Justification for Other than Full and Open Competition

"Source Selection Information – see FAR 2.101 and 3.104"

1. Identification of the agency and contracting activity.

a. Federal agency and contracting activity. Department of Health and Human Services (DHHS), Centers for Medicare & Medicaid Services (CMS), Office of Acquisition and Grants Management (OAGM)

b. Sponsoring organization. Office of Information Systems (OIS)

c. Contracting Officer Representative (COR) information.

- **COR name.** Paul Weiss
- **Mailing address.** 7500 Security Blvd, Mail Stop: N2-03-24, Baltimore, MD 21224
- **E-mail address.** Paul.Weiss@cms.hhs.gov
- **Telephone number.** 410-786-9372

2. Nature and/or description of the action being approved. .

a. Acquisition purpose and objectives. The purpose of this justification is to obtain approval to issue a contract for the development of urgently needed Federal Facilitated Marketplace (FFM) functionality. The FFM serves the needs as described within the Affordable Care Act, and enables consumers to obtain affordable health care coverage through the Healthcare.gov website application. The development services to be provided by Accenture Federal Services, LLC (AFS) are outlined below (see paragraph 3) and are critical to the successful national deployment and operation of the Marketplace.

This one-year contract action is an interim, transitory solution to meet the Agency's immediate and urgent need for specific FFM functions and modules. CMS intends to conduct market research, issue a competitive solicitation and award a contract within the next year for continued development and operation of the FFM.

b. Project background.

On March 23, 2010, President Obama signed the Patient Protection and Affordable Care Act of 2010 (Public Law 111-148) as amended by the

Health Care and Education Reconciliation Act of 2010 (Public Law 111-152), referred to collectively as the Affordable Care Act, providing better health security to millions of Americans. The law sets in motion a range of comprehensive health insurance reforms that hold insurance companies accountable, offer more coverage choices to the public thereby improving affordable health insurance to millions of Americans, gives small businesses the same insurance coverage purchasing clout as large business, enhances the quality of care for all Americans, and reduces health costs through improvements to the industry. The Affordable Care Act established the over-all system entitled the "Marketplace" to enact these reforms.

This Marketplace includes the Healthcare.gov website which is supported by the FFM which provides an online application for consumers to apply and determine eligibility for coverage and financial assistance, and a tool to compare and select health plans leading to initiation of enrollment with a health provider.

3. Description of the supplies or services required to meet the agency's needs (including the estimated value).

a. Project title.

Federally Facilitated marketplace software development, maintenance and enhancements contract

b. Project description.

See 5 (b) for a description of the work

- **Requirement type.**

  - ☐ Research & development (R&D)
  - ☐ R & D support services
  - ☐ Support services (non-R&D)
  - ☐ Supplies/equipment
  - ☑ Information technology (IT)
  - ☐ Construction
  - ☐ Architect-engineer (A & E) services
  - ☐ Design-build
  - ☐ Other (specify): _____

- **Type of action.**

  - ☑ New requirement
  - ☐ Follow-on
  - ☐ Other (specify): _____

- **Proposed contract/order type.**

  ❑ Firm-fixed-price
  ❑ Other fixed-price (specify, e.g., fixed-price award-fee, fixed-price incentive-fee): _____
  ❑ Cost-plus-fixed-fee
  ☑ Other cost reimbursement (specify, e.g., cost-plus-award-fee, cost-plus-incentive-fee): Cost Plus Award Fee (CPAF)
  ❑ Time and materials
  ❑ Indefinite delivery (specify whether indefinite quantity, definite quantity, or requirements): _____
  ❑ Other (specify): _____
  ❑ Completion Form ❑ Term form

- **Acquisition identification number.**

  OIS-393-2014-0162

c. Total estimated dollar value and performance/delivery period.

The total estimated amount is $91.1 million, covering a one (1) year period. CMS considered the work that the contractor must complete by mid-March as well as the other work required and prepared a cost estimate. CMS estimated the types of labor that would be required, their respective costs, and the respective hours required to complete the services described in the Statement of Work. CMS also estimated that the contractor would be required to incur about $2 million in travel costs in order perform the services.

As described below, CMS is awarding a contract without competition and plans on conducting a competition for the continuation of the work described herein. This type of competition normally requires six to twelve months of lead time in order to complete the award. CMS requires AFS to perform the urgently required services and continue to develop and maintain the FFM for twelve months while CMS competes and awards the upcoming procurement. Therefore, CMS requires AFS to perform the required services for twelve months.

4. Identification of the statutory authority permitting other than full and open competition.

☑ **This acquisition is conducted under the authority of 41 United States Code (U.S.C.) 253(c)(2) as set forth in Federal Acquisition Regulation (FAR) 6.302-2 – Unusual and Compelling Urgency.**

❑ **This acquisition is conducted under the authority of section 4202 of the Clinger-Cohen Act of 1996.**

- ❑ **This acquisition is conducted under the authority of the Services Acquisition Reform Act of 2003 (41 U.S.C. 428a).**

5. Demonstration that the proposed contractor(s) unique qualifications or the nature of the acquisition requires use of the authority cited.

a. Name and address of the proposed contractor(s).

Accenture Federal Services LLC
11951 Freedom Drive
Reston, VA 20190

b. Nature of the acquisition and proposed unique qualifications of the contractor(s).

CMS urgently requires the development of the following specific FFM core functionality by mid-March 2014:

- Financial Management Platform that:
  - tracks eligibility and enrollment transactions;
  - accounts for subsidy payments to insurance plans;
  - integrates with existing CMS Financial Management system (i.e. HIGLAS);
  - provides stable and predictable financial accounting and outlook for the entire program through administration of Risk Adjustment, Reinsurance, and Risk Corridors; and
  - Oversees the program's operational performance and integrity to support the reconciliation calculation and validation with IRS.

In addition, CMS needs a contractor that can enhance existing FFM functionality that was limited in scope due to defect resolution:

- Notice Generations to include Account Transfer and multiple other notice types that were deferred due to inability for the current contractor to deliver Eligibility Support Worker functionality
- Call Center Representative functionality
- Direct Enrollment integrations
- 834 generation re-processing
- Plan Management (PM) module enhancements to include Application Administrative access for CMS personnel, resolution of defects in Plan Preview tool, re-designing of PM templates
- Completing Edge Server deployment and operations (including automated maintenance and updates)

There is insufficient time to allow for normal competitive processes to solicit offers, negotiate and award a contract for these services described

above. CMS must immediately award a contract for these services under the auspices of the aforementioned exception to full and open competition because there is limited time to build this functionality and failure to deliver the functionality above by mid-March 2014 will result in financial harm to the Government. If this functionality is not complete by mid-March 2014, the Government could make erroneous payments to providers and insurers. Additionally, without a Financial Management platform that accounts for enrollments and associated program costs (i.e. Advance Premium Tax Credits (APTC), Cost Sharing Reductions (CSR), payments to insurance plans, etc.), that integrates with the existing CMS Accounting platform (HIGLAS), the entire healthcare reform program is jeopardized by significantly increasing the following risks:

- Creating erroneous estimates of budgeted and projected payments associated with operating the FFM;
- Inaccurate issuance of payments to health plans which could seriously put them at financial risk; potentially leading to their default and disrupting continued services and coverage to consumers;
- Inaccurate forecasting of Risk Adjustment, Reinsurance, and Risk Corridor; potentially putting the entire health insurance industry at risk; and
- Failing to support the end of the year reconciliation with IRS; leading to greater program costs for workarounds.

CMS believes the current FFM development contractor is not going to be able to complete the development of the required functionality by the required date. The need for the FFM to perform the functions above by mid-March 2014 remains and the implementation dates for this functionality remain unchanged. CMS reached this conclusion in early December 2013 after the current contractor did not deliver software and services needed to process inbound effectuated enrollments to an Enrollment Data Store (EDS), perform duplicate enrollment checks, support enrollment reconciliation with FFM issuers, and perform payment calculations of Advance Premium Tax Credits (APTC) and Cost Sharing Reductions (CRS) for all Marketplace programs, state and Federal.

CMS considered its options (obtaining (1) the required development of core functionality and (2) enhancements to existing functionality from the current contractor, or entering another contract) and decided that its best chance of delivering the system and protecting the Government's financial interests rested in the immediate award of a contract to another contractor.

The FFM core functionality must be delivered by mid-March 2014 the enhancements for existing functionality will be on-going through Dec 2014 or upon award of a new contract using Full and Open Competition. The current need is urgent and CMS requires a contractor begin immediately to deliver the required support. A normal competitive

procedure of this magnitude normally requires between six to twelve months to complete upon issuance of a competitive Request for Proposals. If CMS conducted such a competition, CMS would not receive the required functionality until approximately September 2014. Any delay in obtaining this functionality would cause the financial harm to the Government described above, hence the need for approval of an award based on urgency.

CMS utilized the expertise of the CMS Federally Funded Research and Development Center contractor, The MITRE Corporation, to assess a list of known contractors against a set of criteria to determine which were most qualified to perform the required work. CMS considered the following criteria:

1. Demonstrated ability to develop internet IT applications using with RedHat and MarkLogic;
2. Experience developing a web based financial management system;
3. Ability to take over a complex development effort in a short period of time;
4. An accounting system that is adequate for cost reimbursable contracts;
5. No conflicts of interest; and
6. Past Performance that does not show evidence of poor performance.

CMS considered over a dozen companies against these criteria. CMS determined that four companies potentially met the needs and held informal meetings with the four companies. After meeting with the four, CMS selected AFS to perform this work. AFS is uniquely qualified due to their success in building and deploying successful similar systems, such as the state based marketplace system for the state of California. Their depth and breadth of resources available immediately to begin work make them uniquely qualified to perform this work. AFS is furthermore uniquely qualified due to their vast experience building online transaction systems that determine eligibility and are in a secure environment.

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

   CMS did not have time to solicit offers from potential sources. Due to the urgent nature of the requirements, CMS conducted the abbreviated, fast-paced market research described above.

   A FedBizOpps notice was not publicized because the proposed contract action is being made under the conditions described in FAR 6.302-2, Unusual and Compelling Urgency, and the Government would be seriously injured if the agency complies with the time periods specified in FAR 5.203.

7. **Determination by the Contracting Officer that the anticipated cost/price to the Government will be fair and reasonable.**

   The Contracting Officer and the Office of Information Services technical staff will conduct a thorough cost analysis of Accenture's proposal to determine that the negotiated cost to the Government will be fair and reasonable.

8. **Description of the market research conducted (see FAR Part 10) and the results, or a statement of the reasons market research was not conducted.**

   Please refer to paragraph 5 above.

9. **Any other facts supporting the use of other than full and open competition.**

   None

10. **Listing of sources, if any, that expressed, in writing, an interest in the acquisition.**

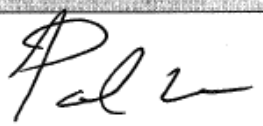
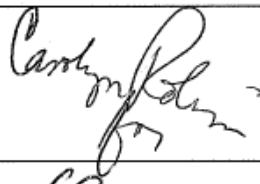
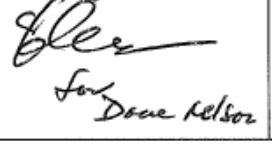
    Sources did not formally express interest in the acquisition. As described in paragraph 6 above, CMS conducted market research and did not solicit formal written expressions of interest.

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

    The Agency plans to award a contract using full and open competition for FFM Systems Operation, Maintenance, and future developmental requirements with an anticipated award by Dec 2014.

12. Program office certification. .

This is to certify that the portions of this justification that have been developed by the undersigned program office personnel, including supporting information and/or data verifying the Government's minimum needs, schedule requirements and other rationale for other than full and open competition, are accurate and complete.

Official	Name & Title	Signature	Date
Project Officer	Paul Weiss COR		12/27/13
Project Officer's Immediate Supervisor	Angela Hitchcock Director, OIS/RAMG/DCP		12/27/2013
Head of the Sponsoring Program Office	David Nelson Acting CIO, OIS		12/27/2013

13. **Contracting Officer certification.**

This is to certify that the justification for the proposed acquisition has been reviewed and that to the best of my knowledge and belief the information and/or data provided to support the rationale and recommendation for approval is accurate and complete.

Official	Name & Title	Signature	Date
Contracting Officer	Andrew Mummert Contracting Officer	Andrew Mummert Digitally signed by Andrew Mummert DN: cn=Andrew Mummert, o, ou, email=andrew.mummert@cms.hhs.gov, c=US Date: 2013.12.27 13:16:51 -05'00'	

14. **Chief of the Contracting Office and Head of the Contracting Activity signature(s).**

Official	Name & Title	Signature	Date
Cognizant Group Director	Donald Knode, Acting Director, ITG Group	Andrew Mummert Digitally signed by Andrew Mummert DN: cn=Andrew Mummert, o, ou, email=andrew.mummert@cms.hhs.gov, c=US Date: 2013.12.27 13:17:19 -05'00'	
Cognizant Policy Director	Leisa Bodway Acting Director, DQAT	Famane C. Brown -S Digitally signed by Famane C. Brown -S DN: c=US, o=U.S. Government, ou=HHS, ou=CMS, ou=People, 0.9.2342.19200300.100.1.1=20004 70153, cn=Famane C. Brown -S Date: 2013.12.27 16:37:24 -05'00'	
Director, OAGM	Daniel Kane Head of the Contracting Activity	Daniel Kane	12/27/13

15. **Competition Advocate signature.**

Official	Name & Title	Signature	Date
Competition Advocate	A. Michelle Snyder Chief Operating Officer		12/31/13

16. **HHS Senior Procurement Executive signature.**

Official	Name & Title	Signature	Date
HHS Senior Procurement Executive	Angela Billups Associate Deputy Assistant Secretary	Angela Billups	**01/03/14**