

DEPARTMENT OF VETERANS AFFAIRS

**Justification and Approval
For
Other Than Full and Open Competition**

1. **Contracting Activity:** Department of Veterans Affairs, VISN 15, Robert J. Dole Medical Center 5500 East Kellogg Wichita, KS is submitting an Other than Full and Open Competition request for the support of two (2) Medivators, Inc. Advantage Plus Automated Endoscope Preprocessors. 2237 Number 589-14-2-4731-0109.
2. **Nature and/or Description of the Action Being Processed:** Contract will be required to perform a complete and comprehensive maintenance and repair program of two (2) Medivators, Inc. Advantage Plus Automated Endoscope Preprocessors that will meet and comply with original equipment manufacturer specifications. Include remedial service (labor, travel and parts), annual Preventive Maintenance, one operator training program annually and telephone technical support at no additional charge for each year of the Agreement. This will be a new firm-fixed price contract for a base period of one year, plus four (4) one year option periods. The estimated annual cost is \$17,600.00, for a total cost of the base year plus four (4) option years of \$88,000.00
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, to include all parts, tools, test equipment, software, labor, travel and equipment necessary to provide annual Preventive Maintenance and remedial service and certifications of two (2) Medivators, Inc. Advantage Plus Automated Endoscope Preprocessors to operating specifications which meet or exceed the manufacturers' specifications at the VA Medical Center, Wichita, KS. 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 on the Accreditation of Health Care Organizations (JCAHO), and VA Regulations (i.e. Sterile Processing Directives for the cleaning of Reusable Medical Equipment). Also, Contractor must provide the appropriate service documentation at no additional expense.
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):** Only One Responsible Source (FAR 6.302-1) Medivators, Inc. is the manufacturer and has proprietary parts and software for its Medivator endoscope preprocessors, including the Advantage Plus models. Only authorized personnel who have been trained and certified by Medivators, Inc. training personnel for the

specific product model can perform service and maintenance on such equipment. Medivators, Inc. can provide software support and upgrades to the system as well as parts and equipment as needed. The Advantage Plus Automated Endoscope Preprocessors are critical equipment in high usage and are needed to perform medical procedures. Keeping this equipment functioning properly is imperative to the safety of Veteran patients. Medivators, Inc. is the only company capable of servicing this equipment to meet manufacturers' performance and technical specifications. A proprietary letter was obtain from Medivators, Inc.

6. **Description of Efforts Made to ensure that offers are solicited from as many potential sources as deemed practicable:** This equipment requires proprietary software and parts that are not accessible to third party contractors. Medivators, Inc. trained and certified Field Service Personnel have unrestricted access to proprietary system software and parts. Repair or these two Automated Endoscope Preprocessors by any other entity would deem the scope no longer operation in original equipment manufacturer specifications. In an effort to ensure proper patient care, it is within the best interest of the government to ensure these critical pieces of equipment are repaired and maintained to meet all OEM specifications. In accordance with FAR Part 5, this requirement will be synopsised indicating the Government's intent to negotiate sole source with Medivators, Inc. A sources sought notice was posted to the Federal Business Opportunities (FBO) website with no responses received. Additional Market Research was conducted using GSA Advantage, Small Business Dynamic Search, SAM and FPDS. No results were found of other sources capable of performing the service and support required.
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 Medivators, Inc. Advantage Plus Automated Endoscope Preprocessors 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 FBO website. As described in Section 6 above, market research, in accordance with FAR Part 10, was conducted by synopsis of the proposed acquisition, advising industry of the pending acquisition and soliciting inquiries from interested parties. No interested parties responded. In addition, a search of the VetBiz.gov website yielded no results, nor did a 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 Automated Endoscope Preprocessors were procured using the authority in FAR 6.302-1. The market research substantiates the claim that Medivators, 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:** Utilizing any source other than Medivators, Inc. for service and maintenance of the Advantage Plus Automated Endoscope Preprocessors would result in the unavailability of future service or access to parts or software updates. Only Medivators, Inc. certified service personnel have access to proprietary parts and software required to service and maintain this equipment.

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 parts and software support is proprietary. Market research will be conducted prior to future acquisitions to determine if market conditions have changed allowing other contractors to provide service and maintenance to this equipment.

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.

GREGORY S.
MITCHELL

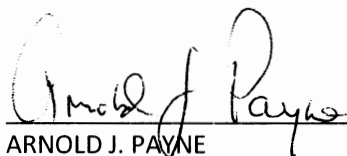
Digitally signed by GREGORY S. MITCHELL
DN: c=US, cn=GREGORY S. MITCHELL,
o=ROBERT J. DOLE VAMC, ou=FACILITIES
MANAGEMENT
Date: 2014.03.27 09:23:28 -05'00'

GREGORY MITCHELL
SUPERVISOR, BIOMEDICAL SUPPORT
ROBERT J. DOLE VA MEDICAL CENTER

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.



ARNOLD J. PAYNE
CONTRACTING OFFICER
NETWORK 15 CONTRACTING OFFICE

3/27/14
Date

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

CHRISTINE L. SCENA
DIRECTOR OF CONTRACTING
NETWORK CONTRACTING OFFICE 15

Date