

JUSTIFICATION AND APPROVAL  
FOR OTHER THAN FULL AND OPEN COMPETITION

1. Contracting Activity: Department of Veterans Affairs (VA)  
Office of Acquisition Operations  
Technology Acquisition Center  
260 Industrial Way West  
Eatontown, NJ 07724
2. Description of Action: The proposed action is for a firm-fixed price contract consisting of a 12 month base period, and three 12 month option periods, for brand name NEC Corporation (NEC) Voice System (VS) maintenance and follow-on services for the Bay Pines Veterans Affairs Healthcare System (BPVAHCS).
3. Description of Supplies or Services: The BPVAHCS VS encompasses all VS servers, common equipment, peripheral equipment, and complete cable (copper and fiber) distribution systems necessary to maintain telephone and data systems utilized. The Contractor shall provide maintenance services for existing NEC VS's to include all hardware/software ports, and related VS components such as common equipment, stations, trunks, and cards. Additionally, the scope of this acquisition includes "follow-on services." These follow-on services will accommodate increased demand or growth including Moves, Adds, and Changes and to include system/equipment relocation, upgrades, and sustainment of other BPVAHCS owned NEC Communications Systems (CS) such as Voice over Internet Protocol (VoIP), wireless and video teleconferencing systems, as well as to include the efforts required of the Contractor to sustain all NEC communication infrastructure (voice and data), including copper and fiber cable/connections and additional cable requirements. The total estimated price of the proposed action, including the option periods is [REDACTED].
4. Statutory Authority: The statutory authority permitting other than full and open competition is 41 U.S.C. 3304(a)(1) as implemented by the Federal Acquisition Regulation (FAR) Subpart 6.302-1 entitled, "Only One Responsible Source and No Other Supplies or Services Will Satisfy Agency Requirements." In addition, this proposed action will be set-aside among Service-Disabled Veteran-Owned Small Businesses (SDVOSBs) pursuant to 38 U.S.C. § 8127(d), known as the Veterans First Contracting Program.
5. Rationale Supporting Use of Authority Cited Above: BPVAHCS' current Voice System infrastructure consists of brand name NEC VS servers, NEC common equipment, and NEC peripheral equipment. In order to provide maintenance services for NEC equipment, a contractor must be an NEC authorized associate and hold NEC technical certifications. NEC only provides technical support to authorized associates. Non-authorized vendors would not be capable of meeting all of VA's requirements, to include performing more complex trouble shooting or restoring the VS in the instance of a system failure. Any non-routine support would require access to NEC's National Technical Assistance Center (NTAC). Only NEC

authorized associates have direct access to each system's National Technical Assistance Center (NTAC) which provides the authorized associate system information, licensing information, warranty information, diagnostic support, Original Equipment Manufacturer sponsored system modifications, improvements, revisions, and new software level releases. Additionally, if there was an equipment failure only an NEC authorized associate is permitted to order the requisite NEC replacement parts. Due to the proprietary nature of the software and the logic on the NEC circuit boards, inserting any other brand equipment in the VS would be ineffective and result in interoperability and compatibility issues. No amount of middleware or hardware components could make non-NEC equipment compatible. Any other vendor would be unauthorized to purchase any NEC equipment for maintenance or replacement. Additionally, any work performed by an unauthorized vendor would void all warranties, and if work by such a vendor negatively impacted the VS, NEC would not provide technical assistance to restore the VS. Therefore, only an NEC authorized associate is capable of providing BPVAHCS the required technical support and software upgrades. No other brand name supplier will be able to support this maintenance requirement.

Additionally, an NEC authorized associate is required to perform follow-on services including Moves, Adds, and Changes. It shall also include NEC telephone system/equipment relocation, installation, upgrades, and sustainment. BPVAHCS' telephone equipment is brand name NEC, and only an NEC authorized associate can perform these services with the equipment as any potential damage caused by non-NEC certified maintenance workers will void the equipment's warranty. In addition to physically moving the equipment, moves, adds, and changes to the system require an NEC authorized associate to access the NEC phone system and make programmatic changes. If any equipment or software were to malfunction throughout these services the contractor would be required to call NEC for technical support. As mentioned above, only NEC authorized associates have access to NEC's NTAC.

6. Efforts to Obtain Competition: Market research was conducted, details of which are in the market research section of this document. This effort did not yield any additional sources that can meet the Government's requirements. There is limited competition anticipated for this action among NEC authorized associates. Additionally, the proposed action will be synopsized on the Federal Business Opportunities Page in accordance with FAR 5.201. Any proposals that are received shall be evaluated.

7. Actions to Increase Competition: The Government will continue to conduct market research to ascertain if there are changes in the market place that would enable future actions to be competed, such as new equipment that is fully compatible with NEC equipment, or whether non-authorized sources becomes capable of performing the maintenance.

8. Market Research: A Request for Information (RFI) was published to the VA Virtual Office of Acquisition (VOA) Acquisition Task Order Management System

(ATOMS) on December 10, 2012 to identify VOSB or SDVOSB contractors on the Transformation Twenty-one Total Technology (T4) contract vehicle capable of performing the work for this requirement. The RFI results did not provide for the expectation of competition among VOSBs or SDVOSBs.

To determine if there were capable VOSB's and SDVOSB's in the open market, RFI VA118-13-I-0071 was published to the Federal Business Opportunities (FBO) page on December 21, 2012. Six companies submitted capability statements. One company, [REDACTED] contacted the contract specialist and stated the company was withdrawing their capability statement from consideration. [REDACTED] subcontractor no longer wished to pursue the opportunity, rendering [REDACTED] unable to meet the requirements. [REDACTED] and [REDACTED] responded to the RFI, but did not answer any of the RFI questions. Both companies only submitted a general capabilities statement. [REDACTED] responded to the RFI indicating it would subcontract to an authorized associate to perform the work. Since the authorized associate subcontractor, which is not an SDVOSB, would have to perform virtually all the maintenance work, [REDACTED] would not be capable of performing 51% of the effort, and therefore not eligible for a set aside award. Additionally, [REDACTED] submitted an RFI response, but is not an SDVOSB in the VetBiz database. Finally, it was determined that one company provided adequate information and was deemed capable of fulfilling the requirement and complying with applicable limitations on subcontracting. The company deemed capable, [REDACTED], is an SDVOSB.

VA also juxtaposed the complete listing of all NEC authorized associates against the VetBiz.gov database to determine if any were VOSBs or SDVOSBs. Two companies, [REDACTED] and [REDACTED] are registered, certified, and verified as SDVOSB's in accordance with the federal small business size standard for the applicable North American Industry Classification System (NAICS) code 517919. Therefore, there is reasonable expectation of competition among two potential SDVOSB NEC authorized associates able to comply with limitations on subcontracting and award will be made at a fair and reasonable price.

Based on the results of the Market Research and in accordance with 38 U.S.C § 8127(d) known as the Veterans First Contracting Program as implemented by FAR 19.1405(b), the Contracting Officer has made the determination to set-aside the acquisition for competition restricted to SDVOSB concerns.

Additionally, the Government's technical experts conducted market research by looking at other similar replacement parts for VS's. This research consisted of reviews on websites, looking at product descriptions of other similar replacement parts. The results of this research confirmed that no other brand name replacement parts could provide interoperability and compatibility with the current infrastructure and fielded equipment other than NEC brand name items.

9. Other Facts: Not applicable.