

Attachment 2: Request for Sole Source Memo Format

DEPARTMENT OF VETERANS AFFAIRS

**Justification and Approval
For
Other Than Full and Open Competition**

1. **Contracting Activity:** Department of Veterans Affairs
Veterans Integrated Service Network (VISN) 18
Network Contracting Office (NCO) 18

NCO 18 proposes entering into a contract using Other than Full and Open Competition for the Preventative Maintenance (PM), support and licensing of the Powerscribe 5.0 and PowerScribe 360 to include ancillary equipment for the dictation of radiological reviews located throughout VISN 18.


2. **Nature and/or Description of the Action Being Processed:** The NCO 18 Contracting Office proposes sole source, firm-fixed priced requirements contract with Nuance Communications for the service's, support and licensing of voice recognition software in which to provide Radiologist with the equipment and information necessary to dictate the results of radiological images and information of patients medical care. The services are required throughout VISN 18 Medical Facilities and outlying Community Based Outpatient Clinics (CBOC).
3. **Description of Supplies/Services Required to Meet the Agency's Needs:** This procurement is for the provision of a full service contract for services, support and licensing of annual agreements needed to provide the voice recognition services as requested. The contractor will be providing unlimited licensing based on the number of radiologist within VISN 18 and will provide full coverage support of all equipment and servers as needed. Nuance Communications is currently the only contractor that can provide the needed services (See Attachment 1) for every facility and CBOC no matter of location. The services requested are required for Radiologist to document the results of the patient's care ensuring accurate and timely treatment is provided.
4. **Statutory Authority Permitting Other than Full and Open Competition:**
(X) (1) Only One Responsible Source and No Other Supplies or Services Will Satisfy Agency Requirements per FAR 6.302-1;
() (2) Unusual and Compelling Urgency per FAR 6.302-2;
() (3) Industrial Mobilization, Engineering, Developmental or Research Capability or Expert Services per FAR 6.302-3;
() (4) International Agreement per FAR 6.302-4
() (5) Authorized or Required by Statute FAR 6.302-5;
() (6) National Security per FAR 6.302-6;
() (7) Public Interest per FAR 6.302-7;
5. **Demonstration that the Contractor's Unique Qualifications or Nature of the Acquisition Requires the Use of the Authority Cited Above (applicability of authority):** Nuance Communications is the original equipment manufacturer (OEM), and sole firm which is capable of servicing, repairing, and licensing physicians on the dictation equipment utilized throughout VISN 18 that involves voice

recognition. Nuance Communications has provided a written statement (See Attachment 1) confirming that they are the only source certified to perform any maintenance or repair services on their equipment. The software provided is proprietary to Nuance Communication and unique to individual physicians that use it. Nuance Communication has had the licensing software for VISN 18 facilities for at least the past five (5) years which provides an environment in which other contractors will be able to compete. Furthermore, the VISN Contracting Office has awarded a contract that is in support of a VISN wide upgrade of all current equipment in use from Powerscribe 5.0 to Powerscribe 360 which creates the sole source environment for only OEM support.

6. **Description of Efforts Made to ensure that offers are solicited from as many potential sources as deemed practicable:** A sources sought notices was posted to FedBizOpps for the work associated with this procurement. The sources sought was an effort to identify if there were any small business concerns that could provide the requested services with this announcement not receiving any responses. A search of GSAAAdvantage has brought up two others contractors (EC America and Microtechnologies LLC) that are capable of providing equipment only as evident by the VISN wide purchase to upgrade from Powerscribe 5.0 to Powerscribe 360. Both these contractors are authorized to provide all equipment but not proprietary licensing and support.
7. **Determination by the Contracting Officer that the Anticipated Cost to the Government will be Fair and Reasonable:** The prices proposed by Nuance Communications for the licensing and support will be in line with those previously paid by VISN 18 for the same work on current requirements. The Contracting Officer will seek pricing strategies that provide the Government with costs that take into consideration the demand of the services needed, the market environment at time of award and any/all sources of supply to ensure that the costs are prudent to what is available for the commercial market. These factors reinforces the assertion that the anticipated cost of this procurement is considered to be fair and reasonable in accordance with (IAW) Federal Acquisition Regulation (FAR) Part 13.106-3(a)(2)(ii) and 15.404-1(b)(2)(ii). This FAR part states that in order to ensure a fair and reasonable price, a comparison “of the proposed prices to historical prices paid, whether by the Government or other than the Government, for the same or similar items...may be used for commercial items.”
8. **Description of the Market Research Conducted and the Results, or a Statement of the Reasons Market Research Was Not Conducted:**
 - The customer indicated that Nuance Communications is the sole source capable of providing the required licensing and support services stated for this requirement.
 - Sources sought notice posted to FedBizOpps received no responses from interested vendors.
 - No SDVOSB/VOSB's listed in VetBiz are able to provide the services.
 - No VA FSS/GSA vendor that is able to provide the services as requested but two vendors can provide initial equipment to upgrade systems.
 - Nuance Communications is the only entity found in an internet search that can provide the services.
 - The contractor provided documentation (See Attachment 1) self-identifying Nuance Communications as the only source that can provide these services due to proprietary reasons.
 - Vista – Proposed price(s) found to be fair and reasonable compared to previous purchase orders.

9. **Any Other Facts Supporting the Use of Other than Full and Open Competition:** OEM provided documentation (See Attachment 1) stating proprietary reasoning.
10. **Listing of Sources that Expressed, in Writing, an Interest in the Acquisition:** None
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 supplies or services required:** Not Applicable

12. **Requirements 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.



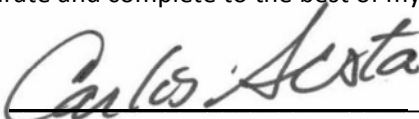
Richard Harker
Biomedical Engineer
SAVAHCS

8/28/13

Date

13. **Approvals in accordance with FAR 6.304**

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



Carlos Acosta
Contracting Officer
NCO 18 (SAVAHCS)

August 29, 2013

Date

- b. **NCM/PCM (Required \$3K and above):** I certify the justification meets requirements for other than full and open competition.

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Digitally signed by
ross.brown@va.gov
DN: cn=ross.brown@va.gov
Date: 2013.09.05 15:56:49
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Sabrina Smith
Network Contract Manager 18

Date

ATTACHMENT 1

NUANCE COMMUNICATIONS, INC.

ONE WAYSIDE ROAD
BURLINGTON, MA 01803

781 565 5000
NUANCE.COM



Re: Sole Source Justification for Maintenance Services

Nuance Communications, Inc. ("Nuance") provides maintenance services ("Services") related to products that it manufactures ("Products"). Nuance contracts with value added resellers ("Resellers") to provide these Products and Services to its customers when the customer purchases other products and services from such Reseller.

If a customer did not originally purchase the Products from a Reseller, then Nuance is the sole source provider of the Services pursuant to FAR 6.302-1 since the customer does not meet the requirements to purchase the Services from a Reseller.

Sincerely,

A handwritten signature in black ink, appearing to read 'Richard D. Booth', written over a horizontal line.

Richard D. Booth

Vice President, Finance