

DEPARTMENT OF VETERANS AFFAIRS

Justification and Approval

For

Other Than Full and Open Competition

1. **Contracting Activity:** Department of Veterans Affairs, NCO 12, 695 Milwaukee Medical Center Department of Veterans Affairs, Great Lakes Acquisition Center, 115 South 84th Street, Milwaukee, WI 53214

[REDACTED]

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

The purpose of this procurement is to acquire maintenance services for Alcon Lensx Cataract Laser for Milwaukee VAMC.

3. **Description of Supplies/Services Required to Meet the Agency's Needs:** The government has determined that ALCON LABORATORIES, INC. is the only source that can satisfy this agency requirement. The contractor will provide: Two (2) Preventative Maintenance Visits. Alcon will contact Milwaukee VAMC to schedule preventative maintenance visits on mutually convenient weekdays between the hours of 8:00 a.m. and 5:00 p.m. The preventative maintenance visit will include a system verification of the unit by a trained Alcon's representative.

[REDACTED] It will be a firm-fixed price contract for a base plus four option years with a period of performance from [REDACTED] [REDACTED]

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;
- () (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 proposed source is Alcon Laboratories Inc., 27 Journey Aliso Viejo, CA 92656. Based on market research, it was determined that only Alcon Laboratories Inc. can meet the VA's requirement. Accordingly, Alcon Laboratories Inc. is the original equipment manufacturer and the only authorized firm who is capable of providing the services described in Section III. Alcon will provide manufactured parts and labor necessary to service and maintain the equipment according to Alcon's published operating specifications. Only Alcon can provide an on-site Alcon's certified technician within 48 hours. Only Alcon can install the modification in the equipment as soon as practical due the Laser being proprietary. Only Alcon can provide professional trained emergency telephone consultation 24 hours a day, 7 days per week for their proprietary Cataract Laser. In accordance with (IAW) company policy and service agreement terms and conditions, only engineers trained and certified by Alcon Laboratories Inc. are authorized to repair and/or service Alcon Laboratories Inc.'s trademarked Laser System and provide proprietary parts available solely from the servicing company. Therefore, compliance is required: service attempted or performed by any person or company not authorized to perform such service will constitute a breach of the warranty and will consequently may void the warranty on the Laser System currently in operation at Milwaukee VAMC and will result in unacceptable delays in fulfilling the agency's requirements.

6. Description of Efforts Made to ensure that offers are solicited from as many potential sources as deemed practicable:

An Intent to sole source notice was posted to www.fbo.gov on March 1, 2014 and closed on March 11, 2014 with no one responding back.

<https://www.fbo.gov/index?&mode=form&tab=core&id=bdc4583deb4a8c046c1c68afdc1f1960>

VA conducted market research, details of which are in the market research section of this document. None of these efforts yielded additional sources capable of meeting all of the Government's requirements.

7. Determination by the Contracting Officer that the Anticipated Cost to the Government will be Fair and Reasonable: The Contracting Officer contacted Alcon Laboratories, Inc. Service Contract Division for pricing comparison. [REDACTED] the government discount pricing. The regular catalog price is [REDACTED] Given the discount price, the Contracting Officer has determined the final contract price to be fair and reasonable.

It is cost effective to procure the service contract to Alcon Laboratories as NCO spent [REDACTED] per unit in fiscal year 2013. NCO 12 brought four units at [REDACTED] for total purchase cost of [REDACTED]

 Contracting Officer proposes to award to Alcon Laboratories, Inc. as it represents the best value to the Government.

8. Description of the Market Research Conducted and the Results, or a Statement of the Reasons Market Research Was Not Conducted: The Federal Acquisition Regulations (FAR) authority Sole source awards may be used when only one responsible source and no other supplies or services will satisfy agency requirements and will affect the VA in meeting its organizational mission in a timely manner, thereby, precluding full-and-open-competition consideration.

A search of GSA Advantage and E Library websites indicated that Alcon Laboratories does have a FSS contract V797P-2046D through the Lensx Laser is not on their FSS contract. A search of SBA's Dynamic Small Business Search tool under categories 8(a) or 8(a) joint venture, Small Disadvantaged Business, Hub Zone Business, Service Disabled Veteran Owned Business and Women Owned Business provided no contractors capable of providing the Lensx Laser. A search of Vet Biz provided no businesses capable of providing this equipment. A search of the Federal Business Opportunities website with keyword Lensx produced no results.

Intent to sole source was released on March 1, 2014 on FBO.gov and closed on March 11, 2014 with no one responding to the posting.

VA conducted market research, details of which are in the market research section of this document. None

9. Any Other Facts Supporting the Use of Other than Full and Open Competition:
Compliance with the specifics of the warrant and the service agreement is required: service attempted or performed by any person or company not authorized to perform such service will constitute a breach of the agreement and will consequently void the warranty on the Lensx Cataract Laser currently in operation at Milwaukee VAMC. This single factor precludes modification to enhance competition. Thus, acquiring a service contract with a potential contractor other than the suggested source can potentially prove too costly and injurious to the Government. If VA were not to obtain this particular service, we would not be able to safely and effectively treat patients.

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: The NCO 12 intends to conduct a competitive procurement with maintenance services for a firm-fixed price contract when the next overhaul of the medical equipment come due

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.

[Redacted]

4/11/2014

Robert Steldt
Biomedical Engineer
Milwaukee VAMC 695

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.

[Redacted]

04/12/2014

Trong Nguyen
Contracting Officer
Network Contracting Office 12, Great Lakes Acquisition Center

Date

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

[Redacted]

5/5/2014

Christine Hansen
Director of Contracting
Network Contracting Office 12

Date