

**JUSTIFICATION  
FOR AN EXCEPTION TO FAIR OPPORTUNITY**

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1. Contracting Activity: Michael E. DeBakey  
VA Medical Center (MEDVAMC),  
Houston Texas
- 
2. Description of Action: The proposed action is for a **brand name firm-fixed-price** requirement for (7) Berchtold Operon OR D830 Surgical Tables.
3. Description of the Supplies or Services: VA requires (7) Berchtold Operon OR D830 Surgical Tables with table accessories to replace those deemed to have reach their 'end of life' use. The total estimated price of this proposed action is [REDACTED] to include a 2 year warranty maintenance plan. The delivery period is estimated to be 30 days from receipt of award.
4. Statutory Authority: The statutory authority permitting an exception to fair opportunity is Section 41 U.S.C. 4106(c)(2) as implemented by the Federal Acquisition Regulation (FAR) 16.505(b)(2)(i)(B), entitled "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."
5. Rationale Supporting Use of Authority Cited Above: More than one awardee is capable of providing the supplies or services required, but fair opportunity is limited by restriction to a brand name. Brand Name equipment is needed to ensure that during emergency operations and elevated medical scenarios, major operations and surgeries are not hindered by the the need of the medical staff to revisit the function operations manuals.
6. Efforts to Obtain Competition: Market research was conducted, details of which are in section 8 of this justification. This effort did yield any additional sources that can meet the Government's requirements. However, it was determined that limited competition is viable among resellers for these brand name items.
- 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.
7. Actions to Increase Competition: The Government will continue to conduct market research to learn if there are changes in the marketplace that would enable future actions to be competed.
8. Market Research: VA technical personnel conducted market research in February 2017, and provided a vendor on FSS Schedule however, the vendor "did not" have this equipment in their contract.

The Contracting Officer performed addition market research via GSA and FBO and found a combined 20 SDVOSB Service Disabled Veteran Owned Small Business that has the poteincial to support and fulfill this requirement. (See file at P03 GSA M/R) It was determined that only the (Brand Name), Berchtold Operon could meet this requirement.

9. Other Facts: None.

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.

Program Manager

Date: \_\_\_\_\_

Signature: Hayley Rayment  
333574  
Digitally signed by Hayley Rayment 333574  
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o=9.2342.19200300.100.1.1=joey.grismore2@  
gov, cn=Hayley Rayment 333574  
Date: 2017.04.11 08:56:24 -05'00'

11. Fair and Reasonable Cost Determination: I hereby determine that the anticipated price to the Government for this contract action will be fair and reasonable based adequent competition and compared against the Independent Government Cost Estimate.

Procuring Contracting Officer

Joey M. Grismore  
Date: 671018  
Digitally signed by Joey M. Grismore 671018  
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o=9.2342.19200300.100.1.1=joey.grismore2@  
va.gov, cn=Joey M. Grismore 671018  
Date: 2017.04.12 11:37:30 -05'00'

Signature: \_\_\_\_\_

12. Procuring Contracting Officer Certification: I certify that this justification is accurate and complete to the best of my knowledge and belief.

Procuring Contracting Officer

Joey M.  
Date: Grismore  
671018  
Digitally signed by Joey M. Grismore  
671018  
DN: dc=gov, dc=va, ou=internal,  
ou=people,  
o=9.2342.19200300.100.1.1=joey.grismor  
e2@va.gov, cn=Joey M. Grismore 671018  
Date: 2017.04.12 11:38:13 -05'00'

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