

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

Acquisition Plan Action ID: VA261-16-AP-5576

1. **Contracting Activity:** Department of Veterans Affairs, VISN 21, Contracting Office, proposes on the basis of justification for Other Than Full and Open Competition for the VA Sierra Pacific Network, VISN 21. The purchase request number is 612-16-3-476-0072.
2. **Description of Action:** VISN 21 currently utilizes Nuance's Powerscribe 360 application for integrated voice recognition for Radiology Picture Archive and Communications System (PACS). The current version is two major releases behind and needs to be upgraded to improve recognition accuracy and supportability. Also, as VISN 21 has picked up Las Vegas an additional facility, need to expand the system to include their site. This will be a firm-fixed price task order with no option years. The current task order, VA261-14-P-2218, PO 612-C69140 will expire on September 30, 2016.
3. **Description of Supplies or Services:** Vendor shall provide implementation and project management services to upgrade the existing VISN 21 Powerscribe 360 Radiology voice recognition system to version 3.5. Current maintenance and support contract is VA261-14-P-2218, PO 612-C69140. Coverage to include all applicable system and client upgrades and updates as well as technical support. Services shall be provided for the Department of Veterans Affairs Sierra Pacific Network, VISN 21. The estimated dollar value is [REDACTED] no options. The period of performance is requested to be August 31, 2016 to October 31, 2016.
4. **Statutory Authority:** The statutory authority permitting an exception to fair opportunity is Section 41 U.S.C. 4106(c) as implemented by the Federal Acquisition Regulation (FAR) Subpart 16.505 Subpart 16.505(b)(2)(i):

 () FAR Subpart 16.505(b)(2)(i)(A): The agency need for the supplies or services is so urgent that providing a fair opportunity would result in unacceptable delays.

 (X) FAR Subpart 16.505(b)(2)(i)(B): Only one awardee is capable of providing the supplies or services required at the level of quality required because the supplies or services ordered are unique or highly specialized.

 () FAR Subpart 16.505(b)(2)(i)(C): The order must be issued on a sole-source basis in the interest of economy and efficiency because it is a logical follow-on to an order already issued under the contract, provided that all awardees were given a fair opportunity to be considered for the original order.

() FAR Subpart 16.505(b)(2)(i)(D): It is necessary to place an order to satisfy a minimum guarantee.

() FAR Subpart 16.505(b)(2)(i)(E): For orders exceeding the simplified acquisition threshold, a statute expressly authorizes or requires that the purchase be made from a specified source". The statutory authority permitting an exception to fair opportunity for this action is 38 U.S.C. 8127(c), known as the Veterans First Contracting Program which provides the authority to directly contract with a Service-Disabled Veteran-Owned Small Business (SDVOSB) or a Veteran-Owned Small Business (VOSB).

() FAR Subpart 16.505(b)(2)(i)(F) In accordance with section 1331 of Public Law 111-240 (15 U.S.C. 644(r)), contracting officers may, at their discretion, set aside orders for any of the small business concerns identified in 19.000(a)(3). When setting aside orders for small business concerns, the specific small business program eligibility requirements identified in part 19 apply.

5. **Rationale Supporting Use of Authority Cited Above:** Powerscribe 360 Radiology voice recognition system is a proprietary product from Nuance Communications, Inc. and the ability to provide system with upgrades and ongoing maintenance and support is limited to Carahsoft Technology Corp., which is a sole federal distributor for Nuance and the only SEWP contract holder for this service. Nuance has provided the Radiology voice recognition systems and ongoing maintenance and support for V21 for the past several years. When Nuance was contacted for a market research estimate, they requested we work directly with Elizabeth Heinz from Carahsoft Technology Corp.
6. **Efforts to Obtain Competition:** *A description of efforts made to ensure that offers are solicited from as many potential sources as is practicable.*

Market research was conducted, details of which are in the market research section of this document. 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 5.301 and 16.505(b)(2), this action will be synopsized at award on the Federal Business Opportunities Page (FBO) and the justification will be made publicly available.

7. **Actions to Increase Competition:** *Describe actions taken, or that will be taken, to remove or overcome any barriers to competition before initiating any subsequent acquisitions for the supplies, or services required, including challenges to restrictive data markings, data rights, preparation of a performance based work statement, and etc.*

Within the next 3-5 years, VISN 21 will solicit for a replacement Radiology voice recognition system and at that time, the procurement will be full and open competition.

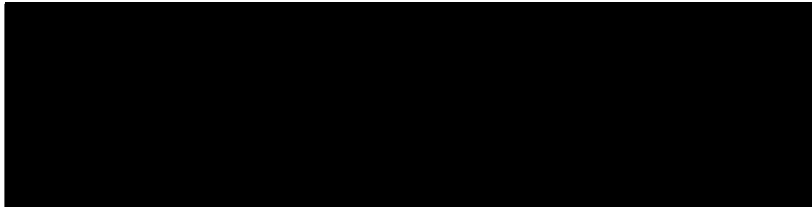
8. **Market Research:** *Provide a description of the market research conducted among the contract holders and the results. If market research was not conducted, the reasons it was not conducted should be stated. When citing 16.505(b)(2)(i)(b) or 16.505(b)(2)(i)(e), the only possible way to state in*

paragraph 5 of the J&A that there is only one contractor who can fulfill the agency's needs is to conduct market research, and it should be summarized here.

A general inquiry was performed to identify alternative service providers utilizing the SAM and VetBiz sites, however due to the proprietary nature of the application, only the OEM or Carahsoft Technology Corp., which is a sole federal distributor for Nuance that is authorized to provide upgrades and ongoing support.

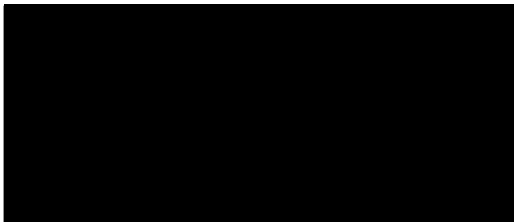
9. Other Facts: The fixed prices for services listed under multiple award contract NNG15SC03B have been determined to be fair and reasonable by SEWP. Therefore, ordering activities are not required to make a separate determination of fair and reasonable pricing. However, the VA will seek additional discounts when negotiating the sole source action. The prices listed under this multiple award contract through NASA SEWP, Carahsoft Technologies NNG15SC03B, represent the best value (as defined in FAR 2.101) and results in the lowest overall cost alternative (considering pricing, special features, administrative costs, etc.) to meet the Government's needs. Significant price reductions were provided for the contract estimate.

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.



11. Determination that Anticipated Cost is Fair and Reasonable: A determination by the contracting officer that the anticipated cost to the Government will be fair and reasonable: *(insert the methods that will be used to determine a fair and reasonable price). See Section 9 above*

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

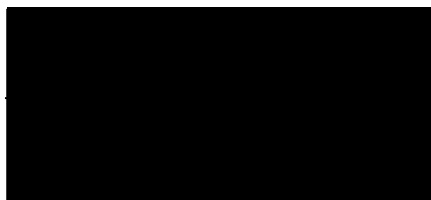


8/15/16
Date

13. Approvals in accordance with the VHAPM, Volume 6, Chapter VI: OFOC SOP.

- a. Director of Contracting /Designee (Required over \$150K but not exceeding \$700K): I certify the justification meets requirements for other than full and open competition.

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Date