

DEPARTMENT OF VETERANS AFFAIRS
Justification and Approval
For
Exception to Fair Opportunity Memo

Acquisition Plan Action ID: 36C263-24-AP-2608

1. **Contracting Activity:** Department of Veterans Affairs, Network Contracting Office 23 (NCO 23)
Ordering Activity: St. Cloud VA Health Care System (VAHCS), Facilities Engineering, VISN 23 **Purchase Request Number:** 656-24-4-2438-0034
2. **Description of Action:** This justification is to support the project **656-18-293, Upgrade Surveillance and Duress Security Systems Campus Wide**, at the St. Cloud VAHCS. NCO 23 will be issuing a solicitation off the Minnesota Construction MATOC for this project, with the anticipation of awarding a firm fixed-price task order. This is a 100% Service-Disabled Veteran Owned Small Business (SDVOSB) set aside. Construction magnitude for the entire project is between \$5,000,000 and \$10,000,000.
3. **Description of Supplies or Services:** This justification is for an exception to fair opportunity for the procurement of certain construction materials. The use of a particular brand name for the items listed in this justification accommodates standardization of these items throughout the facility.
 - a. **Johnson Controls DDC system.**
 - i. **Unique Qualifications:** The project will include the installation of DDC controls as specified in 23 09 23 of the project specifications. The patient occupied buildings, as well as the entire facility, employs the Johnson Controls system to regulate the buildings HVAC systems. The controls must be identical to the existing controls in every building to communicate with our centrally monitored Metasys System that our facility has in place.
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) 16.505(b)(2)(i):
() FAR 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.
(X) FAR 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.
() FAR 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 16.505(b)(2)(i)(D): It is necessary to place an order to satisfy a minimum guarantee.

() FAR 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).

5. **Rationale Supporting Use of Authority Cited Above:** The patient occupied buildings, as well as the entire facility, employs the Johnson Controls system to regulate the buildings HVAC systems. The controls must be identical to the existing controls in every building to communicate with our centrally monitored Metasys System that our facility has in place.
6. **Efforts to Obtain Competition:** Not applicable; see para. 5 above. Until such time that another system replaces the current system, there is no alternative option for this requirement.
7. **Actions to Increase Competition:** The Government will continue to conduct market research to ascertain if there are changes in the marketplace that would support future requirements.
8. **Market Research:** Market research was conducted prior to selecting this manufacturer as the facilities standard base. This justification is specific to the manufacturer, Johnson Controls. This partial requirement of this project is a minor extension of the existing system. At this time there are no competing vendors whose products are fully compatible with our existing DDC Controls; however, if equipment other than Johnson Controls is found to have the capability to provide interchangeable components and maintain a high level of HVAC control, then it will be considered acceptable. None to date is known or shown to be available. For maintenance, repair, inventory and to eliminate communications issues, the Johnson Control system is justified. Any deviation from the Medical Center's established control system to regulate the HVAC system in each building would create a need for additional training to maintain, troubleshoot and/or repair, coupled with the communications issue of additional computer software to program the system. Even more expense would be incurred to purchase this software and the associated training necessary to operate it.
9. **Other Facts:** This Justification will be included in the posted solicitation in accordance with FAR 6.302-1(c)(ii)(C).
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.

ROBERT
KLEIN

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5-10-24

Robert Klein
Healthcare Engineer, Project Section
St. Cloud 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 solicitation will be issued competitively IAW Far 16.505(b). Price reasonableness shall be established through competition.

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

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Teresa Kohlbeck
Contracting Officer
NCO 23

5/13/24

Date