

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  
Network Contracting Office (NCO) 18  
Veterans Integrated System Network (VISN) 18  
Southern Arizona VA Health Care System (SAVAHCS)

NCO 18 proposes entering into a contract using Other than Full and Open Competition for a preventative maintenance requirement with Bayer Healthcare.

2. **Nature and/or Description of the Action Being Processed:** The NCO 18 Contracting Office proposes a sole source, firm-fixed price contract with Bayer Healthcare which is the original equipment manufacturer (OEM), and sole firm (See Attachment 1) that is capable of servicing, repairing, and supplying replacement parts for the Bayer Biomed Injector equipment. The contract will be base plus four (4) option years, exercised annually on the need of the customer and availability of funds.
3. **Description of Supplies/Services Required to Meet the Agency's Needs:** This procurement is for the provision of preventative maintenance service on Bayer Healthcare Biomed Injector equipment currently in use throughout VISN 18 Medical facilities. The units require ongoing maintenance service and support in order to ensure that they remain fully functional and can continue to be used for their intended purposes. The use of these multiple pieces of equipment directly affects patient care. Estimated contract value not to exceed \$500,000.00 with each individual task order not expected to exceed \$250,000.00 (per facility if needed).
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):** Bayer Healthcare is the original equipment manufacturer (OEM), and sole proprietary firm which is capable of servicing, repairing, and supplying replacement parts for the Bayer Biomed Injector equipment utilized by VISN 18 Medical facilities. Bayer Healthcare has provided a written statement (See Attachment 1)

confirming that they are the only source certified to perform any maintenance or repair on their equipment and all equipment servicing must be performed by OEM certified/trained personnel.

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; this announcement did not receive any responses. To further support this justification, Bayer Healthcare has provided company correspondence identifying the manufacturer as the only source capable of performing the necessary services. Once confirmation was received, no further efforts to solicit potential vendors were made as they are the only responsible source for the required maintenance, repairs, and proprietary parts/software.
7. **Determination by the Contracting Officer that the Anticipated Cost to the Government will be Fair and Reasonable:** The prices proposed by Bayer Healthcare for the preventative maintenance of the Biomed Injector equipment are in line with those previously paid to Medrad, Inc. (which was purchased and absorbed by Bayer Healthcare, effective January 1, 2014) by VISN 18 (PVAHCS) for the same work on earlier requirements. This 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." The pricing provided for the base year (inclusive of an annual increase of 2-3%) is in line with the previous one (1) year purchase order (VA258-12-P-1795). Considering the type of procurement and service(s) to be provided, a 3% annual increase is considered reasonable.

The previous procurement to Medrad, Inc. (VA258-12-P-1795) provided Preventative Maintenance (PM) only coverage on five instruments at PVAHCS at a rate of \$14,480.00 for one year. Although the instruments and coverage prices per instrument vary, this rate equates to roughly \$2,896.00 per instrument. For this anticipated procurement, Bayer has provided three separate quotes, one each as follows: 1) PM only, 2) PM and parts (Partner Care Basic), and 3) Full Service (Direct Care Basic). Bayer's recent quote for PM only is \$21,315.00 for six instruments which equates to roughly \$3,552.50 per instrument. Assuming an annual price increase of 3% per year for two years, the estimated price quoted per instrument for VA258-12-P-1795 could be adjusted to \$3,072.37. This adjusted price is \$480.13 or 13.52% higher than the price per instrument currently quoted. Part of this increase may be the result of the quote being supplied by Bayer rather than the acquired Medrad, Inc. as Bayer may enforce a different pricing structure.

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 Bayer Healthcare is the sole source capable of providing the required preventative maintenance 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.
  - Bayer Healthcare is the only entity found in an internet search that can provide the services.

- The contractor provided documentation (See Attachment 1) self-identifying Bayer Healthcare 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.

  
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Jay Patterson  
Biomedical Engineer  
PVAHCS

\_\_\_\_\_  
3/12/2014  
Date

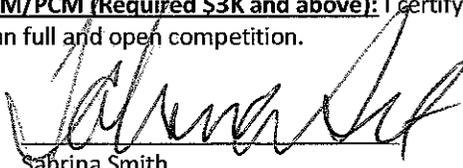
**13. Approvals in accordance with FAR 6.304**

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

  
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Daniel Thiel  
Contracting Officer  
Network Contracting Office 18, SAVAHCS

\_\_\_\_\_  
3/12/2014  
Date

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

  
\_\_\_\_\_  
Sabrina Smith  
Director of Contracting  
Network Contracting Office (NCO) 18

  
\_\_\_\_\_  
3/17/2014  
Date