

**DEPARTMENT OF VETERANS AFFAIRS**

**Justification and Approval**

**For**

**Exception to Fair Opportunity Memo**

**Acquisition Plan Action ID: 36C252-19-AP-2723**

1. **Contracting Activity:** Department of Veterans Affairs, VISN 12, Great Lakes Acquisition Center located at 115 South 84<sup>th</sup> Street, Suite 101, Milwaukee Wisconsin 53214. This acquisition is for installation of a water monitoring system and hot water mixing station on behalf of the Tomah VA Medical Center, 500 E Veterans Street, Tomah, WI 54660, Purchase Request 676-19-3-6985-0042.
2. **Description of Action:** Tomah VAMC, Tomah, Wisconsin, has a need to install a new water monitoring system and hot water mixing station to correct existing Legionella issues in B403 of Tomah VAMC. The contract will be a firm-fixed price construction to complete the work as outline in the project Scope of Work in 210 days from Notice to Proceed.

The Government proposed to establish a contract with US Vet General Contracting Services LLC: DUNS #962443599, CVE-VIP verified, Service-Disabled Veteran Owned Small Business (SDVOSB) general construction contractor as a sole-source procurement under the Statutory Authority granted to VA in 38 U.S.C. 8127 (Public Law 109-461 or the Veterans Benefits, Health Care and Information Technology Act of 2006).

3. **Description of Supplies or Services:** Contractor will be required to provide all required labor, demolition, equipment, and tools to install a new water monitoring system and hot water mixing station to address existing Legionella issues at B403 at the Tomah VAMC in Tomah, WI. The Government estimate for the project is \$278,938.73.
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): In accordance with 38 USC §8127: Authorized or Required by Statute FAR 6.302-5.

(X) 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).

5. **Rationale Supporting Use of Authority Cited Above:** US Vet General Contracting Services LLC is an established contractor at Tomah VAMC under an existing IDIQ Construction contract and engaged in ongoing active projects at Tomah VAMC. US Vet General Contracting Services LLC has successfully

and satisfactorily completed multiple projects at Tomah VAMC of this type and complexity. Additionally, the Vet Biz registry <https://www.vip.vetbiz.gov/> was utilized to confirm US Vet General Contracting Services' status as a Service Disabled Veteran Owned Small Business (SDVOSB) which confirms eligibility for direct award under FAR Subpart 16.505(b)(2)(i)(E).

**6. Efforts to Obtain Competition:** Market research was conducted, details of which are in the market research section of this document. In accordance with FAR 5.301 and 16.505(b)(2), this action will be synopsisized at award on the Federal Business Opportunities Page (FBO) and the justification will be made publicly available.

**7. Actions to Increase Competition:** This action shall be awarded utilizing an active IDIQ construction contract at Tomah VAMC which was fully competed at time of award.

**8. Market Research:**

A search utilizing NAICS code 236220 – Commercial and Institutional Building Construction was conducted to determine if other qualified CVE SDVOSB contractors would be able to meet the needs of this project. The VET Biz Registry – <https://www.vip.vetbiz.gov/> website was utilized. The search resulted in the identification of 116 CVE-certified SDVOSB companies located in Michigan, Wisconsin, Minnesota, Iowa, and Illinois. However, an existing IDIQ task order construction contract at Tomah VAMC already exists with US Vet General Contracting LLC, and they are mobilized, on site and ready to begin performance at any time.

**9. Other Facts:** US Vet LLC has completed many projects similar to this project scope at the Tomah VA medical center. Previous work performed by US Vet LLC has been satisfactory or above on all projects. They are familiar with Tomah VAMC and they are mobilized, on site and ready to begin performance.

**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.

\_\_\_\_\_  
Scott Cole, Contracting Officer  
Construction, NCO-12

\_\_\_\_\_  
27 SEP 2019  
Date

**11. Determination that Anticipated Cost is Fair and Reasonable:** The Tomah VAMC engineering team has prepared an Independent Government Estimate (IGE) using historical data and resources available. A pre-negotiation objective will be developed to establish the Government's initial negotiation position based on the results of the contracting officer's analysis of the offeror's proposal, taking into consideration all pertinent information including: technical analysis, fact-finding results, cost estimates and price history. Negotiations will be carried out between US VET LLC and the Government as necessary to reach an agreement on a fair and reasonable price.

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

\_\_\_\_\_  
Scott Cole, Contracting Officer  
Construction, NCO-12

\_\_\_\_\_  
27 SEP 2019  
Date

13. Approvals in accordance with [VHAPM Part 816.505 Indefinite Delivery Contracts: Ordering](#).

- a. **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.

\_\_\_\_\_  
Rich Hedman, Branch Chief  
Construction, NCO-12

\_\_\_\_\_  
27 SEP 2019  
Date