

**DEPARTMENT OF VETERANS AFFAIRS**

**Justification and Approval (J&A)  
For  
Other Than Full and Open Competition (>\$150K)**

**Acquisition Plan Action ID:** VA259-17-AP-1651

**1. Contracting Activity:**

Program Contracting Activity Central  
POC: Erica M. Skelly, Contract Specialist  
6150 Oak Tree Blvd., Ste. 300  
Independence, OH 44131

Procured on behalf of:

Pamela Rice, Ph.D.  
Administrative Officer  
Research Service (151)  
VA Eastern Colorado Health Care System  
1055 Clermont Street  
Denver, CO 80220  
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2237 No.: 554-17-1-1889-0029

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

**FAR13.5 Simplified Procedures for Certain Commercial Items:** New procurement of EMD Millipore  
ImageStreamX Mark II Flow - Brand name justification

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

This procurement is for a single ImageStreamX Mark II Flow Cytometer.

ESTIMATED DOLLAR VALUE: \$409,611.00

REQUIRED DELIVERY DATE: March 2017

**4. Statutory Authority Permitting Other than Full and Open Competition:**

**FAR13.5 Simplified Procedures for Certain Commercial Items** – The authority for limiting competition relative to this procurement under the Simplified Procedures for the Commercial Items of (FAR 13.5) is 41 USC 1901, which is implemented in FAR 13.106-1(b)(2). The contracting office will Make publicly available brand name justifications with the solicitation, in accordance with 5.102(a)(6).

**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 is the only product on the market that meets our requirements. All of the following characteristics are essential to the function of this product:

- System must have 375nm, 405nm, 488nm, 561nm, 642nm, 750nm lasers and 12 uniquely-colored, selectable LED illumination sources.
- System must have 20x, 40x and 60x objective lenses and capture up to 11 unique multi-mode, multi-spectral images simultaneously.
- System must capture data at rates up to 5,000 cells per second yielding 55,000 unique cell images per second (at 20x magnification).
- System must be able to perform automated data analysis using software analysis "Wizards" for expedited analysis of co-localization nuclear translocation, spot count, circularity, internalization.
- Analysis software must be able to create complex multiplex imaging analyses and assays must be created accessing 84 unique image algorithms, 9 image masks that can be combined and Boolean defined to create infinite morphometric and fluorimetric combinations of image metrics.

This combination of hardware and software allow the expedited collection of statistical significant and robust number of cell imagery events. The analysis of fluorescence intensity in mixed cell populations obtained by flow cytometry, with the imagery necessary for analysis of cell morphology, identification of cellular structures, or quantitation of probe distribution within cells, the ImageStreamX offers a single platform from which complex questions can be addressed and studied effectively.

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

A search was conducted on GSA Advantage for the specific, brand name cytometer that is required by the facility. This item is offered on GSA, but by only one distributor according to the search results for the specific items. As such, there is no anticipation of competition for this item on GSA and cannot be procured from this source as competition is the desired method of procurement and there are multiple vendors available on the open market as discussed below.

The contracting office issued a sources sought notice on fbo.gov under the subject NAICS code, which contained the specifications for this item and the corresponding add-on standard bundle as described in the requirements document provided by the facility through its procurement support contractor (RFI No.VA701-17-N-0045; open from 12/1/16 to 12/10/16). The vendors identified

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Attachment 3: Request for Sole Source Justification Format >\$150K

below responded to the FRI and stated that they could fill the Government's requirement. All stated that they would propose the EMD Millipore ImageStreamtX Mark II identified in the posting.

Company Name	Socio-economic Status
1. Scientific Sales, Inc.	WOSB
2. Beckman Coulter Life Sciences	Other than Small Business
3. LogMET Solutions	SDVOSB
4. R&M Government Services, Inc.	SDVOSB
5. Government Scientific Source	VOSB

Both of the above-listed SDVOSBs submitted their verification letters from the Department of Veterans Affairs, Center for Verification and Evaluation showing valid and active certification. The contracting office also checked the verification status as listed in VIP (<https://www.vip.vetbiz.gov/>) and confirmed that each company has a valid and active certification as SDVOSBs.

In light of the foregoing, no further market research was conducted as current federal law requires this effort to be set aside for SDVOSBs on the open market.

7. **Determination by the Contracting Officer that the Anticipated Cost to the Government will be Fair and Reasonable:** This effort will not constitute a sole source procurement, but rather, will be solicited for a specific brand name. Market research efforts described herein indicate that there are multiple distributors of this product, so there is a reasonable expectation of competition. Additionally, this is a commercial item. Based on the foregoing, there is an expectation that the anticipated cost to the Government will be fair and reasonable. A fair and reasonable determination will be made by the contracting officer prior to award in accordance with the FAR.
8. **Description of the Market Research Conducted and the Results, or a Statement of the Reasons Market Research Was Not Conducted:** Research was conducted and found and this is the only product that meets the guidelines and based on the type of Equipment we found no other Product would suffice. The Becton Dickinson LSR Fortessa X-20 flow cytometer only supports 5 lasers and does not have the capability of image analysis at 20-60X magnification. Similarly, the Stratadigm S1000EXi flow cytometer only supports 4 lasers and also cannot perform image analysis. The ImageStream X Mark II is the only instrument that has the combined capability of 6 laser flow cytometry and microscopic image analysis. This is a patent protected functionality unique to this specific instrument.
9. **Any Other Facts Supporting the Use of Other than Full and Open Competition:**  
Medical Equipment being procured had to be the exact match to the existing Medical Equipment at the Old VA Site to ensure compatibility and functionality.
10. **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:** See market research efforts described above.

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11. **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.

Marcie M.

Chase 168815

Digitally signed by Marcie M. Chase 168815  
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a.gov, cn=Marcie M. Chase 168815  
Date: 2017.01.12 07:59:26 -0700'

Name: Marcie Chase

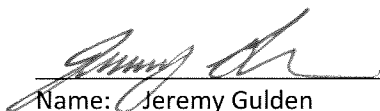
Date

Title: Project Specialist

Facility: VA Eastern Colorado Healthcare System

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

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

  
Name: Jeremy Gulden

01/17/2017  
Date

Title: Contracting Officer

Facility: Program Contracting Activity Central