

DEPARTMENT OF VETERANS AFFAIRS

Justification and Approval

For

Exception to Fair Opportunity Memo

Acquisition Plan Action ID: 36C261-19-AP-4556

1. **Contracting Activity:** Department of Veterans Affairs Network Contracting Office (NCO) VISN 21, located at 3801 Miranda Avenue, Palo Alto, CA 94304-1209

2. **Description of Action:**

The proposed purchase is to enter into a firm-fixed price contract on the basis of justification for exception to Fair Opportunity. The San Francisco Health Care System is requesting for 1-year delivery of HIV antibody/antigen combination assay.

3. **Description of Supplies or Services:**

The San Francisco Health Care System is requesting for 1-year delivery of HIV antibody/antigen combination assay. Deliveries and services include:

Cost Per Test (CPT)

Cost Per Reportable Result (CPRR)

VA San Francisco CPRR Demand

Contractor shall provide documentation that the driver is available from Data Innovations for their instruments. Contractor shall supply variable power UPS/printers and repair/replace as needed. Contractor shall supply software upgrades and installation to all instruments at no cost to VA, when released by manufacturer, and when required for instrument/testing performance. Government requests that Generic procedure be available on disc in Clinical and Laboratory Standards Institute (CLSI, formerly NCCLS) format.

Contractor shall provide initial and recurring training for medical personnel.

Contractor shall provide hotline support 24 hours per day, 7 days per week.

The estimated value of the proposed action is \$ 369,146.60 per year.

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.

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X 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:

There is no other analyzer that can provide the full testing menu required. Providing the full test menu with two contracts is not feasible due to space and power restrictions. The I1000 instruments are already installed and validated at SFVA and the lab does not have the resources to validate multiple instruments and remodel the laboratory to provide space and power to allow for open competition.

6. Efforts to Obtain Competition:

There is no competition anticipated for this acquisition. 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:

The VA will replace existing units only after sufficient research has been completed. Prior to replacing equipment, SFVA and the Lab currently does not have the resources to validate multiple instruments and remodel the laboratory to provide space and power to allow for new equipment.

8. Market Research: The hospital staff already conduct market research. The SFVA facility has severe emergency power limitations and the vendor's analyzer must be compatible with a 110V emergency

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power outlet. There is only one vendor who would be able to provide the necessary reagents and testing equipment to meet the needs of SFVAMC. Abbott's Architect i-1000 analyzer platform would be the SFVA's Laboratory Medicine Service's only vendor option after performing market research.

9. Other Facts: None

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.

Kristopher Taylor
Laboratory Manager
San Francisco VA Health Care System

Date

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: The prices of supplies under existing IDIQ contracts to be fair and reasonable. Based on price comparison against IGCE, the order represents the best value and results in the lowest overall cost to meet the Government's need.

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

Carol Lam
Contracting Officer. NCO 21

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.

Mandy Thompson
Chief, Supply Branch 1, NCO 21

Date