

DEPARTMENT OF VETERANS AFFAIRS

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

Acquisition Plan Action ID: VA242-17-AP-3259

1. **Contracting Activity:** Department of Veterans Affairs, VISN 02, New Jersey Health Care System (East Orange/Lyons, NJ), and Northport VA Medical Center (Northport, NY). Purchase request numbers are 561-17-2-055-0049 and 632-17-3-081-0043.
2. **Nature and/or Description of the Action Being Processed:** Network Contracting Office (NCO) 2 intends to award a sole source task order for the procurement of online diagnosis and treatment database with UpToDate, Inc. from April 1, 2017 to March 31, 2022. The total cost is \$549,192.00 for the base year and plus four (4) additional years.
3. **Description of Supplies/Services Required to Meet the Agency's Needs:** The requirement is to procure online access to UpToDate, a comprehensive, integrated differential diagnosis and treatment database to all providers and any other staff as needed who work at any location identified as part of the New Jersey Health Care System and Northport VA Medical Center. The information is primarily narrative in format and contains extensive rationales for diagnosis and treatment decisions as well as charts, graphs, and calculators. It is updated quarterly. The emphasis is on internal medicine and internal medicine subspecialties including cardiology, dermatology, sleep medicine, emergency medicine, endocrinology, rheumatology, gynecology, infectious disease, oncology, gastroenterology, hematology, and hospital medicine. The database must be available online and authenticated by IP address. UpToDate is unique intellectual property and a proprietary database. License agreement is included.
4. **Statutory Authority Permitting Other than Full and Open Competition:**
 - (X) (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):** The using service has had a competing vendor, Dynamed, which has undergone several trials to physicians in various locations. Continued feedback received supported the unique qualifications of the UpToDate database. The following qualifications also support the sole source, according to the using service:
 - a) UpToDate is a proprietary database and is not sold by any vendor other than UpToDate Inc.

- b) The database gives extensive narrative rationales for diagnosis and treatment decisions. Competitors such are formatted more in outline form and are designated for quick look up at point of care.
 - c) UpToDate focuses on internal medicine and internal medicine subspecialties. Dynamed focus is on primary care. A literature review conducted and included in the Market Research materials indicates that UpToDate Inc. ranked highest in satisfaction among various studies.
 - d) Market research was conducted during the month of Jan 2017 prior to submitting a acquisition request. It was found that market conditions have not changed since previous contracts were awarded to UpToDate.
6. **Description of Efforts Made to ensure that offers are solicited from as many potential sources as deemed practicable:** In accordance with FAR Part 10, market research was conducted by synopsis of the proposed acquisition, advising industry of the pending acquisition, and soliciting inquiries from interested parties. Market research was conducted on February 17, 2017. A sources sought notification was posted on FBO, SEWP and GSA eBuy; however, no qualifying sources were identified. A large business responded to the solicitation introducing a new database but it is not feasible to have a new system at this time. UpTodate, Inc. is sole source provider for this requirement.
7. **Determination by the Contracting Officer that the Anticipated Cost to the Government will be Fair and Reasonable:** I certify that the foregoing justification is accurate and complete to the best of my knowledge and belief. Pricing analysis shall be accomplished by reviewing procurement history beginning in FY13 to the present to determine prices to be fair and reasonable. In addition, the Contracting Office reviewed the Independent Government Cost Estimate (IGCE) and estimates identified in acquisitions for similar products and service and compared prices paid for the same or similar commercial items under comparable terms and conditions by both Government and commercial customers.
8. **Description of the Market Research Conducted and the Results, or a Statement of the Reasons Market Research Was Not Conducted:** In accordance with FAR Part 10, market research was conducted by synopsis of the proposed acquisition, advising industry of the pending acquisition, and soliciting inquiries from interested parties. Market research was conducted on February 17, 2017. A sources sought notification was posted on FBO, SEWP and GSA eBuy; however, no qualifying sources were identified. A large business responded to the solicitation introducing a new database but it is not feasible to have a new system at this time. UpTodate, Inc. is sole source provider for this requirement.
9. **Any Other Facts Supporting the Use of Other than Full and Open Competition:** Previous trial subscriptions of Dynamed and extensive review of the medical literature data supports that UpToDate Inc. has unique qualifications not present in the other databases at this time.
10. **Listing of Sources that Expressed, in Writing, an Interest in the Acquisition:** Not applicable.
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:** Other vendor's products will be evaluated annually to locate new or upgraded products on the market that would be comparable to UpToDate. UpToDate, Inc. is the sole source provider for this database. See attached Sole Source letter from UpToDate, Inc.