

## DEPARTMENT OF VETERANS AFFAIRS

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

- 1. Contracting Activity:** Department of Veterans Affairs, NCO 19 – Rocky Mountain Acquisition Center and Denver Medical Center proposes “Justification for Other Than Full and Open Competition.” using purchase request (i.e. 2237) number 554-15-2-450-0023.
- 2. Nature and/or Description of the Action Being Processed:** VHA VAMC Denver, CO has a one-time sole source requirement for an annual Software Maintenance agreement for Fresenius FMiS Software, and will secure these services through the use of open market acquisition with Fresenius Medical Care.  
  
The VA2237 purchase request # 554-15-2-450-0023 was initiated by the customer on October 1, 2014.
- 3. Description of Supplies/Services Required to Meet the Agency’s Needs** A sole source procurement for an annual FMiS Software maintenance and license contract. The service includes renewal of software licenses and software maintenance. This is to be performed by a certified Fresenius FMiS technical staff with access to FMiS software server and updates. This contract is estimated at \$50,000 for a base year (\$10,000) and 4 option years. The FMiS software is proprietary to Fresenius Medical Care.
- 4. Statutory Authority Permitting Other than Full and Open Competition:** 10 U.S.C §2304 (c) (1), 41 U.S.C §253 (c) (1) as implemented by FAR 6.302-1. Only one responsible source and no other supplies or services will satisfy agency requirements.
- 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 VA2237 purchase request # 554-15-2-450-0023 was initiated by the customer for software maintenance and license fee of Dialysis electronic record system, model: FMiS through OEM Fresenius Medical Care.
- 6. Description of Efforts Made to ensure that offers are solicited from as many potential sources as deemed practicable:** Preliminary research found that the Fresenius Medical Care is the manufacturer of the FMiS system.
- 7. Determination by the Contracting Officer that the Anticipated Cost to the Government will be Fair and Reasonable:** In accordance with FAR 13.106-3 the contract specialist must determine the

proposed price to be fair and reasonable. The contract specialist will compare with acquisition to other VAMCs acquisitions.

8. **Description of the Market Research Conducted and the Results, or a Statement of the Reasons Market Research Was Not Conducted:** Market research was conducted pursuant FAR Parts 10, 12 &13. The determination was made that it is in the best interest of the Government to purchase these services using open market sole source contract.
9. **Any Other Facts Supporting the Use of Other than Full and Open Competition:** The VAMC Denver, CO does require these services for patient care.
10. **Any Other Facts Supporting the Use of Other than Full and Open Competition:**  
Proprietary software.
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:**  
Future acquisitions would require extensive market research to determine if the market has changed

**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.

11/4/2014

X Patrick F. Noonan

---

Patrick Noonan

Biomedical Engineer

Signed by: Patrick F. Noonan 739787

**13. Approvals in accordance with FAR 6.304** For a proposed contract not exceeding \$50,000, the contracting officer's certification required by [6.303-2\(b\)\(12\)](#) will serve as approval unless a higher approving level is established in agency procedures.

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

X

---

DJ Neal

NCO 19 Contracting Officer