

DEPARTMENT OF VETERANS AFFAIRS

Justification and Approval

For

Other Than Full and Open Competition

1. **Contracting Activity:**

Department of Veterans Affairs, NCO 16,
Overton Brooks VA Medical Center, Shreveport, LA
VISN 16
2237# 667-14-1-468-0013
Total Estimated Contract Value: \$415,000.00

2. **Nature and/or Description of the Action Being Processed:** The proposed contracting action is for the purchase of Swank HealthCare Entertainment services for patients. Swank HealthCare shall provide patient entertainment featuring recent, first-run motion pictures from studios including: Walt Disney Pictures, Warner Bros., MGM, United Artists, Columbia Pictures, Universal Pictures, Touchstone Pictures, Sony Pictures, DreamWorks, and Miramax Films. Patient Entertainment Programming shall consist of at least 28 motion pictures, with a minimum of seven pictures rotated out of the program and replaced by seven new pictures each quarter. Swank HealthCare is the exclusive distributor and representative for the Studios cited above for public performance in the healthcare market. All motion pictures shall be appropriately selected and sensitively edited for hospital standards and patient enjoyment. The patient entertainment programming shall be delivered via a contractor-provided Digital Media Player that shall provide continuous automated digital education and entertainment at the facility. The Digital Media Player connects to the facility's head-end/closed circuit television system creating a specified TV channel in which the digital content is distributed. The contractor shall cover any and all maintenance of the Digital Media Player. Contractor shall provide a patient program guide on-line, including a customized schedule of the view times for the motion pictures as developed by the site. Contractor shall designate a full-time Programming Consultant to work directly with site POC to develop a Library necessary to meet their individual needs.

3. **Description of Supplies/Services Required to Meet the Agency's Needs:** Sole source acquisition for the continuation of this service is required to maintain Hospital patient entertainment. Swank HealthCare, is a division of Swank Motion Pictures, Inc. Swank, located at 10795 Watson Rd., St. Louis, Missouri, 63127 will provide VISN 16 with a complete patient entertainment program, titled "Hospital Digital Cinema" as a full service patient entertainment program. Swank also provides Hospital Patient Education consisting of a series on health and wellness information.

4. **Statutory Authority Permitting Other than Full and Open Competition:**

- (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

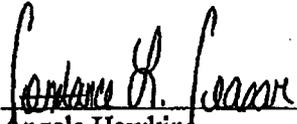
or Expert Services per FAR 6.302-3;

- () (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):** Swank HealthCare maintains exclusive licensing agreements with the film distributors identified in section two above. The agreement allows Swank to legally edit media before redistribution to the VA patient population. The licensing agreement permits editing of the media content without violating copy write or re-broadcasting statues. Swank Healthcare is the only know distributor licensed to edit and distribute media content for the film distributors identified item 2 above.
6. **Description of the Market Research Conducted and the Results, or a Statement of the Reasons Market Research Was Not Conducted:** Market research was conducted as required by FAR part 10. GSA, VetBiz, and the SBA Dynamic database were all searched. RFIs were sent to companies from each category. Two potential sources were identified. One source submitted a response indicating they could provide the services *if* the requirement was *only* for programming services; the company's response explicitly stated it could not provide infrastructure support. Swank HealthCare is currently providing programming services *and* network server equipment. The servers are installed at each facility to interfacing with the VA's media distribution system\). Based on their response, they will not be able to meet the requirement. A second company indicated they could provide the requested services. The company's website was reviewed using a link contained within their reply. The company's core services are Wireless Telecom, Network, Business Continuity, Information Assurance, Test & Evaluation and Quality Assurance. These core areas do not align with the current requirement.
7. **Any Other Facts Supporting the Use of Other than Full and Open Competition:** This proposed contracting action is for continued access to Swank HealthCare's Patient Entertainment Services. The company currently has equipment installed at all hospitals throughout VISN 16. Considering the nature of the licensing agreement between the Contractor and the film companies identified in item 2 above, there is no reasonable expectation of identifying an alternate responsible source for the required services.
8. **Listing of Sources that Expressed, in Writing, an Interest in the Acquisition:** Swank Health Care, Manitou Motion Pictures, and Dodge City Communications Inc.
9. **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:** Swanks Healthcare has exclusive licensing agreements with a number of film studios. These agreements allow Swank to edit and redistribute content of licensed motion pictures making it audience appropriate for the VA patient population. This licensing agreement is a commercial business practice beyond the scope of Government influence. Based on this observation, there are no actionable measures available to the Government to effect competition.

10. **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.

(This signature is the requestor's supervisor, fund control point official, chief of service, someone with responsibility and accountability)

JOK


Angela Hawkins
Program Manager
VISN 16

Date 2/6/14

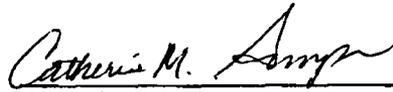
11. **Approvals in accordance with FAR 6.304** This part is filled out by Contracting Staff as part of the Justification

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

b. 

Fredrick L. Wilson
Contracting Officer
NCO 16

Date 2/6/14



Catherine M. Simpson
Chief, Procurement and Contracting
Division II Services Team

Date 2/6/14

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

Aaron Villalpando
Director of Contracting
NCO 16

Date _____