

**DEPARTMENT OF VETERANS AFFAIRS**

**Justification and Approval (J&A)**

**For**

**Other Than Full and Open Competition (>\$150K)**

1. **Contracting Activity:** Department of Veterans Affairs, VISN 10, Veterans Affairs Medical Center (VAMC), 3200 Vine Street, Cincinnati, OH 45220-2213. The purchase request number is 539-15-2-6905-0048. This purchase request number is for the Certify Sustainable Buildings project at VAMC – Cincinnati, OH. The project number is 539-16-208.

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

This is a Brand Name Justification and Approval for Aircuity OptiNet System: This consists of an air sampling system, sensors, and a BACNet interface to vary room air changes based on contaminants in the air. This system would be used with the existing Aircuity OptiNet system at the VAMC, 3200 Vine Street, Cincinnati, OH 45220. The Aircuity OptiNet System is part of the Certify Sustainable Buildings project for VAMC, Project Number 539-16-208. The Certify Sustainable Buildings project will be awarded as a Firm Fixed Price contract in accordance with Public Law 109-461 and Far Part 14 – Sealed Bidding. This action will be awarded as a new contract.

3. **Description of Supplies/Services Required to Meet the Agency's Needs:**

As stated in Paragraph 2, this a Brand Name Justification and Approval for the Aircuity OptiNet System. The Aircuity OptiNet System is part of the requirements on the Certify Sustainable Buildings construction project for VAMC – Cincinnati, OH (Project Number 539-16-206). The estimated value of the Aircuity OptiNet System is \$\_\_\_\_\_. The estimated delivery time for the Aircuity Optinet System is four weeks.

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):**

The Certify Sustainable Buildings project will measure the air contaminant levels in the lab areas and adjust the room air changes appropriately to eliminate any contaminated air. Any system that will adjust Laboratory air rates based on contamination levels must ensure safety in the space at all times. The A/E Firm for the Certify Sustainable Buildings project has researched Lab air sampling systems that vary room air change rates and found that the only one that can provide this function at the required safety level is the Aircuity OptiNet system. The Aircuity OptiNet system is the only system of its type being used in the building (Building 15) that is certified by the Association for Assessment and Accreditation of Laboratory Animal Care (AAALAC). Building 15, where this project occurs, must maintain its accreditation with AAALAC so that research can continue in this building. Accordingly, Aircuity is the only firm capable of providing the supplies and services described in Section III above with the Veterans Health Administration experiencing unacceptable delays in fulfilling its requirements. Since there is not any other system that would be compatible with the Aircuity OptiNet system, the Aircuity OptiNet System must connect to the already existing Aircuity head in system.

The VAMC is currently using the Aircuity OptiNet System in Bldg. 14. The Aircuity OptiNet System is the only system that is compatible with the VAMC's existing Aircuity OptiNet System.

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

A Sources Sought Notice was posted to Federal Business Opportunities (FBO) seeking the availability of sources that can provide the Aircuity OptiNet System. The Sources Sought Notice was posted on June 24, 2015. The Sources Sought Notice number is VA250-15-N-0298. The Sources Sought Notice was issued as a Request for Information only and the purpose was to identify all possible available sources that could provide the brand name Aircuity OptiNet System. The following companies provided responses to the Sources Sought Notice:

- Marvin Heymann & Associates / US Federal Government Proposal Writing Group + More
- SLS Government Funding Solutions
- Construction Journal LTD
- Armcor.com Contractor Capital
- Lorita M Ouellette, Inventor

All the companies were contacted to get a determination if they can provide the Aircuity brand name OptiNet System. All the companies confirmed they do not manufacture the Aircuity brand name items that were posted on the Sources Sought Notice and they are not

authorized distributors for the Aircuity brand name items that were posted on the Sources Sought Notice.

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

Determination of fair and reasonableness of cost will be based upon a complete price analysis and Independent Government Cost Estimate. The anticipated cost will be considered fair and reasonable. This project will be issued as an Invitation for Bid (IFB). Tradeoffs and Evaluation Factors are not applicable for this project.

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

Market research has been previously conducted by Engineering, the Architect/Engineer (A/E) and Contracting. Market research conducted by A/E found that there were no similar products on the market. The Aircuity OptiNet System is currently being used in Building 14. There is no other system that is compatible with the Aircuity OptiNet system and the Aircuity data sampling system must connect to the existing Aircuity head in system in Building 14.

As describe in Section VI above, market research, in accordance with FAR Part 10, was conducted by synopsis of the proposed Request for Information, advising industry of the brand name items that were being sought and soliciting inquiries from interested parties.

**9. Any Other Facts Supporting the Use of Other than Full and Open Competition:**

Maintenance and system familiarity, while secondary to the issues to Lab Safety issues are other important factors to consider. Engineering is charged with maintaining this system. If another Lab Air system existed that adjusted room air change rates, then having two different system would add to the maintenance costs and the amount of training required being able to maintain these systems.

**10. Listing of Sources that Expressed, in Writing, an Interest in the Acquisition:**

See Section VI above. The following is the list of sources that expressed interest in the Sources Sought Notice posted to FBO for the brand name Aircuity OptiNet System:

- Marvin Heymann & Associates / US Federal Government Proposal Writing Group + More
- SLS Government Funding Solutions
- Construction Journal LTD
- Armcor.com Contractor Capital
- Lorita M Ouellette, Inventor

Written notification was received from Aircuity on July 12, 2015, stating that Ingenuity IEQ (Midland, MI & Cleveland, OH) is currently the only company certified to sell and service the Aircuity OptiNet Systems for Ohio. The notification also stated that the Aircuity OptiNet

system uses unique and proprietary technologies to provide remote sampling connected to a centralized sensing architecture which continuously measures a host of indoor air parameters.

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:

Solicitations for future requirements will utilize "brand name or equal" language, if it is in the Government's best interest to do so. The current requirement must be solicited using a brand name description because the Government needs to create an exact copy of a system/item that is currently in use.

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.

  
\_\_\_\_\_  
Jason Reeves  
Assistant Chief, Engineering Service  
VAMC – Cincinnati, OH

7/24/15  
\_\_\_\_\_  
Date

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.

\_\_\_\_\_  
Ronald T. Heidemann  
Contracting Officer  
Network Contracting Office (NCO) 10

7-24-15  
\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Joseph L. Boggs  
NCO 10, Team Manager – Team #1  
Construction/AE Product Line Team

7-24-2015  
\_\_\_\_\_  
Date