

DEPARTMENT OF VETERANS AFFAIRS
Justification and Approval
For
Other Than Full and Open Competition

1. **Contracting Activity:** Department of Veterans Affairs, SAO - East, NCO-8, Orlando VA Medical Center
The above listed Contracting agency is submitting this Justification for Other than Full and Open Competition on behalf of the Orlando Facilities Management Service, for the purchase request 2237# 675-12-2-6542-0055, which has an estimated cost of \$37,428
2. **Nature and/or Description of the Action Being Processed:** This action is for a new Firm Fixed Priced Contract for construction services.
3. **Description of Supplies/Services Required to Meet the Agency's Needs:** This project will repair and replace flooring in the SPD area and canteen kitchen at the Orlando VAMC. This project shall also correct environmental issues such as asbestos in the flooring and mold in the canteen walls. This project shall be closely coordinated with DSI to provide for installation of cabinets already procured by the VA. The Selected Vendor shall have 142 days to provide Design Build services to complete this project. The estimated cost to complete this requirement is \$37,428.
4. **Statutory Authority Permitting Other than Full and Open Competition:** The authority permitting other than full and open competition for this requirement is 41 USC §253(c), as implemented by FAR 6.302-5, Authorized or required by statute. Furthermore, Public Law (PL) 109-461, the Veterans Benefits, Health Care, and Information Technology Act of 2006. Title V, Section 502 as codified at 38 U.S.C. §§ 8127(b) is applicable:

“(b)USE OF NONCOMPETITIVE PROCEDURES FOR CERTAIN SMALL CONTRACTS.—For purposes of meeting the goals under subsection (a), and in accordance with this section, in entering into a contract with a small business concern owned and controlled by veterans for an amount less than the simplified acquisition threshold (as defined in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)), a contracting officer of the Department may use procedures other than competitive procedures.”

- ☐ (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):**
Authority under 38 USC 8127 (Sections 502 of Public Law (P.L.) 109-461), FAR Part 6.302-5, and VAAR 819.7007 Sole Source awards to service disabled veteran-owned small business concerns.

“(a)A contracting officer may award contracts to SDVOSB concerns on a sole source basis provided:

- (1) The anticipated award price of the contract (including options) will not exceed \$5 million;
- (2) The requirement is synopsized in accordance with FAR Part 5.
- (3) The SDVOSB concern has been determined to be a responsible contractor with respect to performance; and
- (4) Award can be made at a fair and reasonable price.

(b) The contracting officer's determination whether to make a sole source award is a business decision wholly within the discretion of the contracting officer. A determination that only one SDVOSB concern is available to meet the requirement is not required.

(c) When conducting a SDVOSB sole source acquisition, the contracting officer shall ensure businesses are registered and verified as eligible in the VIP database prior to making an award.”

The anticipated award price is less than \$500K. A separate determination of the contractor's responsibility has been made in accordance with FAR 9. A sole source award is proposed pending negotiation of fair & reasonable price.

This requirement has been synopsized in accordance with FAR Part 5.

BC Peabody meets all the requirements specified in the aforementioned public law, and is determined a responsible in accordance with FAR 9.104-1 Responsible Perspective Contractor.

This Vendor was selected based on submittals for other projects at this station. The CO is recommending an SDVOSB sole source to BCPeabody based on the aforementioned.


6. **Description of Efforts Made to ensure that offers are solicited from as many potential sources as deemed practicable:** The Department of Veterans Affairs (VISN 8) intends to solicit from only one Offeror IAW FAR 6.302-5.
7. **Determination by the Contracting Officer that the Anticipated Cost to the Government will be Fair and Reasonable:** To determine fair and reasonableness of contractors pricing, the contracting officer will utilize price analysis techniques specified at FAR Part 15.404-1 (b) (2) (ii) and (v). To be more accurate in the comparative analysis, the vendor price proposal will be required to be submitted in a similar format as the independent estimate so individual cost breakdown items may be evaluated on their own merit for reasonableness. A sole source award is proposed pending negotiation of fair & reasonable price.
8. **Description of the Market Research Conducted and the Results, or a Statement of the Reasons Market Research Was Not Conducted:** The VIP database was queried in accordance with VAAR 810.001 Market Research Policy. BC Peabody is listed in the VIP database along with other multiple SDVOSB concerns.
9. **Any Other Facts Supporting the Use of Other than Full and Open Competition:** This project will support the installation of cabinets that have already been procured by the Orlando VAMC. The installation of these cabinets must be concurrent with the Asbestos Remediation in SPD and cannot be done separately. The Cabinet vendor has expressed a need to have discussions with the selected vendor prior to committing to installation in concurrence with the asbestos remediation and floor replacement.

Per authorities cited in paragraph 5, the contracting officer's determination whether to make a sole source award is a business decision wholly within the discretion of the contracting officer.

10. Listing of Sources that Expressed, in Writing, an Interest in the Acquisition: See Section VI above.

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: Any future SDVOSB sole source awards in the best interest of the VA will be rotated to other SDVOSB's determined responsible.

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.



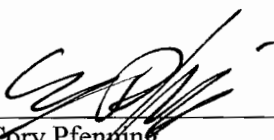
Edward Ta
Resident Engineer
Orlando VAMC

09/11/2012

Date

13. Approvals in accordance with FAR 6.304

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



Cory Pfennig
Contracting Officer
SAO East, NCO 8, Orlando

09/11/2012

Date

- b. **Product Line Supervisor (PLS):** I certify the foregoing justification meets requirements for other than full and open competition.

Edward Schuman
Contracting Supervisor, Construction Team 1
SAO-East, NCO-8

Date

Encl 1: Delegation of Signature Authority