

DEPARTMENT OF VETERANS AFFAIRS

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

Acquisition Plan Action ID: VA701-17-P-0197/VA776C80124

1. **Contracting Activity:** Department of Veterans Affairs, Program Contracting Activity Central (PCAC)

2237 Number: 776-18-4-3249-0861

2. **Nature and/or Description of the Action Being Processed:** On August 27, 2018, a modification was issued, to the subject contract, to exercise the option for the performance period 9/30/2018 to 09/29/2019. It has since become known that additional deliverables, above those of the upcoming option, are needed to fulfill important program needs. For this reason, this request is made to modify the option to increase the quantity of deliverables.

FAR13.5 Simplified Procedures for Certain Commercial Items: This procurement is for additional quantities of deliverables in current contract. 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:**

This need for additional deliverables arose for two main reasons. (1) In July 2018, the government discovered, the newly-awarded EHRM contract with Cerner, did not include surgical data quality improvement. This is unique work which is currently only contained in the contract with TechWerk. (2) The government found it underestimated its actual operational need for this exact type of work. External forces have precipitated the need for greater levels of effort and deliverables.

This vital need for on-going work with the National Surgery Office (NSO) must immediately focus on interagency surgical data quality improvement. The important clinical deliverables associated with this must be delivered well in advance of implementation date of the Cerner product, as VA surgical patients are seen by the Department of Defense and there is currently no interagency approach for surgical data quality improvement. Without this additional work for interagency VA patients, a negative impact may occur without scientifically-sound interagency surgery processes. Undetected surgical quality issues and their negative patient consequences are well known in commercial health care. This vital work for the NSO seeks to reduce any possible interagency surgical quality issues with the surgical expertise provided by the contractor.

We cannot underscore enough that this work is vital for VA surgical patients cared for by DoD surgeons. These contract deliverables will address possible patient safety process issues, previously identified for VA patients having surgery in DoD facilities. To be perfectly clear, this is direct patient care work. There are now external timelines we are expected to meet. We need this important modification to start immediately on this additional work to not miss Secretary of Veterans Affairs' timelines that involve interagency clinical care.

Additionally, the Federal Health Care Center work is tied to a Secretarial initiative to transform medical logistics, which includes surgical implants by DoD. Furthermore, the Government Accountability Office (GAO) is expecting to see data quality assurance documentation for our VHA-approved Defense Medical Logistics Standard Support (DMLLS) project and these additional deliverables will be used, in part, to meet the GAO's requirement. Sufficient lead times are needed to immediately start this work on the additional deliverables to meet unanticipated vital demands for interagency data quality assurance work. Without these additional deliverables, timelines will not be met and, most importantly, surgical data quality improvement efforts will suffer.

The amount of contractor travel for data quality assurance work to the Federal Health Care Center was underestimated in the Base Period. Based upon actual travel demands to be "on-site" during the Option Period, \$27,000.00 in additional travel dollars are required for up to five (5) trips for two to three contractors per trip. Each trip is estimated to cost \$1,800. Working with field-based surgical staff is critical to getting surgical process improvements correct, the first time with their assistance.

Statutory Authority Permitting Other than Full and Open Competition: 41 USC §3304(a)(1), as implemented by FAR 6.302-1. The specific paragraph must be cited. Most likely, only the -1 or -2 authorities will be cited. Please be aware that failure to adequately plan for future requirements does not constitute appropriate use of the unusual and compelling urgency statutory authority.

- ☒ (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;

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 for restricting competition on this procurement via FAR 13.106-1(b)(2).

Demonstration that the Contractor's Unique Qualifications or Nature of the Acquisition Requires the Use of the Authority Cited Above (applicability of authority):

In the best interest of the government, the needed additional deliverables should be procured under the current contract. The following comments are offered:

- **Gap in Service Risk**

It is important that contracted services not be interrupted if the government is to meet its program schedules. Utilizing the already in-place contract offers continuity of current efforts already underway with the current contractor, TechWerks, LLC. A gap in service will occur should the government re-procure via a new contract. The gap could be several months, thereby jeopardizing program plans. There are no government staff nor other contract resources available to fill in gaps should this work not continued under the TechWerk contract.

- **Time Risk**

Performance is immediately required if the contractor is to meet important program milestones. Meeting the key milestones will enable the contractor to submit deliverables by deadlines required by the government.

- **Quality Risk**

This additional work calls for specialized skills in VA and DoD surgical data quality, which TechWerks continues to successfully demonstrate.

- **Performance Risk**

TechWerks has already demonstrated it has available human resources with the exact skills and expertise to perform the additional work.

- **Cost Risk**

There is a cost risk in seeking a new contract. There could be extra costs associated with a new procurement as the per unit cost of deliverables could increase. The additional deliverables will be provided to the government at the option year prices.

Scope of Work

The scope of this PWS involves clinical data quality assurance of Interoperable Electronic Health Records (E H Rs), and Scientifically-based Clinical Consulting Services to VHA. This work centers on updating existing clinical test scripts for assessing the quality of HER Interoperability and Innovation at VA/DoD Joint Venture and many other medical sharing locations. Work will be centered on clinical (not administrative) users at VA/DoD joint venture sites.

The functional task areas include advanced clinical health information services in support of the IO. Simply put, the scope is to apply advanced expertise to determine the quality of the data and medical images being exchanged in the delivery of safe, high quality patient care.

The specific types of services required for this PWS are:

1. Program and project management services for VHA that assist in planning, initiating, managing, executing, and closing out of interagency programs or projects;
2. Highly specialized Subject matter expertise (SME) with the data quality testing of interagency electronic health records; and
3. Interoperability Consulting Services (e.g., DoD/VA integrated Electronic Health Record (iEHR)) that involve advanced medical and surgical processes.
4. **Description of Efforts Made to ensure that offers are solicited from as many potential sources as deemed practicable:** This is a modification to an existing contract. The initial contract was competed as a 100% Service-Disabled Veteran Owned Small Business (SDVOSB) set-aside. The Government exercised the second of the second option period of the requirement on August 27, 2018. Any future needs of this nature would result in a new contract.
5. **Determination by the CO that the Anticipated Cost to the Government will be Fair and Reasonable:** Pricing for the additional quantities are the same as the quantities originally approved and accepted at the time of award of the original contract. Competition of the requirement ensured that the prices are fair and reasonable.
6. **Description of the Market Research Conducted and the Results, or a Statement of the Reasons Market Research Was Not Conducted:** No additional market research efforts were conducted. The award was to TechWerks, LLC, a Service Disabled Veteran-owned Small Business and they are active in Veteran Information Pages (VIP).
7. **Any Other Facts Supporting the Use of Other than Full and Open Competition:** Engaging in a recompetes would result in a substantial duplication of efforts as well as a substantial duplication in costs that is unlikely to be recovered through competition.
8. **Listing of Sources that Expressed, in Writing, an Interest in the Acquisition:** None.
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:** If this need still exists after September 29, 2018, a new contract will need to be completed.

- 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.

/e-signed/
Greg W. Donham

9/20/2018

X Greg W. Donham

Signed by: Greg W. Donham 360118
Greg W. Donham, MS
Interagency Program Manager
Office of Health Information

20 SEPTEMBER 2018
Date

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.

Yolanda M. Ray
Contracting Officer
Program Contracting Activity Central (PCAC)

Date September 21, 2018

- 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.

Nicholas W. Sparks
Supervisory Contract Specialist
Program Contracting Activity Central (PCAC)

Date September 24, 2018