

DEPARTMENT OF VETERANS AFFAIRS

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

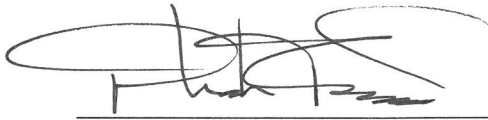
Acquisition Plan Action ID: 36C24C-18-AP-0021

- Contracting Activity:** Department of Veterans Affairs, SAO Central Region Contracting Office, 212 3rd Ave. South, Suite 29, Minneapolis, MN 55401.
- Nature and/or Description of the Action Being Processed:** This procurement is for medical-grade bulk liquid oxygen in accordance with FAR 13.501(a) Simplified Procedures for Certain Commercial Items. Irish Oxygen has lost the ability to be determined a responsible contractor due to performance issues caused by the lack of payments to numerous sub-contractors on other Department of Veterans Affairs contracts; the Department of Veterans Affairs has determined the award of a sole source contract to ensure the continued availability of medical-grade bulk liquid oxygen is in the best interest of the Government. The purpose of this justification is to request a sole source contract with A&B Welding Supply Co. who is the current tanks owner and manufacturer of the liquid bulk oxygen located at the Fort Meade and Hot Springs Health Care Systems in VISN 23. The sole-source contract will be awarded as a firm-fixed price, indefinite-delivery requirements contract.
- Description of Supplies/Services Required to Meet the Agency's Needs:** Liquid Bulk Oxygen is a critical supply for the VA Medical Centers. Due not exercising the contracts option period, an emergency bridge contract is necessary to ensure continuous supply of bulk oxygen without interruption of the supply. The purpose of this contractual action is to maintain a continuous source of supply of medical-grade liquid bulk oxygen for the Fort Meade and Hot Springs Health Care Systems located in VISN 23 impacted. At each of the facilities, the bulk liquid tank is owned by A&B Welding Supply Co. A&B Welding Supply Co. also manufactures the liquid bulk oxygen. Liquid Oxygen is a pharmaceutical that is regulated by the FDA. Per industry standard, only the company who manufactures the gas is allowed to re-fill the liquid oxygen tank. This is due to Liquid Oxygen being a controlled substance regulated by the FDA. Any other product blended into the tank would cause cross contamination of the gas and therefore cannot be certified as medical grade. The requirement will be for A&B Welding Supply Co. to rent their tanks to the Fort Meade and Hot Springs Health Care Systems, and deliver the liquid oxygen gas as needed. The total estimated award is \$82,341.28. The period of performance will be a base period of six months with a six-month option.
- Statutory Authority Permitting Other than Full and Open Competition:** The authority for applying the Simplified Procedures for Commercial Items of FAR 13.5 is 41 U.S.C. 1901 and is implemented for restricting competition on this procurement via FAR 13.106-1(b)(1).

5. **Demonstration that the Contractor's Unique Qualifications or Nature of the Acquisition Requires the Use of the Authority Cited Above (applicability of authority):**
At each of the facilities, the bulk liquid tank is owned by A&B Welding Supply Co. A&B Welding Supply Co. also manufactures the liquid bulk oxygen. Per industry standard, only the company who manufactures the gas is allowed to re-fill the liquid oxygen tank due to potential cross contamination of the gas. The Government received notice from three of the current contractor's sub-contractors stating they will no longer deliver any supply for the contractor due to substantial lack of payment. As a result of these notices, the Government has lost its confidence in the ability of Irish Oxygen to maintain the financial stability required to perform under this contract. Liquid bulk oxygen is critical for the VA Medical centers for patient care as it is piped into the medical center and used for medical treatment and life support. Any interruption in supply has the potential to interrupt all aspects of patient care to the Veterans receiving care at the Fort Meade and Hot Springs Health Care Systems. The Government was not provided adequate notice to allow them to issue a competitive solicitation for this critical supply.
6. **Description of Efforts Made to ensure that offers are solicited from as many potential sources as deemed practicable:** As stated above, the lack of adequate notice does not allow time for the Government to solicit, negotiate and award a competitive contract. This emergency contract will allow for the critical supply to continue without interruption. The Government shall issue a competitive solicitation after award of the emergency sole-source.
7. **Determination by the CO that the Anticipated Cost to the Government will be Fair and Reasonable:** Price reasonableness will be established based on a comparison of current Government contracts, the terminated contract and the independent government estimate.
8. **Description of the Market Research Conducted and the Results, or a Statement of the Reasons Market Research Was Not Conducted:** Market research does support a competitive marketplace for this type of product, however, the urgent and compelling circumstances will not allow the Government to procure this product on a competitive basis. An emergency sole source bridge contract is required with the intention of competitively soliciting a new long-term contract Market research confirms the commerciality of the product being requested. The requirement is a supply contract, and thus NAICS code 325120, Industrial Gas Manufacturing with a size standard of 1,000 employees will be used. The resulting contract will be an Indefinite Delivery-Requirements contract vehicle; this will allow requesting facilities the ability to place immediate orders which will result in no stoppage of supply. This will also allow for the Government to competitively re-solicit for a new long-term contract. Price reasonableness will be established based on a comparison of current Government and the IGCE.
9. **Any Other Facts Supporting the Use of Other than Full and Open Competition:** NA
10. **Listing of Sources that Expressed, in Writing, an Interest in the Acquisition:** NA

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:** An emergency sole source bridge contract is required with the intention of competitively soliciting a new long-term contract Market research confirms the commerciality of the product being requested.

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.



Stacie Collins
Administrative Officer
VA Black Hills Health Care System

Date

6-21-18

Deborah Ford
Acting USM 23 CLO

13. **Approvals in accordance with the VHAPM Part 806.3 OFOC SOP:**

a. **Contracting Officer** I certify that the foregoing justification is accurate and complete to the best of my knowledge and belief.

Jennifer Johnson
Lead Contracting Officer
SAO-Central Contracting

Date