

DEPARTMENT OF VETERANS AFFAIRS

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

Solicitation 36C10F190076 Single Award Task Order Contract

- 1. Contracting Activity:** Department of Veterans Affairs, Office of Construction and Facilities Management(CFM), Central Region Contracting, will enter into this contract on behalf of the VAMC Jefferson Barracks Division located at 1 Jefferson Barracks Dr , St Louis, MO.
- 2. Nature and/or Description of the Action Being Processed:** The Contracting Officer in conjunction with program management and the RE Office has identified the need to mitigate the risk as it relates to turnover of contracted work under the Major Construction Program at the VAMC Jefferson Barracks Division located at 1 Jefferson Barracks Dr, St Louis, MO. Over the next 24 months it is anticipated that CFM will turnover nearly \$160,000,000.00 in completed facilities and contract scope to the VAMC Jefferson Barracks Division. Having this SATOC in place allows for a quick resolution to addressing contract changes or other repairs required, rather than engaging the incumbent construction contractors. As the contracted work approaches completion, this gives the Contracting Officer the option to quickly resolve outstanding issues or changes while the incumbent Construction Contractor focuses on turnover of contracted work to the VA.

This action is for a Single Award Task Order Contract (SATOC) for a two year period of performance and a capacity not to exceed \$3,000,000.00. All task order awards under the SATOC will take place on the VAMC campus located at 1 Jefferson Barracks Dr, St Louis, MO. It is anticipated that all awarded orders will result in a firm fixed price, design bid build award. The seed project "USP 797 Changes" is estimated at \$557,000, a firm fixed price contract with a 120 calendar day period of performance. Subsequent task orders are expected to be at least \$25,000 but shall not exceed \$3,000,000 either under an individual task order award or the life of the SATOC. The SATOC will be made to Guarantee Interiors, Inc. DUNS 808957484, a responsible CVE verified SDVOSB firm; on a sole source basis under the statutory authority granted to VA in 38 U.S.C. 8127 (c) (better known as Public Law 109-461 or the Veterans Benefits, Health Care and Information Technology Act of 2006.)

- 3. Description of Supplies/Services Required to Meet the Agency's Needs:**
The Department of Veteran Affairs (VA), Office of Construction & Facilities Management, has a requirement for a SATOC for construction task orders that encompass a broad range of repair and or construction work on real property in support of the major construction program under way at 1 Jefferson Barracks Dr, St Louis, MO. The initial task order (Seed) under the SATOC has been determined to be in the best interest of the VA to award under this SATOC and is detailed below.

SEED TASK ORDER USP 797 Changes

PHARMACY USP UPGRADE BASE PROPOSAL – GENERAL CONSTRUCTION: CLIN 1 is defined in general terms as cost for work associated with modification improvements as defined in the contract documents for Pharmacy Rooms 1C 126 and 1C 126a to facilitate compliance with the United States Pharmacopeia (USP) publication Chapter 797 and includes, but is not limited to, demolition and new construction to modify in-place architectural, mechanical, plumbing, electrical and other in-place construction; inspections, testing, balancing and certification of modified systems and all other incidental related work required for modification improvements to achieve USP 797 compliance.

CLIN 2 MICROBIOLOGY DUCTWORK UPGRADE BASE PROPOSAL – GENERAL CONSTRUCTION:

CLIN 2 is defined in general terms as cost for work associated with modification improvements as defined in the contract documents for the ductwork serving the free-standing fume hood located in Microbiology Room 1A 127 and includes, but is not limited to, installation of new stainless steel ductwork and exhaust fan; necessary removal and reinstallation of in-place construction to facilitate performance of the work; adjustments to in-place construction locations to facilitate performance of the work; inspections, testing and balancing of modified systems; and all other incidental related work required for modification improvements for ductwork upgrade.

CLIN 3 RADIOLOGY MEDICAL GAS OUTLET RELOCATION BASE PROPOSAL – GENERAL

CONSTRUCTION: CLIN 3 is defined in general terms as cost for work associated with relocating in-place ceiling mounted medical gas outlets to designated wall locations in Radiology Rooms 1A 152 and 1A 153 as defined in the contract documents and includes, but is not limited to, modifications to in-place wall construction to receive new outlets; modifications to in-place medical gas pipe routing; removal and reinstallation of in-place construction to facilitate performance of the work; demolition and restoration of in-place construction to facilitate performance of the work; inspections, testing and certification of modified systems; and all other incidental related work required for modification improvements to achieve relocation of medical gas outlets.

CLIN 4 PHARMACY ACCESS CONTROL UPGRADE BASE PROPOSAL – GENERAL CONSTRUCTION:

CLIN 4 is defined in general terms as cost for work associated with modification improvements as defined in the contract documents to upgrade access control at designated door locations into and within the Pharmacy Service area and includes, but is not limited to, modifications to in-place construction to add or replace door hardware components and to add or replace electronic access control devices or components; demolition, removal, reinstallation, and restoration of in-place construction to facilitate performance of the work; inspections and testing of modified systems; and all other incidental related work required for modification improvements for access control upgrade.

4. Statutory Authority Permitting Other than Full and Open Competition:

38 U.S.C 8127 (better known as Public Law 109-461 or the Veterans Benefits, Health Care and Information Technology Act of 2006.

- () (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
- (x) (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):

Statutory authority is prescribed under 38 U.S.C 8127(c), & 41 U.S.C. 3304(a)(5)
Governing regulations are VAR 6.302-5 & VAAR 819.7007 (per Class Deviation 07/25/2016)

38 U.S.C. 8127 reads as follows:

(a) Contracting Goals.—

(1) In order to increase contracting opportunities for small business concerns owned and controlled by veterans and small business concerns owned and controlled by veterans with service-connected disabilities, the Secretary shall— **(A)** establish a goal for each fiscal year for participation in Department contracts (including subcontracts) by small business concerns owned and controlled by veterans who are not veterans with service-connected disabilities in accordance with paragraph (2); and **(B)** establish a goal for each fiscal year for participation in Department contracts (including subcontracts) by small business concerns owned and controlled by veterans with service-connected disabilities in accordance with paragraph (3). **(2)** The goal for a fiscal year for participation under paragraph (1)(A) shall be determined by the Secretary. **(3)** The goal for a fiscal year for participation under paragraph (1)(B) shall be not less than the Government-wide goal for that fiscal year for participation by small business concerns owned and controlled by veterans with service-connected disabilities under section 15(g)(1) of the Small Business Act (15 U.S.C. 644(g)(1)). **(4)** The Secretary shall establish a review mechanism to ensure that, in the case of a subcontract of a Department contract that is counted for purposes of meeting a goal established pursuant to this section, the subcontract was actually awarded to a business concern that may be counted for purposes of meeting that goal.

(c) Sole Source Contracts for Contracts Above Simplified Acquisition Threshold.—For purposes of meeting the goals under subsection (a), and in accordance with this section, a contracting officer of the Department may award a contract to a small business concern owned and controlled by veterans using procedures other than competitive procedures if— **(1)** such concern is determined to be a responsible source with respect to performance of such contract opportunity; **(2)** the anticipated award price of the contract (including options) will exceed the simplified acquisition threshold (as defined in section 134 of title 41) but will not exceed \$5,000,000; and **(3)** in the estimation of the contracting officer, the contract award can be made at a fair and reasonable price that offers best value to the United States.

41 U.S.C. 3304(a)(5) states, An executive agency may use procedures other than competitive procedures only when—subject to section 3105 of this title, a statute expressly authorizes or requires that the procurement be made through another executive agency or from a specified source, or the agency's need is for a brand-name commercial item for authorized resale;

FAR 6.302-5 derives its authority from 41 U.S.C. 3304(a)(5) and states the following: Full and open competition need not be provided for when (i) A statute expressly authorizes or requires that the acquisition be made through another agency or from a specified source, or (ii) The agency's need is for a brand name commercial item for authorized resale. (b) Application. This authority may be used when statutes, ... , expressly authorize or require that acquisition be made from a specified source or through another agency.

VAAR 819.7007 (per Class Deviation 07/25/2016) covers sole source awards to service-disabled veteran-owned small business concerns and reads as follows: *(a) A contracting officer may award a contract to a verified SDVOSB concern using procedures other than competitive procedures provided— (1) The anticipated award price of the contract (including options) will not exceed \$5 million; (2) The justification prepared pursuant to FAR 6.302-5(c)(2)(ii) is posted in accordance with FAR subpart 5.301(d); (3) The SDVOSB concern has been determined to be a responsible source with respect to performance; and (4) In the estimation of the contracting officer, contract award can be made at a fair and reasonable price that offers best value to the Government. (b) The contracting officer's determination to make a sole source award is a business decision wholly within the discretion of the contracting officer. To ensure that opportunities are available to the broadest number of verified SDVOSBs, this authority is to be used judiciously and only when in the best interest of the Government. (c) A determination that only one SDVOSB can meet the requirement is*

not required. However, in accordance with FAR 6.302-5(c)(2)(ii), contracts awarded using this authority shall be supported by a written justification and approval described in FAR 6.303 and 6.304, as applicable. (d) When conducting a SDVOSB sole source acquisition, the contracting officer shall ensure the business meets eligibility requirements 819.7003. (e) A procurement requirement estimated to exceed the legislative threshold of \$5 million shall not be split or subdivided to permit the use of this SDVOSB sole source authority

In an effort to, a) support the VA Secretary's established a goal for participation in Department contracts by small business concerns owned and controlled by veterans with service-connected disabilities, and b) procure the services requested by the VA Hospital within the timeframe requested, the Contracting Officer has made a business decision to solicit, negotiate, & award this contract Guarantee Interior, Inc. on a sole source basis in accordance with the requirements specified under **38 U.S.C. 8127(c)(1-3) and VAAR 819.7007 (per Class Deviation 07/25/2016).**

6. **Description of Efforts Made to ensure that offers are solicited from as many potential sources as deemed practicable:** Competition is not practical given the timeframes involved. VACFM needs this contract awarded by the end of month September 2019 to assure that the turnover and activation of the Clinic Building is not further delayed.
7. **Determination by the Contracting Officer that the Anticipated Cost to the Government will be Fair and Reasonable:** All cost will be reviewed for cost reasonableness in the areas of OH/Profit, and in the areas of total labor and material cost in comparison to the IGE. A technical analysis of the contractor's cost will also be provided by the VA CFM REO, the REO utilizes RS Means cost estimating systems along with their expertise in this area of knowledge. RS Means pricing is generally accepted as being fair & reasonable, as general contractors, architects, and owners around the United States use it to estimate their construction costs. Lastly the program office will perform a review of Guarantee Interiors, Inc. key personnel and past performance to confirm Guarantee Interiors, Inc.'s suitability to perform prior to awarding the SATOC and subsequent Seed task order award. The Contracting Officer will evaluate the pricing IAW FAR 15.404-1(b) (2).
8. **Description of the Market Research Conducted and the Results, or a Statement of the Reasons Market Research Was Not Conducted:** Market research was conducted in the St Louis MO area in an effort to select a highly qualified SDVOSB firm. Guarantee Interiors was recommended by VA St. Louis Health Care System Associate Director Fabian Grabski, and CFM Facilities Director Fran Gomes. Both Ms. Gomes and Mr. Grabski noted the several contracts Guarantee Interiors had completed at the JC and JB campuses in St Louis MO. A review of the VET BIZ profile for Guarantee Interiors located at <https://www.vip.vetbiz.va.gov/>, resulted in a determination that Guarantee Interiors is both qualified to perform the work under the SATOC, and is a registered SDVOSB under NAICS 236220.
9. **Any Other Facts Supporting the Use of Other than Full and Open Competition:** NA
10. **Listing of Sources that Expressed, in Writing, an Interest in the Acquisition:** None. The Contracting Officer will be engaging Guarantee Interiors, Inc., immediately after this J&A is approved.
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:** NA
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 [FAR 6.304\(a\)\(1\)](#).

- 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.



George Odorizzi
VA CFM Project Manager

September 3 2019

Date



Gerald Brusaw
VA CFM Contracting Officer
0034CD Central Region

September 3 2019

Date