

DEPARTMENT OF VETERANS AFFAIRS

Justification and Approval

For

Other Than Full and Open Competition

1. **Contracting Activity:** The Minneapolis VA Contracting Office is pursuing this sole source emergency procurement for the Department of Veterans Affairs, VISN 23, Fargo VA Health Care System (FVAHCS) utilizing a Request for Proposal (RFP) under FAR 6.302-2, unusual and compelling urgency utilizing the 1358 payment process.
2. **Nature and/or Description of the Action Being Processed:** This is an emergency procurement for a new firm, fixed-price Basic Ordering Agreement (BOA) with Lutheran Memorial Home; Twin Valley Living Center (Twin Valley Living Center) in Twin Valley, Minnesota. The current BOA with Twin Valley Living Center is soon to expire. The subject requirement is being pursued as an emergency procurement based on the justifications outlined below.
3. **Description of Supplies/Services Required to Meet the Agency's Needs:** This BOA is for nursing home services. The Independent Government Contract Estimate (IGCE) reflects spend of \$118,742.00, as submitted by the Fargo Contracting Office Representative (COR) in working in combination with Fee Basis and last year's spend to date with projections out to the end of the fiscal year. The performance period shall be from July 1, 2013 to June 30, 2014, with one (1) 6-month extension which extension is allowed pursuant to FAR 52.217-8. As such, for this 1-year contract, the BOA amount would not exceed the \$150,000 simplified acquisition threshold.
4. **Statutory Authority Permitting Other than Full and Open Competition:**
 - () (1) Only One Responsible Source and No Other Supplies or Services Will Satisfy Agency Requirements per FAR 6.302-1;
 - (X) (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
 - () (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):** This is an unusual and compelling urgency procurement because the Fargo, North Dakota Contracting Officer was not able to continue work on this requirement due to a medical emergency leave situation. As such, all Fargo nursing homes requirements were quickly transferred to the Minneapolis Contracting Office. The Minneapolis Contracting office had to familiarize itself with all 22 of these Basic Ordering Agreements (BOAs) and determine what the status of

each one was. Accordingly, this requirement required an immediate procurement because it was expiring shortly. As such, this became an emergency sole source procurement. These circumstances qualify this requirement for the category of "unusual and compelling urgency", justifying other than full and open competition (sole sourcing to Twin Valley Living Center).

6. **Description of Efforts Made to ensure that offers are solicited from as many potential sources as deemed practicable:** No other offers were sought, because this facility is required for existing patients there because it is not in the best interest of quality medical care for veteran nursing home patients to be moved once they have been placed at a nursing home. Moreover, VHA Handbook 1143.2, "VHA Community Nursing Home Oversight Procedures," (June 4, 2004), paragraph 2(a), provides that [f] or more than 35 years, the [Community Nursing Home] CNH Program has maintained....some level of patient choice in choosing a nursing home close to a veteran's home and family...."
7. **Determination by the Contracting Officer that the Anticipated Cost to the Government will be Fair and Reasonable:** Costs are pre-established by the State of Minnesota in the form of Medicaid rates for the Twin Valley Living Center. Medicaid rates charged by Twin Valley Living Center will be for those established State Medicaid rates.
8. **Description of the Market Research Conducted and the Results, or a Statement of the Reasons Market Research Was Not Conducted:** No other offers were sought, because this facility is required for existing patients there because patients have already been placed there. See Section 6 above.
9. **Any Other Facts Supporting the Use of Other than Full and Open Competition:** N/A
10. **Listing of Sources that Expressed, in Writing, an Interest in the Acquisition:** See Section 6 above.
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:** N/A
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.



Name: Shelly R. Backlund

Title: Contracting Officer Representative

Facility: Fargo VA Health Care System

5/28/13
Date

Market Research Report

Emergency Procurement for Twin Valley Living Center Basic Ordering Agreement (BOA)

The Fargo VA Health Care System (FVAHCS)

1. **Objective:** The objective is to conduct emergency sole source procurement for a nursing home services Basic Ordering Agreement (BOA) with Twin Valley Living Center in Twin Valley, Minnesota utilizing a Request for Proposal (RFP) for the Fargo VA Health Care System (FVAHCS) under FAR 6.302-2, unusual and compelling urgency.
2. **Background:** The Statement of Work in the BOA provides that the nursing home shall ensure the Contractor shall provide CNH services to beneficiaries at the contractor's facility for whom such care is specifically authorized by the Fargo VA Health Care System (FVAHCS). The Contractor shall meet the health needs and promote the maximum well-being of VA patients. The Contractor shall ensure the total medical, nursing, and psycho social needs of VA beneficiaries. The Contractor shall provide Physician visits, laboratory, x-ray, and other special services for VA patients are at the same frequency as that provided to other patients at the nursing home receiving the same or comparable level of care. The Contractor shall motivate and educate patients to achieve and maintain independence in the activities of daily living. The Contractor shall keep patients ambulatory to achieve an optimal level of self care.
3. **Market Research Sources:** Community Nursing Home (CNH) program personnel at the FVAHCS have been a primary source for nursing home care research at the FVAHCS. The FVAHCS indicates which nursing homes it desires to execute new BOAs with. The CNH team also indicates whether a BOA renewal is appropriate for any nursing home (community nursing home) that is presently a part of the CNH nursing home program.
4. **Market Research Findings:** This procurement shall be an emergency sole source Request for Proposals (RFP) pursuant to Federal Acquisition Regulations, FAR 6.302-2 (Unusual and Compelling Urgency), under NAICS code 623110, Nursing and Residential Care Facilities, size standard \$25.5 million. Many nursing homes are non-profit organizations or large corporations, so that a full and open procurement is often necessary to acquire as many quality nursing homes as is possible in both rural and urban areas so as to better service veterans and their families, friends and relatives that support the veterans while veterans are in nursing homes.

It is not in the best interest of quality medical care for veteran nursing home patients to be moved once they have been placed at a nursing home. Moreover, VHA Handbook 1143.2, "VHA Community Nursing Home Oversight Procedures," (June 4, 2004), paragraph 2(a), provides that [f] or more than 35 years, the [Community Nursing Home] CNH Program has maintained....some level of patient choice in choosing a nursing home close to a veteran's home and family..."

5. **Customary Commercial Terms and Conditions:** The contract vehicle shall be a Basic Ordering Agreement (BOA) for one (1) year with a 6-month extension. The nursing home requirement is a services BOA which contains a wage determination, Medicaid rates, Statement of Work, etc.
6. **Market Price:** Medicaid rates which are established by the State of Minnesota for each individual nursing home will be used for nursing home services under these BOAs. Twin Valley Living Center's nursing home Medicaid rates will obviously be used here.

The Independent Government Cost Estimate (IGCE) for the 1-year BOA that we seek with Twin Valley Living Center follows: \$118,742.00, as submitted by the Fargo Contracting Office Representative (COR) in working in combination with Fee Basis and last year's spend to date with projections out to the end of the fiscal year.

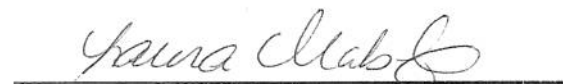
7. **Acquisition History:** The previous procurement was an RFP on the open market. The full and open method for competition was the best possible pursuit for this procurement, because we need the breadth of what the unrestricted market place has to offer for the placement of veterans in nursing homes in both rural and urban areas of North Dakota and Western Minnesota.
8. **Other pertinent information:** This is an unusual and compelling urgency procurement because the Fargo, North Dakota Contracting Officer was not able to continue work on this requirement due to a medical emergency leave situation. As such, all Fargo nursing homes requirements were quickly transferred to the Minneapolis Contracting Office. The Minneapolis Contracting Office had to familiarize itself with all 22 of these Basic Ordering Agreements (BOAs) and determine what the status of each one was. Accordingly, this requirement required an immediate procurement because it was expiring shortly. As such, this became an emergency sole source procurement.
9. **Recommendations:** The recommendation is to conduct the procurement as an unusual and compelling urgency, FAR 6.302-2, RFP with a resulting BOA as the objective herein.

Prepared by:


Signature

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Date: 5/28/13


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