

DEPARTMENT OF VETERANS AFFAIRS

Justification and Approval

For

Other Than Full and Open Competition

1. **Contracting Activity:** Department of Veterans Affairs, Great Lakes Acquisition Center NCO 12, Multi-station VA Hospitals justification for other than full and open competition, transaction [REDACTED]
2. **Nature and/or Description of the Action Being Processed:** Justification and approval for a new firm-fixed price contract for preventative maintenance services of the DA Vinci Surgical Robotic System.
3. **Description of Supplies/Services Required to Meet the Agency's Needs:** NCO 12 has a need for calibration, preventative maintenance and service of the DA Vinci Surgical Robotic System that is utilized in direct patient care to assist in performing the least invasive surgical procedures for the veteran. The robotic system is used to treat conditions ranging from different types of cancer to obesity. Failure to have the robotic operating correctly can cause death during procedures. The services will be for the period of 10/1/13 – 9/30/14 at a total cost of \$495,000.00 yearly for three stations (Jesse Brown, Madison, and Milwaukee).
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;
5. **Demonstration that the Contractor's Unique Qualifications or Nature of the Acquisition Requires the Use of the Authority Cited Above (applicability of authority):** The DA Vinci System is a CE marked and FDA cleared piece of equipment that allows surgeons to remotely pilot this equipment through a surgical procedure. The DA Vinci System is manufactured by Intuitive Surgical, Inc which owns all property rights to the system and is the only authorized service provider of the system. Intuitive Surgical has specially trained engineers that have exclusive access to original equipment manufacturer (OEM) parts and are capable of working on complex robotic surgical systems. OEM parts are not available from other companies. The Equipment is of a unique and one of a kind nature which prohibits the ability to use a direct replacement from another manufacturer or distributor. The proprietary knowledge necessary for proper performance of equipment is beyond the technology of any and all other vendors. The Surgical Robot mimics the fingers of a Surgeon performing complex procedures. It is in the best interest of patient safety and liability of federal government to have the original equipment manufacturer perform all maintenance on the equipment and for the software technology that is proprietary. Intuitive Surgical, Inc. has trained and certified technicians and facility service engineers specialized to work on the delicate and complex equipment. This equipment cannot be properly maintained without access to the company's proprietary software and licensed information which cannot be acquired through any other known source.

6. **Description of Efforts Made to ensure that offers are solicited from as many potential sources as deemed practicable:** The DA Vinci Robotic System consists of proprietary operating system software, and is the sole authorized provider of services. The system is so specialized that it prohibits other manufacturers from supplying parts. No other offers were solicited. No further actions are being facilitated to solicit this requirement in accordance with FAR Part 6.302-1 Only One Responsible Source can satisfy the agency needs in providing the maintenance required for software technology and equipment calibration.
7. **Determination by the Contracting Officer that the Anticipated Cost to the Government will be Fair and Reasonable:** The Contracting Officer contacted Intuitive Surgical, Inc., Service Contract Division, 1-877-408-3872 x4 for pricing comparison. The price on the quote \$165,000 per station is the government discount pricing. The regular catalog price is \$174,000 yearly. Given the discount price, the Contracting Officer has determined the final contract price to be fair and reasonable. Past historical data for prices previously paid in the past with the Hines VAMC was used to determine price reasonableness. In addition, Contracting Officer communicated with the VA Medical Centers in Sacramento and Palo Alto and the prices for service and maintenance on this equipment relative in nature is consistent with the prices previously paid.
8. **Description of the Market Research Conducted and the Results, or a Statement of the Reasons Market Research Was Not Conducted:** Contracting Officer conducted Market Research and determined the services are not available from the required sources of supplies and services to include GSA and the Federal Supply Schedule utilizing searches on their websites. Market research indicated the services are open market and available from only one responsible source in relation to information supplied paragraphs 3, 5, and 6 of this document. The Contracting Officer conducted further market research to support all rights are reserved as documented for Intuitive Surgical, Inc.
9. **Any Other Facts Supporting the Use of Other than Full and Open Competition:** The requirements for the software upgrades and maintenance of the equipment will assist the NCO 12 to provide continuous quality care to patients for future surgical procedures using proprietary software that the manufacturer offers to enhance the services required when the equipment is used in the Operating Room.
10. **Listing of Sources that Expressed, in Writing, an Interest in the Acquisition:** See Section VI 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:** There are no removal for any barriers to competition for this new requirement. The Clinical Engineering Department intends to maintain the support of the equipment for the anticipated life expectancy estimated at 20 years to maximize the usage of the system. When the equipment is beyond service and repair, the Government shall research other surgical equipment/instruments before the procurement of a new system as a replacement. Since the software is proprietary, removal of the barriers for competition is 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,

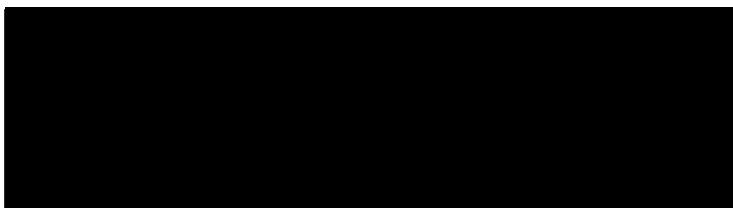
which are included in the justification, are accurate and complete to the best of my knowledge and belief.

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Elizabeth Omiatek  
Chief, Biomedical Engineer  
Jesse Brown VA Hospital

\_\_\_\_\_  
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.

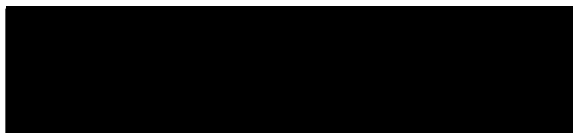


09/11/2013

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Trong Nguyen  
Contracting Officer  
GLAC

\_\_\_\_\_  
Date

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



9/16/2013

\_\_\_\_\_  
Christine Hansen  
Network Contract Manager  
NCO 12

\_\_\_\_\_  
Date