

JUSTIFICATION FOR OTHER THAN FULL AND OPEN COMPETITION

1. Contracting Activity: Department of Veterans Affairs (VA)
Office of Acquisition Operations
Technology Acquisition Center
23 Christopher Way
Eatontown, New Jersey 07724
2. Description of Action: The proposed action is for a sole source firm-fixed-price contract for Phonak AG (Phonak) mobile hearing aid distance fitting application (HADFA) development services.
3. Description of Supplies or Services: VA, Center for Innovation has a requirement to place Veterans and Veteran caregivers at the center of their health care through the use of mobile technology by completing development on Phonak hearing aids with VA's first mobile HADFA; an application to provide Veterans' remote access to health care professionals to fit their hearing aid(s). In 2013, Phonak designed and developed a proprietary smartphone application concept for Phonak hearing aids called HADFA; a scalable, standards-based framework for mobile healthcare, specifically mobile VA audiology services. Currently, the mobile HADFA establishes a connection between Phonak hearing aids and the associated iCube fitting device with Android smartphones. The iCube fitting device serves as the link between the patient's hearing aid and smartphone by deriving a relay specific identification from Phonak hearing aid(s) serial number. Once a connection is established, the application then provides wireless communication between the smartphone and the iCube fitting device via Bluetooth connectivity, and between the iCube fitting device and the hearing aid via connectivity technology known as Hearing Instrument Body Area Network (HiBAN). VA requires software development services to further enhance the HADFA application while also continuing to ensure it is secure, scalable, and sustainable. This acquisition will continue the initial 2013 pilot effort development work of the mobile HADFA for smartphones, designed solely for Phonak hearing aids, by developing the same mobile HADFA technology for Phonak hearing aids on iPhone Operating Systems (iOS) smartphones, as well as developing video conferencing features for use on Android smartphones and iOS smartphones. Development completion of the HADFA mobile application will greatly improve communication and the flow of medical data for Veterans and Veteran caregivers while relieving the Veteran of the onerous task of repeated transportation to and from VA facilities to initially fit and make adjustments to their Phonak hearing aid. The knowledge transfer optional task is for the transfer of all necessary documentation and functionality training that will allow VA audiologists to independently use the Phonak hearing aid application. The total estimated value of the proposed action is [REDACTED] inclusive of a 24-month base period for software development and a 6-month optional task for the knowledge transfer effort.
4. Statutory Authority: The statutory authority permitting other than full and open competition is 41 U.S.C.3304(a)(3) as implemented by the Federal Acquisition

Regulation (FAR) 6.302-1 entitled, "Only One Responsible Source and No Other Supplies or Services Will Satisfy Agency Requirements."

5. Rationale Supporting Use of Authority Cited Above: The proposed source for this effort is Phonak AG (Phonak), Laubisrütistrasse 28, CH-8712 Stäfa, Switzerland. Phonak designed and developed the current Phonak hearing aid used by Veterans. The associated software and hardware used on these hearing aids are proprietary to Phonak. For any other company to complete development of the required Phonak hearing aid application and video conferencing features, it would need access to the proprietary data and source code. Specifically without this source code, no other vendor would be able to complete configuration of the application development that will work with the existing Phonak hearing aids. Also, any other source would have to develop their own HADFA application in order to add the enhanced capability VA currently requires under this development effort. This would result in extensive duplicated cost and delivery delays that would not be recovered through competition. Specifically, this duplicated cost would exceed \$270,625.00 and require a minimum of 12 months to complete development. This is based on previous development efforts for the HADFA application. Only Phonak can perform the required software application development. In addition, Phonak's proprietary HADFA application utilizes two different Bluetooth signals, one for data transmission and one for the use of the Headset Profile, Hands-Free Profile, and Advanced Audio Distribution Profile. To further elaborate, one Bluetooth signal is for transmission between the smartphone and the iCube, and the other Bluetooth signal is a Phonak proprietary HiBAN 10.6 megahertz (Bluetooth) signal for the transmission between the iCube to the hearing aids. The entire mobile HADFA application functions on these proprietary wireless transmissions. When an iCube is attached to hearing instruments, "grouping" occurs in the Phonak hearing aid software, creating the hearing system utilizing these wireless transmission protocols. Any other source would need access to these Bluetooth signals and the proprietary code of the existing HADFA in order to complete development of the required application and functionality. Furthermore, there are numerous deployed Phonak hearing aids that are currently under warranty in addition to the hundreds of Phonak hearing aids that are deployed everyday which triggers warranty coverage. If an unauthorized vendor were to perform development services on Phonak's proprietary hearing aids, it would void Veterans' warranties. Phonak's warranty does not cover damage caused by third parties or non-authorized service centers. If another vendor were to perform the required application development services roughly 327,500 Phonak hearing aids would incur invalid warranties, causing VA to pay for repairs ranging anywhere from \$60.00 - \$200.00 per device.

6. Efforts to Obtain Competition: Market research was conducted, details of which are in section 8 of this justification. This effort did not yield any additional sources that can meet the Government's requirements. There is no competition anticipated for this acquisition. In accordance with FAR 5.201, the proposed action will be synopsisized prior to solicitation and synopsisized subsequent to award and this

justification will be made publically available on the Federal Business Opportunities (FBO) page within 14 days after award. Any proposals that are received shall be evaluated.

7. Actions to Increase Competition: The Government will continue to conduct market research to ascertain if there are changes in the market place that would enable future actions to be competed.

8. Market Research: The Technology Acquisition Center issued a Request for Information on March 16, 2015 via the FBO page to ascertain if there were any other sources that could meet the Government's requirements. No responses were received.

Additionally, the Government's technical expert performed market research in May 2015 on mobile hearing aid commercial-off-the-shelf applications to determine if there are any other applications in existence that can remotely connect Veterans to VA audiologists in VA hospitals and/or clinics, if the features required for development for this effort can be developed on other applications, and to confirm with industry that they do not have the ability to perform development services on Phonak hearing aids. The Government's technical expert assessed multiple hearing aid and associated hearing aid technology companies, including Jacoti ListenApp, BioAid, and Ginger Labs Sound AMP. All companies researched provided applications rated within the Top 10 Medical Applications on iTunes and Google Play Stores, and provide simple-to-use-use controls, recording options, and multitasking features. However, the Government's technical expert determined that none of these applications meet all of VA's requirements for a mobile distance hearing aid application.

Further, the Government's technical expert determined mobile application providers are not able to perform the required development services in support of Phonak hearing aids or develop the required features on their respective hearing aid applications. Specifically these providers:

- Do not have the ability to perform development services on Phonak hearing aids;
- Do not have access to Phonak's proprietary information;
- Did not provide evidence of the ability to design and develop mobile distance hearing aid fittings on smartphones for their respective applications; and
- Have no efforts currently in development to remotely access VA audiologists in VA hospitals and/or clinics.

Based on this market research the Government's technical expert determined that Phonak is the only source that can meet the Government's requirements.

9. Other Facts: The intent of this pilot is to further evolve the mobile HADFA on proprietary Phonak hearing aids. The Government technical expert contacted

Phonak representatives in April 2015 to request authorized vendors who could perform these services. Phonak confirmed they are the only company able to perform the required application development services. No other vendor has access to the necessary Phonak proprietary code, and no other vendor is authorized to perform the HADFA development services in order to securely connect and exchange data to the Phonak hearing aid.

10. Technical and Requirements Certification: I certify that the supporting data under my cognizance, which are included in this justification, are accurate and complete to the best of my knowledge and belief.

[Redacted]

Date: [Redacted]

Program Manager

Signature: [Redacted]

11. Fair and Reasonable Cost Determination: I hereby determine that the anticipated price to the Government for this contract action will be fair and reasonable based on cost analysis of the contractor's proposal for purposes of conducting negotiations as well as price analysis by comparing the contractor's proposed amount and the final negotiated settlement with the Independent Government Cost Estimate.

[Redacted]

Date: [Redacted]

Procuring Contracting Officer

Signature: [Redacted]

12. Procuring Contracting Officer Certification: I certify that this justification is accurate and complete to the best of my knowledge and belief.

[Redacted]

Date: [Redacted]

Procuring Contracting Officer

Signature: [Redacted]

13. Legal Sufficiency Certification: I have reviewed this justification and find it adequate to support other than full and open competition and deem it legally sufficient.

[Redacted]

Date: 8/10/2015

Legal Counsel

Signature: [Redacted]

Approval

Based on the foregoing justification, I hereby approve the procurement of the development of a mobile hearing aid distance fitting application and knowledge transfer in the estimated amount of [REDACTED], on an other than full and open competition basis pursuant to 41 U.S.C.3304(a)(3), subject to availability of funds, and provided that the services herein described have otherwise been authorized for acquisition.

Date: [REDACTED]

Signature: [REDACTED]

[REDACTED]