

Department of Veterans Affairs  
National Acquisition Center

Title: Consolidated Mail Outpatient Pharmacy Direct to Patient Services

Justification for Other than Full and Open Competition

This document sets forth the justification and approval for other than full and open competition for the acquisition described herein, under the authority of FAR 6.302-1 "only one responsible source and no other supplies or services will satisfy agency requirements".

**1. Nature and/or description of the action being approved.**

The Consolidated Mail Outpatient Pharmacy (CMOP) intends to enter into a short term, sole-source contract with Medline Industries, Inc., (Medline) as the Direct to Patient (DTP) contractor for the distribution of certain over the counter (OTC) and medical/surgical supplies. This short term contract is to ensure continuous delivery of products to our Veterans' place of residence while a new solicitation is being developed for the contract that will replace the DTP contract currently held by Medline that will expire on June 26, 2013.

A bridge contract is required to maintain services during the process of developing a new, follow-on solicitation. Due to numerous and significant changes in the scope of work requirements, including revision of quality and monitoring standards; extensive review requirements not requisite at the time of the previous solicitation; and, specific IT requirements that were not included in the original solicitation and resultant award, an unavoidable delay in actions by the IPT, COR and Contracting Officer have resulted. Additionally, shipping processes will be shifting from the DTP contractor to a mail packaging consolidator. Award of the mail consolidator will change the scope of the DTP contract since the DTP contractor will no longer be responsible for mailing and shipment of packages from their facilities. Because the scope of the new DTP solicitation will be impacted so significantly by award of the consolidator contract, development of the final SOW for the DTP contract is currently on hold. Currently the document is in the drafting stage with no known release date. Failure to provide a bridge contract will result in impending serious delays of needed product delivery to our veterans. Failure to provide this bridge will place extreme burden on the individual CMOPs in order to provide these services.

The proposed short term contracting action is for a Firm-Fixed Price, Indefinite-Delivery, Requirements contract for the period of June 27, 2013 to December 26, 2013, and two options for an additional 90 days, each, if required. The estimated value of the contract including options is approximately \$55,000,000.

**2. Description of the supplies/services required to meet the Agency's needs.**

The purpose of this contract is to provide the National CMOP program with a source for the supporting services of direct-to-patient distribution of certain OTC medical/surgical supplies. The DTP contract covers the 50 states, Washington, DC, and Puerto Rico. The net price of the OTC pharmaceutical and medical/surgical products furnished under this contract is the prevailing Government contracted price plus awarded distribution fees. Shipping is reimbursed to the Contractor. A standardized list of products has been developed for distribution and provided to the Contractor. CMOP believes that the volume of work has the same potential for growth commensurate to the workload growth for the VA's pharmacy system.

The DTP contractor is required to maintain adequate supply and distribute requested products, all of which are available under various Government contracts - Federal Supply Schedules (FSS), VA National Contracts, Basic Ordering Agreements, and miscellaneous other Government contracts.

The DTP Contractor is required to electronically interface with all seven CMOP facilities, maintain a 95% fill rate, and meet or exceed timeliness standards of:

- 95% of all line items must be staged for carrier pick up no later than 1 business day from time of transmission
- 99% of all line items must be staged for carrier pick up no later than 2 business days from time of transmission
- The remaining 1% of all line items must be resolved by alternative approved methods by the end of the 3<sup>rd</sup> business day.

### **3. Identification of the statutory authority permitting other than full and open competition.**

The statutory authority permitting other than full and open competition is 41 U.S.C. 253 (c) (1) and FAR 6.302-1, which authorizes, under certain conditions, contracting without providing for full and open competition when the agency's need for the supplies or services can be provided from only one responsible source and no other supplies or services will satisfy agency requirements.

### **4. Demonstration that the proposed contractor's unique qualifications or the nature of the acquisition requires use of the authority cited.**

This contract is unique in that it is the only contract of its type in VA that provides direct to patient delivery of supplies. Medline Industries, Inc. is the current CMOP DTP contractor and has been performing under the current contract close to 5 years. Short term, Medline is the only wholesale distribution contractor that can meet the Government's requirements. To ensure uninterrupted supply of supplies, and not compromise patient care, this short term contract must start performance on June 27, 2013.

The current DTP contractor is required to deliver certain OTC pharmaceuticals and medical/surgical supplies distributed by 7 CMOPs on a daily basis by use of a secure electronic interface. If CMOP was to attempt to contract with a wholesale distribution contractor other than Medline, it would have to establish an approved, secure interface with this entity so that they are able to receive prescriptions and pay for those orders. Timely delivery of medical supplies is crucial for providing appropriate medical care to patients.

A contractor not currently doing business with VA would not have Government contract prices loaded in their system and may not have business agreements with manufactures and vendors doing business with the Government. Currently, approximately 900 line items from multiple contract sources have been standardized for distribution from the DTP Contractor, requiring the contractor to have sufficient warehouse capacity and packaging and shipping capabilities to provide uninterrupted services for all 7 CMOPs. An average of 7,000 prescriptions per working day are received and processed by Medline. Additionally, a contractor other than Medline would have to establish purchase and reimbursement agreements with each of the Government's contracted manufacturers and vendors to ensure that CMOP is paying the Government contracted prices.

The tasks listed above not only require time and money but also a fair number of skilled personnel to establish accounts, negotiate purchase agreements with product suppliers, forecast inventory, order and receive inventory and adjust delivery schedules. A contractor other than Medline would have to incur startup costs and a contractor that is not guaranteed long term business commitment is unlikely to incur such startup costs.

For the above reasons, the Government's needs are best served by a short term sole-source contract with Medline as they are the only contractor capable of fulfilling the Government's requirements without unacceptable disruption to operations and significant potential risks to patient care.

### **5. Description of the efforts made to ensure that offers are solicited from as many potential sources as is practicable, including whether a notice was or will be publicized as required by Subpart 5.2 and, if not, which exception under 5.202 applies.**

In accordance with FAR Part 6, the contracting officer will post the approved Sole Source Justification and summary of the DTP contract at Federal Business Opportunities ([www.fbo.gov](http://www.fbo.gov)) for informational

purposes only. The contracting officer has determined that competitive short term procurement is impractical and not in the best interest of the Government.

**6. A determination by the contracting officer that the anticipated cost to the Government will be fair and reasonable.**

The items distributed under the DTP contract are already under Government contracts with prices negotiated and determined fair and reasonable by the Government. The prices of the items distributed under the DTP contract are separate from the distribution fees offered by the DTP contractor. The DTP Contractor provides two distribution fees – one for products distributed from Medline's current FSS contracts, and another, higher fee for non-Medline contract items. The contracting officer intends to negotiate with Medline to have the same or better distribution fees as the current contract. The Department of Veterans Affairs expects to award fair and reasonable fees on the resultant short-term DTP contract.

**7. A description of the market research conducted, the results or a statement of the reason market research was not conducted.**

Market research was initially conducted concerning the medical/surgical manufacturing industry and it was discovered that there were five major providers in the market place: Cardinal Health, McKesson, Medline, Independence Medical, and Abbott, each of whom submitted proposals in response to the solicitation which resulted in the award to Medline. Updated market research has indicated that these market conditions have not changed. No other sources can satisfactorily meet the requirements of the DTP contract in a short period of time. This short term contract will commence performance on June 27, 2013. The compelling need to have a DTP contract immediately and the logistics of implementing a complex contract like the DTP contract, dictates that only the incumbent DTP contractor can perform.

**8. List of sources, if any, that expressed interest in the acquisition.**

Not applicable for the reasons stated herein in this document.

**9. Statement of actions the agency may take to remove or overcome any barriers to competition before any subsequent acquisition for the supplies or services required.**

This is a onetime short contract from June 27, 2013 to December 26, 2013 with an option for additional 180 days to cover the transition period that new DTP contractor needs to implement the new DTP successor contract. This bridge contract will ensure continuous delivery of certain OTC pharmaceuticals and medical/surgical supplies to the veteran. The new DTP contract solicitation will be based on full and open competition.

**TECHNICAL AND REQUIREMENTS CERTIFICATION**

I certify that the facts and representations under my cognizance which are included in this justification and which form a basis for this justification are complete and accurate.

  
\_\_\_\_\_  
David Zacher  
Associate Deputy Chief Consultant PBM/CMOP

4/4/2013  
Date

**CONTRACTING OFFICER CERTIFICATION**

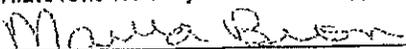
I certify that this justification is accurate and complete to the best of my knowledge and belief.

  
\_\_\_\_\_  
Evelyn Halliburton-Shannon, Contracting Officer  
VA National Acquisition Center, Hines, Illinois

3/29/2013  
Date

**LEGAL CONCURRENCE**

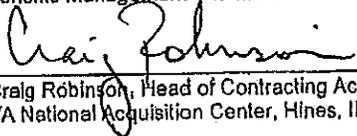
I have reviewed this justification and approval and have found it to be legally sufficient.

  
\_\_\_\_\_  
Office of General Counsel

4/4/2013  
Date

**HEAD OF CONTRACTING ACTIVITY  
REVIEW AND APPROVAL**

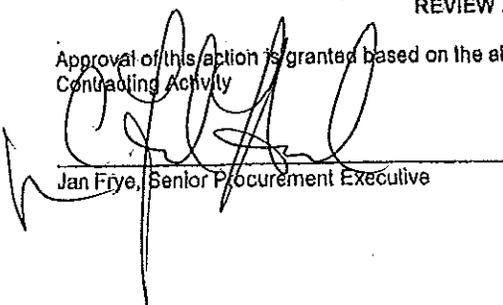
Approval of this action is granted based on the above Justification and Certifications from Pharmacy Benefits Management and the Contracting Officer.

  
\_\_\_\_\_  
Craig Robinson, Head of Contracting Activity  
VA National Acquisition Center, Hines, Illinois

4/30/2013  
Date

**SENIOR PROCUREMENT EXECUTIVE  
REVIEW AND APPROVAL**

Approval of this action is granted based on the above Justification and Certifications from the Head of Contracting Activity

  
\_\_\_\_\_  
Jan Frye, Senior Procurement Executive

5/23/2013  
Date