

DEPARTMENT OF VETERANS AFFAIRS

Justification and Approval (J&A) For Other Than Full and Open Competition

Acquisition Plan Action ID: VA248-16-AP-0545

1. Contracting Activity: Department of Veterans Affairs, VISN 8, James A. Haley Veterans' Hospital. 2237 #: 673-16-1-046-0034.
2. Nature and/or Description of the Action Being Processed: This action is for the emergency repair of high tech medical equipment Siemens Biograph PET/CT.
3. Description of Supplies/Services Required to Meet the Agency's Needs: Repair of Siemens Biograph PET/CT EE72726, site 400-193845 in the total estimated amount of \$236,960.00. This is a one-time repair with an expected delivery date of 31 December 2015.
4. Statutory Authority Permitting Other than Full and Open Competition: 41 USC §3304(a)(2), as implemented by FAR 6.302-2, Unusual and Compelling Urgency.
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 Siemens PET/CT System is a one-of-a-kind, highly specialized system with an acquisition value of more than \$2,000,000.00. The PET/CT system is a flexible, high-powered medical imaging platform diagnostic tool used to detect cancer and find out the cancer's stage. Knowing the cancer's stage help patients and doctors decide what kind of treatment is best and helps predict prognosis (a patient's chance of recovery). Siemens Medical Systems is the original equipment manufacturer (OEM) and exclusive distributor of this specific diagnostic patient care equipment. The unit is completely inoperable and is causing delays in patient care. If this essential system is not repair in a promptly manner, patient procedures would need to be postponed (if clinically possible due to the patients' conditions) or sent to other facilities on fee basis. In-house staff does not have the resources, manpower, software or parts required to perform this critical level of service. Accordingly, Siemens Medical Systems is the only firm capable of providing the services without the James A. Haley Veterans' Hospital experiencing unacceptable delays. Although there are normally third-party repair companies that can perform repairs on some high-tech medical equipment and systems, there are no third-party repair companies that have been located that can perform work or emergently procure the necessary repair parts for this level of repair on this highly specialized system.
6. Description of Efforts Made to ensure that offers are solicited from as many potential sources as deemed practicable: Past efforts to locate third-party vendors who can perform repairs, have the proprietary software, and obtain FDA approved parts on this highly specialized medical equipment have turned up no additional sources other than the OEM.
7. Determination by the Contracting Officer that the Anticipated Cost to the Government will be Fair and Reasonable: The anticipated cost of \$236,960.00 is considered fair and reasonable. This cost includes OEM parts and labor that can only be provided by the manufacturer, Siemens Medical Systems. The bulk of the cost is on OEM parts, at approximately \$233,000.00. Labor is

estimated at \$3,500.00 (4-8 hours). These are estimated costs and most likely the final cost will be lower since the VA will get credits on some of the parts replaced. For example, the X-Ray tube that needs to be replaced has a cost of \$153,674.00, but the VA could get a credit up to \$32,325.00, depending on the condition of the returned tube. Hourly labor rates charged to commercial customers for this type of equipment is \$495.00. Siemens provides a 12% discount (\$59.40) to the VA on labor rates. On parts, they are discounting list prices between 20% and 30%. The estimated cost has been reviewed and is appropriate for the complexity and uniqueness of this type of requirement. The Service Chief has reviewed the contractor's price and concurs, as it is suitable for the services to be provided and under the urgent conditions the services are required. Although there is no other option than to use Siemens Medical Systems as this piece of equipment is manufactured and serviced only by them, the VA still realizes some savings when comparing the prices charged to non-Government companies.

8. Description of the Market Research Conducted and the Results, or a Statement of the Reasons Market Research Was Not Conducted: Past efforts to locate third-party vendors who can perform repairs, have the proprietary software, and obtain FDA approved parts on this highly specialized medical equipment have turned up no additional sources other than the OEM. No other manufacturer provides the parts/services required to fix this machine. This agency is committed to the competitive spirit of all procurement regulations. It is our policy to seek full and open competition to the largest extent possible while fulfilling the necessary requirements.

9. Any Other Facts Supporting the Use of Other than Full and Open Competition: It is unlikely that trying to compete this requirement will result with an award to a different company than the manufacturer. In addition, soliciting prospective vendors and evaluating offers to ultimately meet the Government requirements would result in unacceptable delays.

10. Listing of Sources that Expressed, in Writing, an Interest in the Acquisition: None.

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: Many medical equipment manufacturers, including Siemens Medical Systems have proprietary service documentation, diagnostic tools, software, and equipment, as well as parts. Third party companies do not have access to these necessary resources and therefore often cannot complete maintenance work on high-tech medical equipment. As equipment ages or becomes more common, manufacturers become less guarded about sharing these resources with competitors. As this state-of-the-art equipment ages, it is likely that there will be some other vendors who may be able to perform maintenance work.

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.

Contracting Officer's Certification: I certify that the foregoing justification is accurate and complete to the best of my knowledge and belief.

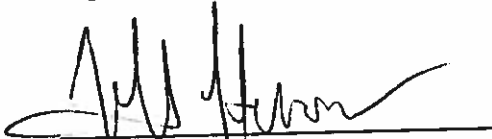
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Carlos R. Morales
Contracting Officer
NCO 8

9 December 2015
Date

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



Fadil Keranovic
Deputy Director of Contracting
NCO 8

9 December 2015
Date