

DEPARTMENT OF VETERANS AFFAIRS
Justification and Approval
For
Other Than Full and Open Competition

1. **Contracting Activity:** Department of Veterans Affairs, VISN 15, VA Eastern Kansas Health Care Systems (VA EKHCS). This Justification for Other Than Full and Open Competition is to procure new service and support for Toshiba America Medical Systems, Inc., Toshiba Ultrasound Imaging System S/N 99B0752547, Model Aplio XG Radiology Ultrasound System, VA ID # EE87850 for the Colmery-O'Neil VA Medical Center, 2200 SW Gage Blvd Topeka, KS 66622. Reference 2237: 589-14-1-2761-0016

2. **Nature and/or Description of the Action Being Processed:** Requesting a new service and support contract for Toshiba America Medical Systems, Inc., Toshiba Unity Imaging System, using authority in FAR 6.302-1, with sole source vendor Toshiba America Medical Systems, Inc., 1965 Evergreen Blvd., Duluth, GA 30096 Tel#: 800.621.1968 Attn: Mr. Robert Nitsch. A firm-fixed price contract is contemplated for a Base Period of one year plus four, one year option periods. The Base year is expected to begin December 01, 2013 through November 30, 2014. The estimated base year price is \$18,325.00 and the total for the base year plus four option years is \$91,625.00.

3. **Description of Supplies/Services Required to Meet the Agency's Needs:** The Government's needs may be met by purchasing services of the type which is customarily available in the commercial marketplace and other facilities. The contractor is responsible to provide full maintenance on site, to include all replacement parts (exceptions listed in the SOW), to maintain or restore the listed equipment, Toshiba Ultrasound Imaging System S/N 99B0752547, Model Aplio XG Radiology Ultrasound System, VA ID # EE87850 and accessories to operating specifications which meet or exceed the manufacturers' specifications at the Colmery-O'Neil VA Medical Center, 2200 SW Gage Blvd Topeka, KS 66622. All services for this contract must meet manufacturers' performance and technical specifications, Federal Regulations, FDA device certification and other specifications that may apply such as National Electric Code (NEC), Life Safety Code (LSC), the Joint Commission (JC), and VA Regulations. Also, Contractor must provide the appropriate service documentation at no additional expense. Contractor shall provide hardcopy proof, upon request by COR, that contracting entity is a certified manufacturer service provider and that technicians are current in device certification training.

4. **Statutory Authority Permitting Other than Full and Open Competition:** 41 USC §253(c),(1) as implemented by FAR 6.302.

- (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):

Only One Responsible Source (FAR 6.302-1) – This is a follow-on contract for continued development and production of Toshiba Ultrasound Imaging System S/N 99B0752547, Model Aplio XG Radiology Ultrasound System, VA ID # EE87850 which is highly specialized equipment, an award to any other source would result in a substantial duplication of cost to the Government that is not expected to be recovered through competition. Toshiba is the manufacturer and sole provider of the Toshiba Ultrasound Imaging System S/N 99B0752547, Model Aplio XG Radiology Ultrasound System, VA ID # EE87850 which uses proprietary software and OEM hardware. Toshiba Technical Support is certified to service this system with unlimited access to proprietary diagnostic software. The specific covered items are outlined in the accompanying Statement of Work as well as Toshiba quote# 36176.

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

This equipment requires proprietary software that is not accessible to third party contractors. Additionally, Toshiba America Medical Systems, Inc. has trained and certified Field Service Personnel who have unrestricted access to proprietary system diagnostic software. In accordance with FAR Part 5, this requirement will be synopsisized indicating the Government's intent to negotiate sole source with Toshiba America Medical Systems, Inc. A sources sought notice was published on FBO which yielded no responses. Also, Market Research was conducted using GSA eBuy, Small Business Dynamic Search, SAM and FPDS. No results were found.

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

The nature of this service is non-competitive and as such the only basis to determine fair and reasonable price is past history. The contracting officer, after review and consultation with appropriate technical personnel, will ensure that the price paid for support and repair services on the Toshiba America Medical Systems, Inc., Toshiba Ultrasound Imaging System S/N 99B0752547, Model Aplio XG Radiology Ultrasound System, VA ID # EE87850 is fair and reasonable. Award will be made on the basis of price and past performance. Negotiation of reasonable price for services will be documented for the contract file. In accordance with FAR 15.403-1, this is a commercial service and cost and pricing data is not required.

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

In accordance with FAR Part 10.002, market research was conducted to identify any other potential sources for the above mentioned requested items and services. Market research was conducted with current award, previous awards, a search of other VISN contracts within the VHA and other agency contracts available on the Federal Business Opportunities (FBO) website. In addition, a search of the VetBiz.gov website yielded no results, nor did an SBA Dynamic Small Business Search or a general internet search. All of the contracts for maintenance (both VHA and other agency) on this type of Toshiba equipment were procured using the authority in FAR 6.302-1. A Sources Sought notice was published on FBO and yielded not results. The market research substantiates the requesters claim that Toshiba America Medical Systems, Inc. is the only contractor that can perform this work due to the propriety nature of the software and hardware that must be utilized in performance this contract.

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

Toshiba America Medical Systems, Inc. is acknowledged for its experience with the Colmery-O'Neil VA Medical Center, 2200 SW Gage Blvd Topeka, KS 66622.

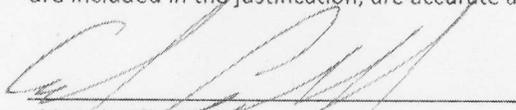
10. Listing of Sources that Expressed, in Writing, an Interest in the Acquisition:

No other firms have expressed an interest in this acquisition. See section 6 above.

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:

This is unique technology. The manufacturer has specified the hardware and software support is proprietary. Based on a sources sought notice posted, no other firms have expressed an interest in this acquisition.

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.

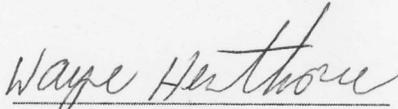


CARL CAMPBELL
Title: Supervisor Biomedical Equipment
Eastern Kansas VAMCs

8 November 2013
Date

13. Approvals in accordance with FAR 6.304

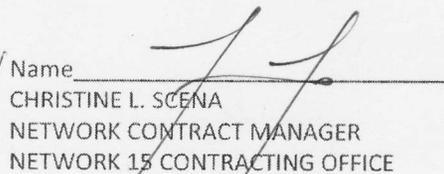
a. **Contracting Officer's Certification: (required)** I certify that the foregoing justification is accurate and complete to the best of my knowledge and belief.



WAYNE HENTHORNE
CONTRACTING OFFICER
VISN 15

11/8/2013
Date

b. **NCM/PCM:** I certify the justification meets requirements for other than full and open competition.



Name
CHRISTINE L. SCENA
NETWORK CONTRACT MANAGER
NETWORK 15 CONTRACTING OFFICE

10/8/13
Date