

## DEPARTMENT OF VETERANS AFFAIRS

### Justification and Approval

#### For

#### Other Than Full and Open Competition

1. **Contracting Activity:** Department of Veterans Affairs, VISN 18, New Mexico VA Health Care System (NMVAHCS), located at 1501 San Pedro S.E., Albuquerque, NM. Justification for Other than Full and Open Competition for 501-12-2-240-0079.
2. **Nature and/or Description of the Action Being Processed:** The NMVAHCS intends to enter into a new firm-fixed-price contract with Carl Zeiss Microimaging, LLC, 1 Zeiss Drive, Thornwood, NY 10594, for the maintenance and repair of one (1) Carl Ziess Axio Observer Z1 fluorescence microscope system (includes: AxioCam ICc1 R 4, AxioCam MRm Rev.3 with FireWire, Imaging Workstation Pro 40A Vista, ApoTome Slider for Observer).
3. **Description of Supplies/Services Required to Meet the Agency's Needs:** The NMVAHCS, located in Albuquerque, NM, is in need of non-personal maintenance and repair services to cover the current Axio Observer Z1 fluorescence microscope system, Serial Number: 3834002431. Services are to consist of scheduled and emergency services, one (1) annual preventive maintenance inspection, application support and training, software updates and trained field service representatives. The period of performance will begin January 1, 2012 and consist of one (1) base year and up to four (4) option years, to be exercised at the Government's discretion. The total estimated value of this acquisition is \$30,940.00 (including option years).
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;

*Citations: 41 U.S.C. 253(c)(1)*

*When the supplies or services required by the agency are available from only one responsible source, or for DOD, NASA, and the Coast Guard, from only one or a limited number of responsible sources, and no other type of supplies or services will satisfy agency requirements, full and open competition need not be provided for.*

- ( ) (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 Requiring the Use of the Authority Cited Above:** The Axio Observer Z1 system is a highly specialized fluorescence microscope


The Axio Observer Z1

system is highly proprietary in relation to parts, software, mechanical function and service. Only Carl Zeiss certified technicians have the access and expertise to provide maintenance to the equipment. Maintenance performed by non-certified personnel will void warranties or liabilities that may be in effect. Market Research identified no other vendors capable of providing these services. In addition a sources sought notice was issued via FedBizOpps.gov and received zero (0) responses. Accordingly, it is reasonable to conclude that Carl Zeiss Microimaging, LLC is the only firm capable of providing the supplies and services described in Section III above without the Veterans' Health Administration experiencing unacceptable delays in fulfilling its requirements. Furthermore, solicitation of this requirement presents no added savings to the Government and represents additional administrative costs.

6. **Description of Efforts Made to Ensure that Offers are Solicited from as Many Potential Sources as Deemed Practicable:** Market Research was conducted in accordance with FAR Part 10. All mandatory sources were inquired in accordance with the requirements set forth in FAR 8.002(2) Priorities for use of Government supply sources – Services. A large number of sources were queried including AbilityOne, FSS GSA listings, Vetbiz, FBO and open market internet resources. According to the manufacturer, Carl Zeiss Microimaging, LLC, no third parties are capable of providing adequate maintenance and repair services or necessary software upgrades. Carl Zeiss Microimaging, LLC also states that training and certification are not offered to third party field service engineers. A sources sought notice was issued November 29, 2011 under solicitation# VA258-12-I-0084 and received no response from industry. The agency believes this to confirm it's assumption regarding the capability of industry to meet the agency's needs. The requirement shall be synopsisized as a commercial item/service in accordance with FAR 5.03 (b).
7. **Determination of the Contracting Officer that the Anticipated Cost to the Government will be Fair and Reasonable:** Per Mr. Andrew Blaire, New Contracts Administrator, Carl Zeiss Microimaging, LLC, 1-800-233-2343, prices provided to the Government are equivalent to those offered to industry.
8. **Description of the Market Research Conducted and the Results, or a Statement of the Reasons Market Research Was Not Conducted:** Market Research was conducted in accordance with FAR Part 10. All mandatory sources were inquired in accordance with the requirements set forth in FAR 8.002(2) Priorities for use of Government supply sources – Services. A large number of sources were queried including AbilityOne, FSS GSA listings, Vetbiz, FBO and open market internet resources. According to the manufacturer, Advanced Sterilization Products, no third parties are capable of providing maintenance and repair services. A sources sought notice was issued November 29, 2011 under solicitation# VA258-12-I-0084 and received no response from industry.
9. **Any Other Facts Supporting the Use of Other than Full and Open Competition:** Carl Zeiss Microimaging, LLC holds a current GSA contract under GS-07F-5620R; however, this contract is for the purchase of equipment and incidental services only and does not cover maintenance and repair services. Continued use of the Axio Observer Z1 equipment currently in place will eliminate the need for addition capital outlay required to replace the current equipment. The current estimate of replacement costs provided by the using service would be \$34,497.73 or more. In addition, continuity of equipment also represents a continuity of service to the NMVAHCS.
10. **Listing of Sources that Expressed, in Writing, and Interest in the Acquisition:**  
 Carl Zeiss Microimaging, LLC  
 1 Zeiss Drive  
 Thornwood, NY 10594

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: At the time the agency has no mode of removing or overcoming barriers to competition because the requirements listed are proprietary to Carl Zeiss Microimaging, LLC. In addition, the NMVAHCS is well-served by the current system; therefore, it is not in the Government's best interest to procure replacement equipment and funding can be directed to other areas.

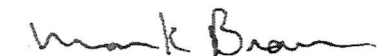
12. Requirements Certification: I certify that the requirement outlined in this justification is a Bona Fide Need of the Department of Veterans Affairs and that the supporting data under my cognizance, which are included in the justification, are accurate and complete to the best of my knowledge and belief.

  
Annie D. Cook, RN, MSN  
Chief, Research Administration  
NMVAHCS

12/8/2011  
Date

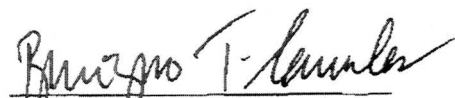
13. Approvals in Accordance with FAR 6.304:

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

  
Mark Brannum  
Contracting Officer  
VISN 18 NCO

12-9-11  
Date

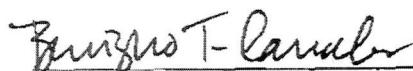
b. VISN/PCA QA: I certify that the foregoing justification is accurate and complete to the best of my knowledge and belief.

  
Paulette Pereira  
VISN 18 Procurement Analyst  
VISN 18 NCO

12/9/2011  
Date

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

  
Sabrina J. Smith  
VISN 18 Network Contract Manager  
VISN 18 NCO

12/9/2011  
Date

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