

**DEPARTMENT OF VETERANS AFFAIRS**

**Justification and Approval**

**For**

**Exception to Fair Opportunity Memo**

**Acquisition Plan Action ID:** 36C263-22-AP-4124

1. **Contracting Activity:** Department of Veterans Affairs, Network 23 Contracting Office, 4801 Veterans Drive, St. Cloud, MN 56303

**Organizational Activity:** Department of Veterans Affairs, Minneapolis VA Health Care System, One Veterans Drive, Minneapolis, MN 55417

**2237 Number:** 618-22-4-4005-0593

2. **Description of Action:**

A firm-fixed price delivery order against NASA SEWP Contract Number NNG15SD22B to provide a Health Level Data Analytics Subscription and related modules for the Minneapolis VA Health Care System.

3. **Description of Supplies or Services:** The Minneapolis VA Health Care System requires a Health Level Data Analytics Subscription. The following items are required for this procurement:

- Foundations from Health Level Data Analytics Subscription (Part Number: FPLAT)
- Performance Management Module (Part Number: FPREP, FPOST)
- Staffing and Capacity Management Module (Part Number: WAPM)
- Real-Time Workspaces Module (Part Number PFLOW)
- Foundations Radiology Order Protocoling per physical facility up to 150,000 Annualized SIUID volume (Part Number: PFM7)

The total estimated value of the acquisition is \$ [REDACTED]

The period of performance: 09/23/2022 to 09/22/2023

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.

( ) 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.

## Attachment 1: Request for Exception to Fair Opportunity Memo Format

( ) 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.

(X) 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:** IAW 41 USC §3304(a)(5), 38 U.S. Code § 8127(c), as implemented by FAR 6.302-5 (Authorized or Required by Statute). COs may use the noncompetitive (sole source) procedures authorized in VAAR 819.7007 Sole source awards to a verified service-disabled veteran-owned small business; up to \$5,000,000.

The software subscription and modules must be compatible with the existing servers that were put into place last year and require no additional implementation services to start running reports. To switch to a different software at this juncture would render the existing servers and installation services that were previously procured useless. In addition, it would provide a consistency between reporting done thus far, and that which is conducted in the new Period of Performance. Four Points Technology is a verified Service-Disabled Veteran-Owned Small Business (SDVOSB) and is the only authorized SDVOSB distributor for Health Level the developer of this software. This requirement is being sole sourced to a SDVOSB as authorized by 38 U.S.C. 8127.

- 6. Efforts to Obtain Competition:** *A description of efforts made to ensure that offers are solicited from as many potential sources as is practicable.*

Health Level currently has one authorized SDVOSB distributor, Four Points Technology. Only this SDVOSB was reviewed, as the government is not willing to accept Grey Market items. Sole sourcing to Four Points Technology is in the best interest of the government, as they are the only SDVOSB that can provide this software that can use the servers that are already in place and provide this reporting without additional implementation services.

- 7. Actions to Increase Competition:** The Government will continue to conduct market research to ascertain if there are changes in the marketplace that would enable future actions to be competed.

- 8. Market Research:** In accordance with VA Procurement Policy Memorandum 2016-05 - Implementation of the Veterans First Contracting Program, U.S.C. §§ 8127, Market Research was conducted on Vetbiz.gov using 541519-Other Computer Related Services, and 2377 results were returned.

**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.

Redacted

Mary Shaw

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Date

Operations Manager-Imaging

Minneapolis VA Health Care System

**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 items on the GWAC contract are determined fair and reasonable at the GWAC level.

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

Redacted

Wendy Hoeschen

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Date

Contracting Officer

Network 23 Contracting Office (NCO 23)

**13.** Approvals in accordance with [VHAPG Part 816.505 Indefinite Delivery Contracts: Ordering](#).

- a. One Level Above the Contracting Officer (Required over SAT but not exceeding \$750K):** I certify the justification meets requirements for other than full and open competition.

Redacted

Jameson Schwartz

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Date

NCO 23/Branch Chief