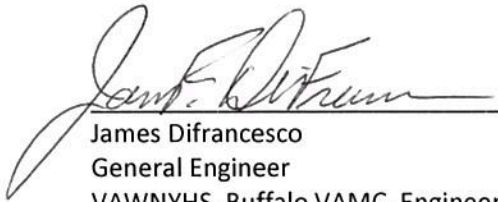
- a. The construction documents were prepared by IPD Engineering for its client, M.E.I.D., LLC. The Department of Veterans Affairs does not have a contract with IPD Engineering and would not be in a position to request preparation of any supplemental drawings, specifications or other documents that may be required to clarify or supplement the construction documents. Such services are normal to an architect-engineer contract and the lack of such a contract could result in unacceptable delays during the bidding or construction periods.
- b. The construction documents were prepared by IPD Engineering for its client, M.E.I.D., LLC, with the intent that M.E.I.D., LLC, as the general contractor, would exclusively perform all of the work shown in the construction documents. Contracting with IPD Engineering or another firm for the required services necessary to prepare separate construction documents for bidding related to this requirement would result in additional costs and unacceptable delays in fulfilling the agency's requirements.
- c. The drawings and completion schedule for the contract require the contractor to perform work concurrently and in the same spaces as the work to be performed by M.E.I.D., LLC, under subcontract to GE Healthcare, and the overall progress schedule will have many dependencies between tasks to be performed by M.E.I.D., LLC, under subcontract to GE Healthcare, and tasks to be performed under this contract.
- d. Signa Artist 1.5T MRI is an advanced diagnostic imaging modality that is not currently available at the Buffalo VA Medical Center and cannot be installed or placed into service until the work under this contract is completed. A sole source contract to M.E.I.D., LLC, would expedite installation of the equipment, and eliminate substantial continuing rental cost of a mobile MRI unit that the Buffalo VA Medical Center has in place until this MRI equipment is delivered,

installed, and placed into service. Accordingly, M.E.I.D., LLC, is the only firm capable of providing the supplies and services described in Section 3 above without the Veterans Health Administration experiencing continued rental cost that that could not be recovered through competition and extended delay for completing the MRI equipment acquisition.

6. **Description of Efforts Made to ensure that offers are solicited from as many potential sources as deemed practicable:** For the reasons stated above, no action is planned to facilitate competition for this action as there is only one responsible source and no other supplies or services will satisfy agency requirements.
Sources Sought Synopsis: A sources sought notice was posted to FBO on May 31, 2018, to advertise this procurement and request capability statements from any firms that might believe that they can perform this requirement. The synopsis number is 36C24218Q0582. There were no responses.
7. **Determination by the CO that the Anticipated Cost to the Government will be Fair and Reasonable:**
It is expected that award will be made at a fair and reasonable price. The basis for this determination will be comparison of the proposed price with the Independent Government Estimate (IGE).
8. **Description of the Market Research Conducted and the Results, or a Statement of the Reasons Market Research Was Not Conducted:**
As described in Section 6 above, market research, in accordance with FAR Part 10, was conducted by synopsis of the proposed acquisition, advising industry of the pending acquisition and soliciting inquiries from interested parties.
9. **Any Other Facts Supporting the Use of Other than Full and Open Competition:**
GE Healthcare provided all contract drawings and documents for this project. The VA NAC awarded the equipment purchase, including the requirement for site prep design-build services, to GE Healthcare. The necessary site prep work for the instant procurement is not severable from the already completed site prep design. Professional liability for the site prep design is between the designer, IPD Engineering, and M.E.I.D., LLC, the design-build subcontract. Therefore, since the site prep design work is already completed and professional liability is with M.E.I.D., LLC, only M.E.I.D. LLC can perform the necessary site prep construction requirement without a complete re-design of the project. This is not possible due to financial and time constraints.
10. **Listing of Sources that Expressed, in Writing, an Interest in the Acquisition:**
No vendors expressed interest following the posted notice of intent on FBO.
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:**
No actions are planned because there is no anticipated need for subsequent acquisition for the supplies or services required.
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,

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which are included in the justification, are accurate and complete to the best of my knowledge and belief.


James Difrancesco
General Engineer
VAWNYHS, Buffalo VAMC, Engineering Department

6/11/18
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.

David M. Esmay
Contracting Officer, NCO2

Date

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

Edward J. Kostolansky
Contracting Officer, NCO2

Date