

DEPARTMENT OF VETERANS AFFAIRS

JUSTIFICATION FOR OTHER THAN FULL AND OPEN COMPETITION

Acquisition Plan/Solicitation/Lease #: _____

1. Contracting Activity:

[Agency], [contracting activity] proposes to enter into a lease contract on behalf of [VISN, VAMC, etc.] on the basis of other than full and open competition.

2. Nature and/or Description of the Action Being Approved:

The [agency] is seeking [amount of space] ABOA/[amount of space] rentable square feet (RSF) of [office/clinical] space for the [name of clinic or office]. Approval is requested to negotiate a new lease with [proposed lessor's name] without full and open competition.

3. Description of the Requirement to Meet the Agency's Needs:

[Agency] submitted a request for leased space on [date] for [amount of space] rentable square feet of [office/clinical] space. To satisfy [agency] mission requirements, the facility must be located [insert general description of delineated area, or state location requirements by walkable distance from desired location].

This requirement is for [amount of space] ABOA/[amount of space] RSF of space for a term of [total lease term in years] years, to commence on [date]. The estimated cost of this lease is anticipated to be [dollar amount based on market research] per RSF per year [fully serviced/unserviced] for an annual cost of [annual rental amount] and a total contract value of [total contract rental amount]. The delineated area is [insert specific boundaries within which space will be obtained to satisfy the space requirement].

4. Statutory Authority Permitting Other than Full and Open Competition: 41 USC §3304(a)(5), as implemented by FAR 6.302-5(a)(2)(i), Authorized or required by statute; full and open competition need not be provided for when a statute expressly authorizes or requires that the acquisition be made through another agency or from a specified source. 38 U.S.C. 8103(h)(1) authorizes lease procurements with an academic affiliate or covered entity for the purpose of providing health-care resources to Veterans notwithstanding any other provision of law requiring competitive procedures.

5. Demonstration that the Contractor's Unique Qualifications or Nature of the Acquisition Requires the Use of the Authority Cited Above (applicability of authority): 38 U.S.C. 8103(h)(1) authorizes non-competitive procedures to enter into a lease with an academic affiliate or covered entity to acquire space for the purpose of providing health-care resources to Veterans.

a. The proposed lessor is an academic affiliate institution or organization as described in 38 U.S.C. 7302(d) or a covered entity: *[Select paragraph 1) or 2) as applicable]*

1) **Proposed academic affiliate institution** (Select one):

- Schools of medicine, osteopathy, dentistry, nursing, pharmacy, optometry, podiatry, public health, or allied health professions.
- Other institutions of higher learning.
- Medical centers.
- Academic health centers.
- Hospitals.

- Such other public or nonprofit agencies, institutions, or organizations as the Secretary considers appropriate, including medical practice groups and other entities associated with such academic institution.

2) **Proposed covered entity**

- The proposed lessor is a covered entity, meaning a unit or subdivision of a State, local, or municipal government, public or nonprofit agency, institution, or organization, or other institution or organization as the Secretary considers appropriate that owns property controlled by an academic affiliate to be leased under this subsection.

b. The academic affiliate is (Select one):

- included in the Office of Academic Affiliations current Graduate Medical Education listing at: <https://vaww.oaa.med.va.gov/DBReports/GME/GmeAffiliationList.aspx>.
- not included in OAA's current GME listing, however OAA's confirmation the entity is a VA academic affiliate eligible for this procurement is included in the lease contract file.

c. The health-care resource being provided under the proposed lease meets the criteria in 38 U.S.C. 8103(h)(2)(C). [Provide a detailed description of the health-care resources being provided in the leased space. The term "health care resources" involves the provision of a broad range of health care resources, including any and all medical specialties, to include: radiology, cardiovascular surgery, etc. Health care resources also refer to health care support and administrative resources, the use of medical equipment, space, and home oxygen. Health care support and administrative resources include those services, apart from direct patient care, determined necessary for the operation of VA facilities. Health care support resources serve medically-related purposes (e.g., biomedical equipment repair, patient transport, etc.). Administrative resources include services not unique to the provision of medical care, but deemed necessary to support the specific health care resource procurement action (e.g., transcription services, grounds maintenance, laundry, etc.)].

d. The space included within the proposed lease meets the criteria in 38 U.S.C. 8103(h)(2)(D) and is owned or controlled by an academic affiliate. [Provide a detailed describe the space].

e. Entering into a non-competitive lease for space with an academic affiliate or covered entity for the purpose of providing health-care resources to Veterans is in the best interest of the VA. [Provide rationale for this statement].

6. **Description of Efforts Made to ensure that offers are solicited from as many potential sources as deemed practicable:**

No effort was made to solicit other potential sources. This proposed action was not publicized as it is authorized by statute and therefore exempt under FAR 5.202(a)(4).

7. **Determination by the CO that the Anticipated Cost to the Government will be Fair and Reasonable:**

Recent market research conducted by [national broker contractor name or the LCO] in [city], [state] showed the rental rate within the delineated area ranges from [enter RSF rental rate range quoted during market research] per RSF per year [fully service/unserviced].

Therefore, in accordance with Federal Acquisition Regulation (FAR) 6.303-2(a)(7), the LCO determines by certifying this document that the anticipated cost to the Government of [dollar figure] per RSF per year [fully serviced/unserviced] for the entire requirement is within the current market range and deemed fair and reasonable.

8. Description of the Market Research Conducted and the Results, or a Statement of the Reasons Market Research Was Not Conducted:

On [date], [national broker contractor name or LCO] conducted market research for the purpose establishing the current market range for comparable space. The following properties were identified:

Address	Source [CoStar, etc.]	RSF Rate [fully serviced/unserviced]

9. Any Other Facts Supporting the Use of Other than Full and Open Competition:

[Discuss additional factors supporting the use of other than full and open competition, or state “none” if applicable].

10. Listing of Sources that Expressed, in Writing, an Interest in the Acquisition:

No sources expressed written interest in the acquisition. This proposed action was not publicized as it is authorized by statute and therefore exempt under FAR 5.202(a)(4).

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 space required:

[Describe any actions taken or to be taken to overcome barriers to competition in the future. If no actions are planned, so state and provide reasons].

12. Lease Contracting Officer Certification I certify that the foregoing justification is accurate and complete to the best of my knowledge and belief.

[Lease Contracting Officer]
[Contracting Activity/Office]

[Date]

13. Technical Requirements Personnel 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.

[This signature is the requestor’s supervisor, fund control point official, chief of service, someone with responsibility and accountability].

[Name]

[Date]

[Title]
[Facility]

14. Approvals in accordance with FAR 6.304:

[Contracting Staff will fill in appropriate approval levels in accordance with FAR 6.304 as part of this Justification]

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

[Name]
[Title]
[Organization]

[Date]

- b. **VA HCA for Leasing Review and Approval**: I have reviewed the foregoing justification and find it to be complete and accurate to the best of my knowledge and belief and approve for other than full and open competition.

John D. Thomas
Associate Executive Director
Office of Real Property
Office of Construction and Facilities Management

Date