

DEPARTMENT OF VETERANS AFFAIRS

Justification and Approval

For

Other Than Full and Open Competition

1. **Contracting Activity:** Department of Veterans Affairs, VISN 04, VA Pittsburgh Healthcare System, 1010 Delafield Road, Pittsburgh, PA 15215. Purchase Request (2237# 646-14-2-066-0187)

2. **Nature and/or Description of the Action Being Processed:**

Only One Responsible Source (Sole Source) Award, to Hansen Medical, Inc. 800 East Middlefield Road, Mountain View, CA 94043. This is for the award of a new Firm Fixed Price Contract.

3. **Description of Supplies/Services Required to Meet the Agency's Needs:**

The VA Pittsburgh Healthcare System (VA), University Drive Facility, requires a System Upgrade of its existing Hansen Medical Sensei Robot Equipment (EE#331913), which will involve the furnishing and installing of the new Hansen Medical, Inc. 4.1.1 System computer software and new generation system computer, to allow the VA's existing Hansen Medical Sensei Robotic System to be compatible with the mapping upgrade that was completed at the end of last fiscal year. An additional one-time preventive maintenance service will also be provided.

Estimated Price \$30,000 for 4.1.1 system (software and hardware), and \$10,000 for the preventative maintenance, for a total of \$40,000.

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

- (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):

The VA Pittsburgh Healthcare System (VA) has to have Hansen Medical, Inc. perform the above referenced System Upgrade (furnish and install Hansen Medical new generation computer with Hansen Medical 4.1.1 Software), as well as, perform a one –time preventative maintenance on the VA Sensei Robotic System for the following reasons:

Hansen Medical, Inc., is the sole exclusive seller of their software, and only company that can install it on their Sensei Robot, as well as, perform the preventative maintenance, due to the Software being password protected; since only Hansen Medical employees are authorized to install or upgrade any software or hardware on the Sensei Robotic System, and since the VA requires the purchase and installation to be a turnkey job, as its minimum need for this requirement, which the government is entitled to. (See attached emails from Hansen Medical, Inc., dated 1/13/2014 and 1/14/2014, under P02 of the Procurement Action Briefcase of the eCMS Contract File).

Accordingly, Hansen Medical, Inc., is the only firm capable of providing the supplies and services described in Section III above without the Veteran's Health Administration experiencing substantial duplication of cost that could not be expected to be recovered through competition and unacceptable delays in fulfilling its requirements.

Description of Efforts Made to ensure that offers are solicited from as many potential sources as deemed practicable: N/A – Sole Source. However, a notice of this proposed action (Notice of Intent to Sole Source Synopsis, along with this Justification Memorandum, will be posted to Fedbizopps for 5 days, before award is made to Hansen Medical, Inc.

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

The \$30,000 price Hansen Medical is charging for the Sensei Robot System upgrade portion of this requirement (furnishing and installing new generation computer with their new programmed 4.1.1. software), is deemed fair and reasonable, since the VA Tucson, AZ Facility paid this same price for this same type of Upgrade for their Hansen Sensei Robot Equipment, under an annual maintenance contract with Hansen Medical (VA Contract# VA258-P-0309), whereby they paid \$109,000 contract price, which would have included this same Upgrade if needed. Hansen has indicated that the price of the upgrade, without the computer, would have been \$24,400, which is the same price they charged a private sector entity for the same System Upgrade, excluding the computer hardware equipment. In addition, the price being charged is the same price showing in the Hansen Medical's internal company Price List for the same type of System Upgrade. (See copy of VA Tucson, AZ Contract and Purchase Order; VA OLCS SIS Payment System Query, showing 4 payments of \$27,250 each, made under the VA Tucson AZ Contract; copy of Hansen Medical's redacted paid Invoice with a private sector entity; emails from the VA Tucson, AZ Contracting Officer and Hansen Medical, stating that the VA Tucson AZ Contract included Hansen's Terms and Conditions of sale that covered this same type of Upgrade; and Hansen Medical's Price List, and Terms and Conditions of Sale, that are under S23 in the Solicitation Action Briefcase, of the eCMS Contract File)

Note: Hansen Medical has indicated that this type of System Upgrade is relatively new and that they have only provided the Upgrade, including hardware, in annual maintenance contracts with their customers to date, and only have provided the Upgrade without the hardware to only one entity to date, of which paid Invoice was obtained. Hansen Medical was not willing to provide any cost and price data. The VA COR has indicated that if this award could not be approved, the Government would have to purchase new equipment, which would cost approximately \$1 Million. (See emails from Hansen Medical and VA COR (Margaret Evans), under S23 of the Solicitation Action Briefcase, of the eCMS Contract File).

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

The above invoices reflect this software and equipment, and services are provided by Hansen Medical to the in the commercial marketplace, thus evidencing these are commercial items. Since the primary purpose of this acquisition is to upgrade the existing Hansen Medical Sensei Robot, it had been deemed a Service contract.

Queries were done by conducting a Google Search and GSA Advantage Search, using the words “Hansen Medical Sensei”, and no results were found. (See copies of these query screens under P02 of the Procurement Action Briefcase.)

Email statements were obtained from Hansen Medical, Inc., confirming they are the Sole Seller and Installer of their Software and Hardware, and only company that can do the preventative maintenance. (See emails, dated 1/13/2014 and 1/14/2014, under P02 of the Procurement Action Briefcase of the eCMS Contract File).

The NAICS Code and Small Business Size Standard for this Procurement is 334517 (Size Standard 500 Employees). An email statement was obtained from Hansen Medical, Inc., confirming they have less than 500 employees, and therefore are considered a Small Business for the NAICS Code 334517, that is applicable to this acquisition. (See email from Hansen Medical, dated 1/15/2014, under P02 of the Procurement Action Briefcase, in the eCMS Contract File.)

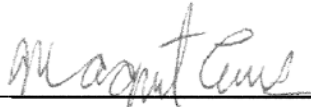
8. Any Other Facts Supporting the Use of Other than Full and Open Competition:

No other vendor will have the correct software for this upgrade, since it is proprietary equipment. Until the upgrade is completed, the Hansen Sensei cannot be used.

9. Listing of Sources that Expressed, in Writing, an Interest in the Acquisition: None

10. 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: None

- 11. 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.



Name: Margaret Evans
Title: Biomedical Engineer
Facility: University Drive

2/21/14
Date

12. 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.

Name: Ronald Mazzei
Title: Contract Specialist
Facility: HJ Heinz Facility

Date

- b. **Deputy Director for Contracting, NC04 (Required \$3K and above):** I certify the justification meets requirements for other than full and open competition.

Name: Herbert Byrns
Deputy Director for Contracting,
NC04

Date