

## DEPARTMENT OF VETERANS AFFAIRS

### Justification and Approval (J&A) For Other Than Full and Open Competition (>\$150K)

#### 1. **Contracting Activity:**

U.S. Department of Veterans Affairs  
Veteran's Health Administration  
Network Contract Office (NCO) 15  
3450 S 4<sup>th</sup> St Trafficway  
Leavenworth KS 66048

On behalf of the St. Louis VA Medical Center, John Cochran Division, 9 15 N. Grand Blvd, St. Louis MO 63106. Purchase Request (PR) #657-15-3-1110-0076.

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

- a. Solicit from a single source in accordance with FAR 13.106-1 (b), utilizing the procedures for documentation in accordance with FAR 13.5, for a firm-fixed-price (FFP) contract to furnish Original Equipment Manufacturer (OEM) full service maintenance and support of an installed General Electric (GE) brand MUSE Cardiology Information System on-site at the St. Louis MO VA Medical Center. Proposed contractor:

GE Medical Systems Information Technologies, Inc.  
8200 West Tower Ave.  
Milwaukee WI 53223

- b. The contract will consist of a base and four (4) optional years with a total estimated contract price of \$261,675.00. Exercise of FAR 52.217-8 Option to Extend Services, may extend the contract for up to an additional six (6) months and may increase the total price to \$287,842.50.
- c. This contract will replace existing task order V797P-4544A VA255657SC2038 which was awarded to GE Medical Systems Information Technologies Inc. commencing 10/1/2011 and expiring 3/31/2015 with a total three (3) years and six (6) months price of \$200,071.92.00. That contract was awarded under authority for other than full and open competition in accordance with FAR 6.302-1, only one responsible source and no other supplies or service will satisfy agency requirements. It has been verified through the VA National Acquisition Center (NAC) that this requirement is no longer available through a NAC contract.
- d. FAR13.5 Test Program: This procurement is for commercial services in accordance with FAR 13.5 Test Program for Certain Commercial Items and specifically FAR 13.501 Special Documentation Requirements, where acquisitions conducted under Simplified Acquisition Procedures are exempt from the requirements of FAR Part 6, but still require a justification using the format of FAR 6.303-2.

3. **Description of Supplies/Services Required to Meet the Agency's Needs:** This request is for software maintenance and support services for the government owned MUSE Cardiology Information System located in the St Louis MO VA Medical Center. This system is considered mission critical and imperative for furnishing patient care. Failure for the system to function properly at all times may impact patient care and health. The Contractor shall supply all software fixes, patches, upgrades and personnel, equipment, supplies, travel and per diem required to provide remote and on-site software support and services of the installed MUSE Cardiology Information System software. The Contractor must:
- a. Furnish remote diagnostics/corrective maintenance, technical phone support, applications support, and onsite support/maintenance as needed on the GE MUSE Cardiology Information System, as well as labor, travel, parts, and software upgrades.
  - b. Furnish unlimited on-site service/corrective maintenance, if needed.
  - c. Furnish unlimited telephone technical support with telephone response within 2 hours of contact. Technical telephone support and remote diagnostics (if remote diagnostics is available for the equipment) must be available 24 hours a day, 7 days a week.
  - d. Furnish software updates that consist of any error correction or modification that maintains existing software features and functionality and are made generally available to GE Healthcare's customer installed base.
  - e. Furnish software upgrades that consist of any revisions or enhancements of the software by GE Healthcare that improves or expands existing software features or functionality that are made generally available to GE Healthcare's customer installed base.
4. **Statutory Authority Permitting Other than Full and Open Competition:** IAW FAR 6.302-1 -- Only One Responsible Source and No Other Supplies or Services Will Satisfy Agency Requirements: 10 U.S.C. 2304(c) (1).
5. **Demonstration that the Contractor's Unique Qualifications or Nature of the Acquisition Requires the Use of the Authority Cited Above (applicability of authority):** GE Medical Systems Information Technologies is the Original Equipment Manufacturer (OEM) and provider of the equipment and software and is the only qualified vendor found who is capable of performing maintenance and support on the highly sophisticated system. They have proprietary rights on all hardware, software, services, and repairs for the MUSE Cardiology Information System currently installed.
6. **Description of Efforts Made to ensure that offers are solicited from as many potential sources as deemed practicable:**
- a. No source other than GE Medical Systems Information Technologies was identified during market research. Many instances were discovered in FedBizOps (fbo.gov) where similar services for a wide variety of federal agencies were previously determined to be only available from a single source.
  - b. Sources Sought notice number VA25515N0566 for this acquisition was published in fbo.gov during the period 03-20-2015 through 03-25-2015 as required by FAR Subpart 5.2. No responses were received and no potential contractors chose to identify themselves in the "Interested Vendors List" of the fbo.gov WEB site. The notice stated in part:

**“OVERVIEW:** The Department of Veterans Affairs, Network Contracting Office (NCO) 15, has a requirement to obtain software support for the GE Healthcare “MUSE Cardiology Information System” software located at the St Louis MO VA Medical Center. It is anticipated that a base one (1) year contract with up to four (4) one (1) year option years will be awarded. The government intends to award a firm-fixed-price contract. The North American Industry Classification System (NAICS) for this requirement is 811219 – Other Electrical and Precision Equipment Repair and Maintenance.

**SERVICES TO BE PROVIDED:** The Contractor shall supply all software fixes, patches, upgrades and personnel, equipment, supplies, travel and per diem required to provide remote and on-site software support and services of the installed MUSE Cardiology Information System software. The Contractor must be able to:

- 1) Furnish remote diagnostics/corrective maintenance, technical phone support, applications support, and onsite support/maintenance as needed on the GE MUSE Cardiology Information System, as well as labor, travel, parts, and software upgrades.
- 2) Furnish unlimited on-site service/corrective maintenance, if needed.
- 3) Furnish unlimited telephone technical support with telephone response within 2 hours of contact. Technical telephone support and remote diagnostics (if remote diagnostics is available for the equipment) must be available 24 hours a day, 7 days a week.
- 4) Furnish software updates that consist of any error correction or modification that maintains existing software features and functionality and are made generally available to GE Healthcare’s customer installed base.
- 5) Furnish software upgrades that consist of any revisions or enhancements of the software by GE Healthcare that improves or expands existing software features or functionality that are made generally available to GE Healthcare’s customer installed base.”

c. No replacement or new requirements for the GE system is presently budgeted for or forecast.

**7. Determination by the Contracting Officer that the Anticipated Cost to the Government will be Fair and Reasonable:**

- a. Currently, the contract pricing of \$57,163.40 per year for identical services has been established to be fair and reasonable per FAR 8.404(d) and will be used as a benchmark for renegotiated pricing.
- b. The anticipated annual price for the services is \$52,335.00. The Contracting Officer will determine that the anticipated price(s) will be fair and reasonable by requiring the contractor to provide a written quote with a government discount included and additional information (other than cost or pricing data), which may include commercial price lists and prices for similar or the same services provided to other customers, to assist the Contracting Officer in determining if the contractor's proposed prices are fair and reasonable for the services being provided. The final price(s) will be negotiated. The Contracting Officer anticipates that the final prices(s) will be fair and reasonable.

**8. Description of the Market Research Conducted and the Results, or a Statement of the Reasons Market Research Was Not Conducted:**

- a. In accordance with FAR 10.002 market research was conducted to identify sources for this requirement. Market research consisted of an internet search and a search of the AbilityOne WEB site, the Unicor WEB site, GSA Federal Supply Schedule (FSS) and VA National Acquisition Center (NAC) WEB sites. An email was sent to NAC asking specifically if the required services were covered by any known NAC contract. No existing contracts or agreements that include software support for the GE Cardiology Muse System were identified.
- b. A search of the FBO web site resulted in the discovery of about a dozen notices posted by other VHA VISNs and other agencies seeking similar services. The majority were found to be issued under the authority of FAR Part 6.302-1 for acquisition from GE Medical Systems Information Technologies. The attempts to solicit the services resulted in awards going to GE Medical Systems Information Technologies. No source other than GE Medical Systems Information Technologies was discovered.
- c. No other vendors were identified, no responses were received from the Sources Sought Notice, and no potential contractors chose to identify themselves.

**9. Any Other Facts Supporting the Use of Other than Full and Open Competition:** Failure to properly and timely maintain the installed the GE MUSE Cardiology Information System will endanger the health of beneficiaries being served by the Department of Veterans Affairs. The system to be maintained is considered to be critical to the Medical Center's capability to diagnosis patients. The health of the veteran beneficiary is of paramount importance in this acquisition and any factors which may influence the quality of care to the beneficiary is a critical consideration. The VA Medical Center must be able to provide critical healthcare to veteran beneficiaries in a timely and safe manner.

**10. Listing of Sources that Expressed, in Writing, an Interest in the Acquisition:** No responses have been received and no potential contractors have chosen to identify themselves.

**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:** Unless the manufacturer chooses to license its software and authorize local service providers to support system software sometime in the future, the only alternative that may be available to us is to replace the existing General Electric brand system with a more generic brand that may have a wider installed base and which does not have proprietary software. However, considerations other than sole source must be considered when contemplating replacement, specifically the anticipated remaining life span of the presently installed system, need for sufficient budget to acquire replacement capital items, the need to provide the most reliable and best system for the price, and the availability of quality maintenance and support services. Right now the VA Medical Center is satisfied with the quality and operation of the installed system, its maintenance and support, and they do not have sufficient budget to replace the system.

**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.

GHAITH B  
HASAN 733359

Digitally signed by GHAITH B HASAN 733359  
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Date: 2015.03.31 08:27:50 -05'00'

03/31/2015

Date

Name: Ghaith Hasan  
Title: Biomedical Engineer  
Facility: St. Louis VAMC

**13. Approvals in accordance with the VHAPM, Volume 6, Chapter VI: OFOC SOP.**

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

Larry A BUELL  
346126

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gov, cn=Larry A BUELL 346126  
Date: 2015.03.31 09:33:06 -05'00'

03-31-2015

Name: Larry A Buell, CPPO  
Title: Contracting Officer  
Facility: Network contracting Office (NCO) 15

Date

- b. **Director of Contracting /Designee (Required \$150K and above):** I certify the justification meets requirements for other than full and open competition.

SCOTT R FISCUS 381888

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Name: Scott Ficus  
NCO/PCO 15 Director of Contracting or Designee  
Facility: Network Contracting Office (NCO) 15

Date