

DEPARTMENT OF VETERANS AFFAIRS

Justification and Approval

For

Other than Full and Open Competition

1. **Contracting Activity:** Department of Veterans Affairs, VISN 2
Network Contracting Activity (2-9ONCA)
1304 Buckley Rd, Suite 101
Syracuse, NY 13212

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

One year service agreement which includes application version upgrades, upgrade installation documentation and telephone support for the BioPoint Patient ID wristband software application. This system is currently being used in 6 facilities in VISN 2 (Buffalo, Syracuse, Canandaigua, Batavia, Bath and Albany). The BioPoint Patient ID wristband software was originally purchased by the Network and included an initial 1 year service agreement. A firm-fixed price contract will be used. Request to purchase sole source from Bio-Optronics, Inc., 1870 Winton Road South, Suite 10, Rochester, NY 14518. The cost is estimated to be \$30,442.50 for the one year service agreement for all 6 sites. The original system was purchased from Bio-Optronics, Inc. They are the only contractor that offer the BioPoint Patient ID wristband software application service plan and can provide software updates for the Care BioPoint Patient ID wristband software application.

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

The BioPoint Patient ID wristband software application was a Network purchase which included an initial 1 year service agreement. An additional one year agreement was purchased last year as a sole source procurement. This follow-on service agreement period expires 10/26/11 and the purchase of a new service agreement is proposed for a 1 year period to cover the following sites: Buffalo, Syracuse, Canandaigua, Batavia, Bath and Albany. Estimated cost for one year service agreement for all 6 sites is \$30,442.50.

The service agreement will include application version upgrades including new features and enhanced functionality, upgrade installation documentation and telephone support. Bio-Optronics is the only contractor that can provide the software updates for the BioPoint Patient ID wristband software application. There are no other vendors.

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):

This service agreement purchase is a follow on purchase in which Bio-Optronics, Inc. will provide services such as upgrading the existing software, providing telephone support and upgrade installation documentation.

BioPoint Patient ID wristband software application is a proprietary software program of Bio-Optronics, Inc. The original system was purchased in 2009 and was a commercial off-the-shelf (COTS) product. For the purchase, a sources sought notice was posted on FBO. No other vendors provided information demonstrating similar systems on the market at the original time of purchase. There are no known third party vendors offering this specific BioPoint Patient ID wristband software application service plan, therefore the service agreement and software updates can only be readily obtained from Bio-Optronics. Accordingly, Bio-Optronics, Inc. is the only firm capable of providing the supplies and services described in Section III above without the Veteran's Health Administration experiencing substantial duplication of cost that could not be expected to be recovered through competition and unacceptable delays in fulfilling its requirements.

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

The agency has done a market survey using GSA, SEWP, and FSS Schedule sources and general searches over the Internet for similar sources. Originally, a SEWP contract holder had responded to my request for information posted on SEWP. As a result, I posted an RFQ on SEWP with a closing date of 10/19/11. The vendor contacted me on 10/19/11 requesting an extension through 10/21/11. I extended the RFQ closing date accordingly. Again, the vendor contacted me on 10/21/11 requesting another extension through 10/25/11, which I granted. I received a call this afternoon from the vendor stating that they will not be submitting a quote since their company will not sign the BAA mandated by the VA ISO and Privacy Officer. The RFQ has since closed with no quotes received. A sources sought synopsis (VA52811RQ0346) of the requirement utilizing FBO, IAW FAR Part 5, was issued September 14, 2011 and no responses were received.

Other than the SEWP contract holder noted above, who has informed me that they will not submit a quote, no other potential sources have been found that provide BioPoint Patient ID wristband software application service plans. Though there are numerous vendors listed in CCR and the SBA's resource database under the applicable NAICS code (541511), a review of a representative sample did not indicate any specific providers of service agreements for the BioPoint Patient ID wristband software application. A review was also done using the VetBiz.gov database with similar results.

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

The anticipated cost will be fair and reasonable. Bio-Optronics bases their service agreement pricing on the list price of the software that is owned. This service agreement will run for a little over 11 months in order to get the contract in line with the fiscal year. Last year's one year service agreement cost \$33,210.00, or \$2770.42 per month. This year's cost is \$3019.09 per month, an increase of around \$250.00 per month. As part of the service agreement terms, Bio-Optronics will not increase the fees by more than 15% from year to year.

In addition, to ensure that the cost is fair and reasonable, I will include a requirement in the solicitation for the offeror to submit pricing information about similar contracts/orders for the BioPoint Patient ID wristband software application service plan for the past 12 months.

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

As described in Section VI above, market research, in accordance with FAR Part 10, was conducted by synopsis of the proposed acquisition, advising industry of the pending acquisition and soliciting inquiries from interested parties. No responses were received. Additionally, the agency has done a market survey using GSA, SEWP (see section above regarding response to market research from SEWP contractor), and FSS Schedule sources and general searches over the Internet for similar sources. As noted above, no other potential sources have been found that provide BioPoint Patient ID wristband software application service plans. Though there are numerous vendors listed in CCR and the SBA's resource database under the applicable NAICS code (541511), a review of a representative sample did not indicate any specific providers of service agreements for the BioPoint Patient ID wristband software application. A review was also done using the VetBiz.gov database with similar results.

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

BioPoint Patient ID wristband software application is the proprietary software program by Bio-Optronics and there are no other vendors that provide the Support Agreement that includes software updates.

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

See Section VI above.

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:

No actions are planned because the BioPoint Patient ID wristband software application is proprietary software and only Bio-Optronics offers a Service Agreement.

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.



10/25/2011

Karen Strobel
Quality Management Officer
VISN 2

Date

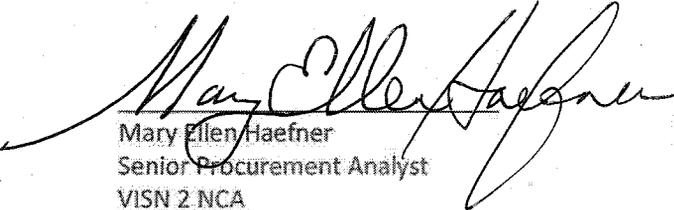
13. Approvals in accordance with FAR 6.304

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


Stephanie French
Contract Specialist Intern
NCA, VISN 2

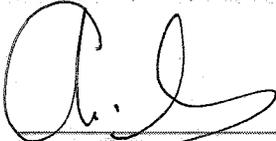
10/25/11
Date

- b. VISN QA: I certify that the foregoing justification is accurate and complete to the best of my knowledge and belief.


Mary Ellen Haefner
Senior Procurement Analyst
VISN 2 NCA

10/26/11
Date

- c. NCM: I certify the justification meets requirements for other than full and open competition.


Cherie Widger-Kresge
Network Contract Manager
VISN 2

10/27/2011
Date