

JUSTIFICATION AND APPROVAL
FOR OTHER THAN FULL AND OPEN COMPETITION

In accordance with FAR 13.501 this acquisition is being conducted under the authority of the Test Program for Commercial Items, as authorized by section 4202 of the Clinger-Cohen Act of 1996 and the authority of the Services Acquisition Reform Act of 2003 (41 U.S.C. 428a). This justification is prepared in accordance with FAR 6.303-2, *Content*, as prescribed by FAR 13.501(a)(1)(ii), *Special documentation requirements*.

1. Contracting Activity: Department of Veterans Affairs (VA)
Office of Acquisition Operations
Acquisition Business Service
425 I Street, NW
Washington, DC 20001

2. Description of Action: The Department of Veterans Affairs (VA), Human Resource and Administration (HRA), Office of Administration (OA), Space and Renovations Service (SRS) has been tasked with reducing VA's space inventory in Washington D.C., in accordance with Office of Management and Budget's (OMB) Memorandum M-12-12, "Promoting Efficient Spending to Support Agency Operations." Part of that reduction includes consolidating various commercially leased VA Central Office (VACO) spaces within the Washington D.C. area into already existing and available VA office space. In order to accomplish this task in an efficient and effective manner, VA has a critical need to procure new office furniture.

In order to fulfill this requirement, VA intends to award a firm fixed price Blanket Purchase Agreement (BPA) in accordance with FAR Subpart 13.303 – *Blanket Purchase Agreements* under the authority granted by 13.5 – *Test program for Certain Commercial Items*. VA intends to award a sole source BPA to Federal Prison Industries (FPI) adhering to the order or preference as dictated by FAR Subpart 8.002(a)(i)(iii), *Priorities of use of Government supply sources*, and further explored in FAR Subpart 8.6 – *Acquisition from Federal Prison Industries, Inc.*

3. Description of Supplies or Services: The proposed action will provide office furniture and installation services for office space located in Washington, DC at the VACO campus, which includes: 810 Vermont Ave., N.W.; 1800 G Street, N.W.; 1717 H Street, N.W.; 1575 I Street, N.W.; 801 I Street, N.W.; 425 I Street, N.W.; 131 M Street, N.E.; 1100 First Street, N.E.; and 90 K Street, N.E. VA has a specific requirement for the following office furniture: freestanding and systems furniture; task seating; filing; collaboration seating; conference tables; furniture design services; break-down of existing systems furniture; and installation of this new furniture.

The total estimated value of the proposed action and maximum dollar threshold is \$4,518,000.00 for a two year period of performance.

4. Statutory Authority: The statutory authority permitting other than full and open competition for this acquisition is 41 U.S.C.3304(a)(5), "Authorized or Required by Statute", as implemented by FAR 6.302-5. For this action, 18 U.S.C. 4121-4128 applies and the required determination procedures required in accordance with 10 U.S.C. 2410n and Section 637 of Division H of the Consolidated Appropriations Act, 2005 (Pub. L. 108-447), have been conducted. Additionally the authority granted by FAR Subpart 13.106(b)(1)(i) is applicable to this case under the Test Program for Commercial Items.

5. Rationale Supporting Use of Authority Cited Above: As designated by the order of preference prescribed in FAR Subpart 8.002, FAR Subpart 8.002(a)(i)(iii) mandates that FPI must be used as an ordering priority if FPI is designated as a mandatory source for the supplies required, as prescribed in FAR 8.605(f). This determination is made by looking at FPI's schedule. FPI's website indicates that they are a mandatory source for office furniture. Additionally, FPI has "Total Solutions" under this listing that includes design and installation. This rationale drives the CO's determination to obtain the required supplies and ancillary demolition and installation services directly from FPI, as mandated by the FAR.

6. Efforts to Obtain Competition: VA has previously provided for adequate competition by soliciting for this exact requirement via GSA Advantage's eBuy as a small business set-aside. It was from the responses received that VA concluded that FPI had the necessary office furniture supplies and competitive, commercially comparable pricing to warrant procuring the supplies from solely and directly from FPI. The FAR does not prescribe synopsis requirements for acquisitions conducted with FPI, specifically FAR Subpart 8.602(a)(3) confirms that the Contracting Officer follows FPI procedures dictated therein. Please refer to Market Research section for additional details detailing the contracting activity's determination to proceed with this acquisition strategy.

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 without mandatory sourcing from FPI.

8. Market Research: Market research was conducted, details of which are described below. In accordance with FAR 8.002(a)(1)(vii), *Priorities for use of Government supply sources*, mandatory sources must be evaluated and utilized, if they can provide the needed supplies, before seeking open market sources. As required by the previously stated FAR citation, the contracting activity must evaluate the following sources, in order of descending priority for supplies: agency inventory; other agency inventory; Federal Prison Industries, Inc. (UNICOR); AbilityOne; wholesale supply sources; mandatory Federal Supply Schedules (FSS); optional FSS; and commercial sources.

Due to the unique space plans - requiring particular workstation dimensions - and the number of workstations needed to accomplish SRS's consolidation efforts, agency inventories were unable to satisfy this requirement.

In accordance with FAR 8.602, *Policy*, market research was conducted comparing UNICOR's products and evaluated in terms of price, quality and time of delivery to those offered in the private sector. UNICOR's quality and time of delivery / delivery projections were found to be equivalent with GSA FSS holders. Both state a product and delivery timeline of 45 to 90 days. However, when UNICOR's pricing was compared to that of GSA FSS holders, UNICOR's pricing was found to be higher during market research. The pricing of task chairs, tables, and filing cabinets were compared (see market research screen shots in the Acquisition Plan's eCMS briefcase). In accordance with FAR 8.405-4, *Price Reductions*, the ordering activity is required to seek price reductions when establishing a Blanket Purchase Agreement or placing an order above the Simplified Acquisition Threshold. As a result, the solicitation will request additional discounts to achieve greater price competition. UNICOR, a wholly owned Government corporation, is not required to offer price discounts. As a result of this market research, the contracting activity came to the conclusion that UNICOR does not offer the most competitively priced products, and due to the anticipated large dollar amount of this acquisition, it would result in the Government paying a significantly higher price for UNICOR products. In accordance with FAR 8.602(a)(4), when Federal Prison Industries items are not found comparable, the Government shall acquire items through competitive procedures. UNICOR was notified of the requirement and was a recipient of the RFQ.

Moving forward with this acquisition strategy, VA posted a Request for Quote (RFQ) to eBuy as a small-business set-aside for the required supplies. Initially, FPI's quote was not evaluated because their submission was received after the 4:00 pm deadline. In spite of this, their quote was reviewed after finding the timely submissions inadequately equipped at offering a successful competitive environment and because they are a mandatory source for supplies above AbilityOne, in the FAR's order of preference. Prior to the release of this RFQ, during the market research phase of this acquisition, a determination was made that FPI's pricing was found to be significantly higher than that offered by the commercial sector. In accordance with FAR 8.602(a)(4), if the FPI item is not comparable in one or more areas of price, quality, and the time of delivery, agencies shall acquire the item using competitive procedures. In order to determine whether FPI's pricing was still not comparable to the private sector, a review of their submitted price quote was conducted. The findings of this review revealed FPI's product pricing to be equal to or lower than those quoted by commercial vendors, and their service fees for installation and design were found to be slightly higher than their competitors. Based on new information the government received regarding FPI's pricing submitted in its quote, the government finds that its initial market research is no longer accurate as to FPI's pricing. FPI's new pricing is found to be reasonable, and

our previous determination to acquire these supplies through competitive procedures rather than following the priority sourcing required by the FAR is being revoked.

Given the unsuccessful outcome of the evaluation of the quotes received in response to the RFQ, the CO had to determine the path forward for the acquisition. After consideration of multiple scenarios, including conducting exchanges with quoters, the CO concluded the current RFQ was to be cancelled and re-solicited to FPI and the Industries for the Blind, maintaining the initial intention to award a multiple award BPA. This determination has a rational basis and is supported by FAR 8.002(a)(1)(iii) & (iv), *Supplies*, which states FPI and AbilityOne are mandatory sources above Federal Supply Schedules. For supplies, FPI is a higher priority source than AbilityOne. Therefore, while VA intends to create a BPA with each entity, in accordance with FAR 8.002(a)(1), agencies shall first acquire these supplies through FPI, and if FPI cannot meet the government's needs, then the government must acquire them through AbilityOne. By allowing both mandatory sources to compete for a BPA award, it ensures the following: compliance with the FAR; incorporation of small business manufacturer participation; competitive pricing; and flexibility in production and delivery lead times to accommodate the program office's changing project schedule.

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.

Name Laura D. Atinsclure Date: 5/14/13
Title ACTING ADAS for Administration Signature: Laura D. Atinsclure

11. Fair and Reasonable Cost Determination: I hereby determine that the anticipated price to the Government for this contract action will be fair and reasonable based on **(insert the methods that will be used to determine a fair and reasonable price)**.

Name _____ Date: 14 May 2013
Procuring Contracting Officer Signature: Carol Kobukue

12. Procuring Contracting Officer Certification: I certify that this justification is accurate and complete to the best of my knowledge and belief. As this contract action does not exceed \$650,000, the certification below required by FAR 6.303-2(b)(12) serves as approval.

Name _____ Date: 14 May 2013

Procuring Contracting Officer

Signature:

Carol Kobayashi

13. Legal Sufficiency Certification: I have reviewed this justification and find it adequate to support other than full and open competition and deem it legally sufficient.

Name

Date: _____

Legal Counsel

Signature: _____

Approval

In my role as Contracting Activity Competition Advocate, based on the foregoing justification, I hereby approve the acquisition of ***(enter description from paragraph 2)***, on an other than full and open competition basis pursuant to the statutory authority cited in paragraph 4 above, subject to availability of funds, and provided that the property and services herein described have otherwise been authorized for acquisition.

Date: _____

Signature:

Iris B. Cooper
Head of the Contracting Activity

13. Legal Sufficiency Certification: I have reviewed this justification and find it adequate to support other than full and open competition and deem it legally sufficient.

Name Bridget F. Grant
Legal Counsel

Date: 5/21/13
Signature: Bridget E. Grant

Approval

In my role as Contracting Activity Competition Advocate, based on the foregoing justification, I hereby approve the acquisition of office furniture for the VACO campus, on an other than full and open competition basis pursuant to the statutory authority cited in paragraph 4 above, subject to availability of funds, and provided that the property and services herein described have otherwise been authorized for acquisition.

Date: 5-23-13

Signature:

Iris B. Cooper
Iris B. Cooper
Head of the Contracting Activity