

**DEPARTMENT OF VETERANS AFFAIRS**  
**Justification and Approval**  
**For**  
**Exception to Fair Opportunity Memo**

**Acquisition Plan Action ID: VA260-16-AP-3291**

1. **Contracting Activity:** Department of Veterans Affairs, VISN 20, Boise Medical Center, Acquisition and Material Management (531/90); Purchase Request 531-16-3-9961-0103
2. **Description of Action:** This is a request for an exception to fair opportunity to establish an order against SEWP contract NNG15SD22B to purchase an upgrade to an existing Philips physiological monitoring system and to provide for the expansion of telemetry monitoring for a new construction/expansion of the Step Down Unit. The proposed contractor, Four Points Technology, was identified by Philips as their authorized SEWP reseller and is registered as a SDVOSB on VetBiz.
3. **Description of Supplies or Services:** Boise VA Medical Center's current physiological software (version L) is obsolete and is no longer supported. The software provides physiological monitoring to the intensive care unit, emergency department, step-down unit, and post-anesthesia care unit. The proposed action is to provide required system upgrades to prevent significant risk of sentinel patient events due to a failure of the monitoring system. The Contractor will provide and install all software and hardware necessary to upgrade Boise VAMC's existing Philips Intellivue and PIIC systems, as well as conduct integration and system testing with existing the PIC iX, Telemetry, and Event Management systems. The total estimated value of the proposed action is \$622,516.36.
4. **Statutory Authority:** The statutory authority permitting an exception to fair opportunity is the VA's statutory authority to make sole-source awards to SDVOSBs as set forth at 38 U.S.C. sect. 8127, Pub. L. No. 109-461, 120 Stat. 3431, 3432 (2006). This authority allows the VA to award to an SDVOSB on a sole-source basis when 1) such concern is determined to be a responsible source with respect to performance of such contract opportunity; (2) the anticipated award price of the contract will exceed the simplified acquisition threshold (as defined in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403) but will not exceed \$5,000,000; and (3) in the estimation of the contracting officer, the contract award can be made at a fair and reasonable price that offers best value to the United States.
5. **Rationale Supporting Use of Authority Cited Above:** The Contractor is a SDVOSB, SEWP contract holder and was identified by the existing equipment OEM as an authorized reseller. The Contractor is a responsible source and the anticipated price will not exceed \$5,000,000. Furthermore, the Contractor supplied a quote that is within 1% of the price offered by the OEM; therefore, the contract can be made at a fair and reasonable price. Therefore, this action is in accord with the statute authorizing the award of sole-source contracts to SDVOSBs.

6. **Brand Name Justification:** Based on extensive market research, as described in paragraph eight of this document, it was determined that limited competition is viable among authorized resellers for this brand name item. This is a brand name justification in support of FAR 11.105, Items Peculiar to One Manufacturer. Philips brand name software is the only software that can continue to build upon VA's existing Philips monitoring system. Any other brand name software is unable to integrate with the currently owned hardware and software integral to the monitoring system. Specifically, the current system and software communicates through Philips monitoring equipment that is in place throughout the entire medical center. Use of another software platform would require the replacement of every cardiac and physiological monitoring device in the medical center.
7. **Efforts to Obtain Competition:** Market research was conducted, details of which are in the market research section of this document. This effort identified that the technology is completely proprietary to the OEM; however, because of our focus on SDVOSB concerns, the OEM did identify Four Points Technology as an authorized SEWP SDVOSB reseller. In accordance with FAR 5.301 and 16.505(b)(2), this action will be synopsisized at award on the Federal Business Opportunities Page (FBO) and the justification will be made publicly available.
8. **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.
9. **Market Research:** The Government conducted market research by contacting the existing system OEM to discuss possible solutions to the current system's obsolescence. This market research was ongoing from April up through the final RCA was received on September 8, 2016. The Government determined that no other technical systems can meet the Government's interoperability and compatibility requirements previously discussed. The OEM provided a statement verifying that the technology was proprietary and also provided a quote to perform the upgrades; however, a sources sought was conducted and identified one FSS reseller and one SEWP reseller capable of providing compatible upgrades as authorized resellers of the OEM. SEWP is the priority source for IT hardware and software in accordance with policy memo, Mandatory VA Use of NASA SEWP IV Contracts, dated July 25, 2006.
10. **Other Facts:** This requirement will ensure continued and effective operation of the monitoring system. Currently, the system is obsolete and unsupported; if any issue in the software occurs, the Boise VA Medical Center will lose all physiological monitoring capability. This will, essentially, require the emergent transfer of all patients requiring cardiac and physiological monitoring into the community as well as shut down the facility's emergency and surgical capabilities.
11. **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.

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Krystal Weeks  
Contract Specialist

09-08-2016  
Date

**12. Determination that Anticipated Cost is Fair and Reasonable:** The contracting officer has determined that the anticipated cost to the Government will be fair and reasonable. Four Points Technologies is a Government-wide supplier of medical and information technology with well-established prices that have been determined, by SEWP, to be fair and reasonable. The Government intends on requesting the best available prices offered by Four Points Tech equal to those offered to other Government agencies.

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

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Thomas M. Ebenhoh  
Contracting Officer

10 September 2016  
Date