U.S. Small Business
Administration

Office of Government Contracting and Business Development | 409 3rd Street NW | Washington DC 20416

Monday, April 15, 2019

Ms. Anna M. Zinser
Contracting Officer
Department of Veterans Affairs
Veterans Health Administration

Dear Ms. Zinser:

This letter is in response to your request for a waiver of the Nonmanufacturer Rule (NMR) for the Medical and Surgical Prime Vendor (MSPV) Distribution Program solicitation number 36C24C19Q0035. These items are the products of large business and small business manufacturers. It is understood that the Department of Veterans Affairs intends to procure these items from both large and small business nonmanufacturers.

The waiver of the NMR on an individual procurement is provided for in section 8(a)(17) of the Small Business Act, 15 U.S.C. § 637(a)(17), and section 121.406(b)(5) of title 13 of the Code of Federal Regulations, 13 C.F.R. § 121.406(b)(5). At a minimum, an individual NMR waiver request must include the specific item to be waived, why the specific item is required, the proposed solicitation number, the NAICS code, the dollar amount of the procurement, a brief statement of the procurement history, and a Statement of Work (for contracts expected to exceed $500,000). 13 C.F.R. § 121.1204(b)(1).

In addition, the contracting officer must provide a determination that no small business manufacturer can reasonably be expected to offer the product(s) required under the solicitation. This determination must be supported by a narrative of market research and supporting documentation. 13 C.F.R. § 121.1204(b)(1)(iii).

A waiver of the Nonmanufacturer Rule is hereby established for the MSPV Distribution Program, under solicitation number 36C24C19Q0035. This waiver applies to this procurement and for these products only and does not apply to modifications outside the scope of the contract or other procurement actions. The effect of this waiver is to allow an otherwise qualified regular small business dealer of this product to supply other than the product of a domestic small business manufacturer or processor on this intended set-aside award. However, it must be emphasized that this waiver of the Nonmanufacturer Rule does not waive other government-wide requirements applicable to government procurements such as the Buy

American Act. Given the magnitude of products being procured through the MSPV Distribution Program, this waiver shall be subject to the following conditions:

1. This waiver applies to this solicitation only and is valid for the duration of the contract.

2. The Department of Veterans Affairs Office of Small and Disadvantaged Business Utilization will direct all ordering facilities to maximize the use of small business products when possible.

If you have any questions or require additional information, please contact Carol Hulme of my staff at carol-ann.hulme@sba.gov or (202) 205-6347.

Sincerely,

David Loines
Acting Director
Office of Government Contracting