

DEPARTMENT OF VETERANS AFFAIRS

Justification and Approval

For

Exception to Fair Opportunity Memo

Acquisition Plan Action ID: 36C242-18-AP-3329

1. **Contracting Activity:** Department of Veterans Affairs, VISN 02, New York Harbor Healthcare System, Manhattan Campus, located at 423 E. 23rd Street, New York, New York 10010. Biomedical Engineering Services of the NYHHCS, Manhattan Campus, has submitted purchase request no. 630-18-4-4456-0172. This is a Justification for Other Than Full and Open Competition.
2. **Description of Action:** This is a request for approval of a task order under VA NAC Contract VA797H-17-D-0024 for full service maintenance coverage on GE Infinia II Hawkeye 4 Gamma Camera and Xeleris Workstation, currently in use at the Manhattan VA Medical Center. This procurement will be conducted in accordance with FAR Part 16. The purpose of the service agreement is to reduce service costs and improve equipment turn-around time and reliability. This will be a firm-fixed price task order contract from VA NAC Contract VA797H-17-D-0024, at a cost of \$50,662 for the base year with two one-year options priced at \$50,662 each, for a total of \$151,986. Per Modification P00002 to NAC Contract VA797H-17-D-0024, "...individual procuring activities of the Department of Veterans Affairs are hereby delegated authority to place task orders for their respective facility for required maintenance services at any value under this contract." Anticipated period of performance for this task order award is September 26, 2018 through September 25, 2019 with two option years.
3. **Description of Supplies or Services:** The Manhattan Campus of VA New York Harbor Healthcare System requires that the Contractor shall provide all personnel, equipment, tools, vehicles, materials, supervision, and other items and services necessary to perform preventive maintenance inspection and repairs on the GE Infinia II Hawkeye 4 Gamma Camera and Xeleris Workstation. In conjunction with the following response time to be followed: phone response 30 min*on-site response 8 hours *with a 97% uptime guarantee; parts order requirement noon* parts delivery same day*planned maintenance, quality assurance, software/hardware updates, technical phone support, remote services, labor and travel, application hotline phone support, general spare parts coverage and coil coverage.
4. **Statutory Authority:** The statutory authority permitting an exception to fair opportunity is Section 41 U.S.C. 4106(c) as implemented by the Federal Acquisition Regulation (FAR) Subpart 16.505 Subpart 16.505(b)(2)(i):

() FAR Subpart 16.505(b)(2)(i)(A): The agency need for the supplies or services is so urgent that providing a fair opportunity would result in unacceptable delays.

VHAPM Part 816.5—Indefinite-Delivery Contracts
Attachment 1: Request for Exception to Fair Opportunity Memo Format

() FAR Subpart 16.505(b)(2)(i)(B): Only one awardee is capable of providing the supplies or services required at the level of quality required because the supplies or services ordered are unique or highly specialized.

(x) FAR Subpart 16.505(b)(2)(i)(C): The order must be issued on a sole-source basis in the interest of economy and efficiency because it is a logical follow-on to an order already issued under the contract, provided that all awardees were given a fair opportunity to be considered for the original order.

() FAR Subpart 16.505(b)(2)(i)(D): It is necessary to place an order to satisfy a minimum guarantee.

() FAR Subpart 16.505(b)(2)(i)(E): For orders exceeding the simplified acquisition threshold, a statute expressly authorizes or requires that the purchase be made from a specified source". The statutory authority permitting an exception to fair opportunity for this action is 38 U.S.C. 8127(c), known as the Veterans First Contracting Program which provides the authority to directly contract with a Service-Disabled Veteran-Owned Small Business (SDVOSB) or a Veteran-Owned Small Business (VOSB).

() FAR Subpart 16.505(b)(2)(i)(F) In accordance with section 1331 of Public Law 111-240 (15 U.S.C. 644(r)), contracting officers may, at their discretion, set aside orders for any of the small business concerns identified in 19.000(a)(3). When setting aside orders for small business concerns, the specific small business program eligibility requirements identified in part 19 apply.

5. **Rationale Supporting Use of Authority Cited Above:** This order is placed to minimize the inefficiencies or additional costs that would result from introducing multiple maintenance, operations, training network management, or support systems. VA NAC Contract VA797H-17-D-0024 is a national contract for all VA activities to utilize as a streamlined contract source that satisfies FAR 8.004 in the Standard Priorities of Use of Government Supply Sources. Although not mandatory, this source has priority over open market sources.
6. **Efforts to Obtain Competition:** Sources Sought Notice 36C24218Q9926_1 was posted to FebBizOpps (FBO) under NAICS code 811219 on 8/29/18 with a closing date of 9/7/18, and resulted in one response - The Remi Group, LLC, small business. Further research in SAM of The Remi Group, LLC indicated the NAICS code associated with this requirement is listed as a large business and they intend to use GE directly for service. Market research conducted in www.vip.vetbiz.va.gov produced (6) SDVOSB who were contacted directly and (5) provided negative responses. Further market research on FBO indicated that VA activities awarded contracts for this nature to General Electric Company (GE). GE does not have any 3rd party SB or SDVOSB/VOSB distributors authorized to service this equipment. GE provided information on the VA NAC Contract VA797H-17-D-0024. This national strategic contract is a streamlined IDIQ contract that is intended for VA activities.
7. **Actions to Increase Competition:** The Government will continue to conduct market research to ascertain if there are any changes in the market place that would enable future actions to be competed.

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8. Market Research: Market research was conducted via posted Sources Sought Notice via FBO, via vetbiz and further research on FBO of VA activities for this requirement award – refer to #6 above for detailed explanation.

9. Other Facts: This contract is in support of the VA-DOD Direct Sharing Agreement with the Defense Logistics Agency (DLA) with contract SPE2D1-17-D-0015. The use of this contract, after first considering mandatory sources, is strongly encouraged by the NAC.

10. Technical and Requirements Certification: I certify that the supporting data under my cognizance, which are included in this justification, are accurate and complete to the best of my knowledge and belief.


SIGNATURE


DATE



NAME


TITLE

VAMC Manhattan
FACILITY

11. Determination that Anticipated Cost is Fair and Reasonable: A determination by the contracting officer that the anticipated cost to the Government will be fair and reasonable. Individual VA procuring activities are to obtain pricing and maintenance information for a specific contract holder from the VA NAC at ammhindscp@va.gov.

12. Contracting Officer's Certification (required): I certify that the foregoing justification is accurate and complete to the best of my knowledge and belief.


Contract Officer
NCO 2


Date

Redacted

NO other signatures are required.