

DEPARTMENT OF VETERANS AFFAIRS

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

Acquisition Plan Action ID: 36C259-18-AP-1387, Community Nursing Home in Pueblo, Colorado

1. **Contracting Activity:** Department of Veterans Affairs, Network Contracting Office 19 (NCO19) in support of the VA Eastern Colorado Healthcare Center (Denver).
2. **Nature and/or Description of the Action Being Processed:** This procurement is for the establishment of a sole source Firm-fixed price Indefinite-quantity contract for Community Nursing Home (CNH) Services to Peak Medical Colorado No. 2, Inc. (DBA: Pueblo Care and Rehabilitation Center) located in the city of Pueblo, Colorado. The current purchase order expires on August 31, 2018. The IDC will be written for five years, with a base year and four 12-month option years.

FAR13.5 Simplified Procedures for Certain Commercial Items: This procurement is for a CNH in Pueblo, Colorado in accordance with FAR 13.5 Simplified Procedures for Certain Commercial Items and specifically FAR 13.501 Special Documentation Requirements, where acquisitions conducted under Simplified Acquisition Procedures are exempt from the requirements of FAR Part 6, but still require a justification using the format of FAR 6.303-2.

3. **Description of Supplies/Services Required to Meet the Agency's Needs:** Currently, there are eight Veterans being housed/treated at this Community Nursing Home under a Purchase Order. The CNH must meet the program requirements stated in VA Handbook 1143.2. All potential CNH's must pass an initial inspection conducted by the Medical Center and comply with the requirements of VA Handbook 1143.2. Additionally, the CNH must be certified under Centers for Medicare and Medicaid Services (CMS) and licensed by the State of Colorado. The Performance Period for this IDC will be a base year plus four option years (September 1, 2018 to August 31, 2023). We anticipate awarding the IDC prior to August 31, 2018. The estimated performance period will be from September 1, 2018 to August 31, 2018. The estimated total dollar limitation for the IDC is \$3,848,310.00.
4. **Statutory Authority Permitting Other than Full and Open Competition:** 41 USC §3304(a)(1), as implemented by FAR 6.302-1 (a)(2).

- (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;

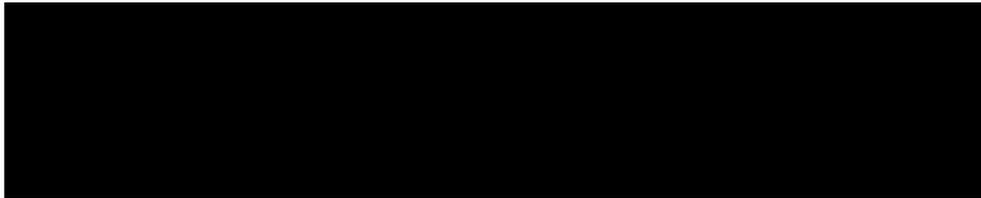
FAR13.5 Simplified Procedures for Certain Commercial Items: : The authority for applying the Simplified Procedures for Commercial Items of FAR 13.5 is 41 U.S.C. 1901 and is implemented by restricting competition on this procurement via FAR 13.106-1(b)(2).

5. **Demonstration that the Contractor's Unique Qualifications or Nature of the Acquisition Requires the Use of the Authority Cited Above (applicability of authority):** Currently, there are eight Veterans being treated and housed at the Pueblo Care and Rehabilitation Center under an existing purchase order and former contract. The community nursing home facility meets VA exclusion review quality of care standards to provide treatment to Veterans. The community nursing home has had a contract with the VA since 2012 that has since expired. Recent a short- term PO has been awarded to avoid a disruption in care for the Veterans receiving care at this facility. They have consistently provided quality care to our Veterans. The VA patients at this facility cannot be moved without causing undue medical hardship. An attempt to move the patients would cause a disruption in continuity of care, stress on both Veteran patients and their family members if Veterans were relocated to a different facility, and the possibility of non-compliance with VHA Handbook 1143.2. In accordance with FAR 6.302-1, this requirement for Community Nursing Homes Services will be sole sourced to Pueblo Care and Rehabilitation Center. In addition, as stated in paragraph six below, no responses were received to the sources sought notice for this procurement.
6. **Description of Efforts Made to ensure that offers are solicited from as many potential sources as deemed practicable:** A sources sought was posted on Federal Business Opportunities (FBO) July 20, 2018 and closed on August 03, 2018. The posting included the NAICS code 623110 for Nursing Care Facilities (Skilled Nursing Facilities) and the product service code of Q402 for Medical Services- Nursing Home Care Contracts. The posting was clear that potential offerors for the city of Pueblo, CO were being sought for Nursing Home Services. No potential offerors responded to the sources sought. The Small Business Administration website and the VA's Vendor Information Pages (VetBiz) were used to determine if potential offerors exist to determine additional competition. However, both sites failed to produce any results for Pueblo, Colorado.
7. **Determination by the CO that the Anticipated Cost to the Government will be Fair and Reasonable:** The Medicaid rates are used as the basis for pricing for CNH contracts. The Medicaid rates are established by each state. The VA Geriatrics and Extended Care Office publish the maximum add-on percentages that can be proposed for each Medicaid category or Resource Utilization Group (RUG). The IDC CLIN structure will reflect the RUGS IV levels of care (VA Base Rate) plus an add-on percentage that makes up the per-diem rate for each level of care. The Contracting Officer will determine that prices are fair and reasonable for each level of care, when it proposes both the VA Base rate and an add-on percentage for each level of care. The Contracting Officer determines that prices are fair and reasonable based on a proposed mark-up percentage that does not exceed the maximum allowable percentage established by VA. The add-on percentages do not change through the life of the contract. These maximum add-on percentages can be found in the Veterans Health Administration Procurement Manual Community Nursing SOP (Attachment 17).
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 Six above, market research, in accordance with FAR Part 10, was conducted by synopsis of the proposed acquisition, advising

VHAPM Part 806.3 Other Than Full and Open Competition (OFOC) SOP
Attachment 2: Request for Sole Source Justification Format >SAT

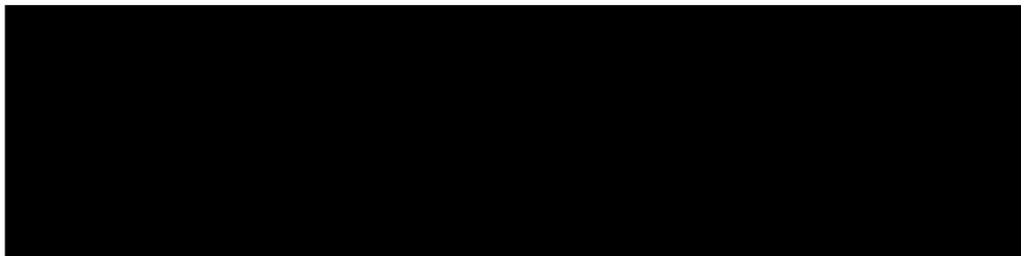
industry of the pending acquisition and soliciting inquiries from interested parties. The Small Business Administration website and the VA's Vendor Information Pages (VetBiz) were used to determine if competition exists. However, both sites failed to produce any results for Pueblo, Colorado that are a viable option outside the existing facility already treating and housing eight veterans. A search of the Medicare Nursing Home Compare website (<https://www.medicare.gov/nursinghomecompare/search.html>) resulted in 11 CNHs within the city of Pueblo, CO. Based on continuity of care, medical complexity and the best interests of the Veterans, these eight Veterans cannot be moved from this facility.

9. **Any Other Facts Supporting the Use of Other than Full and Open Competition:** There are currently eight Veteran patients in the Peak Medical Colorado No. 2, Inc. home which cannot be relocated or moved because of continuity of care, and medical complexity. Also, this CNH facilitates a location near the families of these Veterans.
10. **Listing of Sources that Expressed, in Writing, an Interest in the Acquisition:** No Community Nursing homes have expressed interest in this Acquisition.
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:** There is currently only one facility capable of providing the specialty care and medical needs of the existing patients. The contracting office will continue to canvas the market for new CNH entrants capable of meeting program requirements.
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.



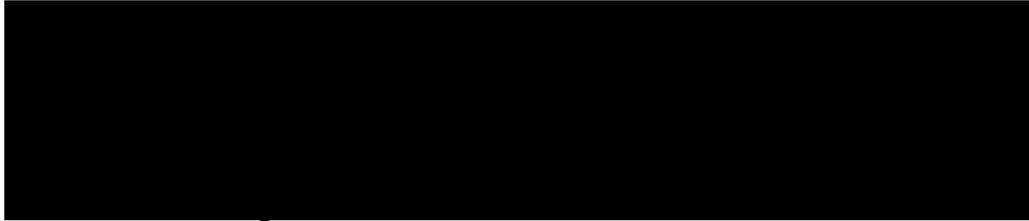
13. **Approvals in accordance with the [VHAPM Part 806.3 OFOC SOP:](#)**

- 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.



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- 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.



- c. **VHA SAO HCA Review and Approval:** I have reviewed the foregoing justification and find it to be complete and accurate to the best of my knowledge and belief and recommend approval (if over \$68 million) or approve (\$700K to \$68 million) for other than full and open competition.

