

DEPARTMENT OF VETERANS AFFAIRS

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

1. Contracting Activity:

Department of Veterans Affairs, CMOP, Lancaster, TX 2962 S. Longhorn Dr. Lancaster, TX. 75134-2118. This request is a Justification for Other Than Full and Open Competition for the purchase request #763-17-2-021-0423. This purchase request is to fill prescriptions for the seven (7) CMOP's, Lancaster services.

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

The Dallas Consolidated Mail Outpatient Pharmacy (CMOP) is Requesting approval to procure this Sole Source procurement to fill prescriptions for the seven (7) CMOP's Lancaster services. Atos Medical Inc., a small business, is the manufacturer of this product and will not authorize any distributors. This proposed action is a firm fixed price contract with monthly deliveries until December of 2017.

The items requested are two (2) brand specific items that have been procured before with the last procured result of a cancellation on February 09, 2017. This award was made to a SDVOSB and cancelled as ATOS Medical Inc. will only take direct purchases. The products and current station's monthly usages is as follow:

- XR184 - HEAT & MOISTURE EXCHANGER, PROVOX #7290 - 50 boxes/month
- XR205 - HEAT & MOISTURE EXCHANGER, PROVOX #7291 - 150 boxes/month

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

The supplies being procured are: XR184 - HEAT & MOISTURE EXCHANGER, PROVOX #7290 and XR205 - HEAT & MOISTURE EXCHANGER, PROVOX #7291.

The estimated value for this procurement is \$171,000.00.

This contract will require monthly deliveries of 50 HEAT & MOISTURE EXCHANGER,PROVOX #7290 and 150 HEAT & MOISTURE EXCHANGER,PROVOX #7291 with a locked price of \$95.00 per bottle until December of 2017, Per FAR 52.217.7

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;

5. Demonstration that the Contractor's Unique Qualifications or Nature of the Acquisition Requires the Use of the Authority Cited Above (applicability of authority):

Atos is the manufacturer of both brand name products being procured under this purchase request.

Lancaster CMOP has procured this product many times in the past from SDVOSB but as of January, the manufacturer has cancelled purchases to other distributors for mishandling of this product.

This product was procured on January 20, 2017, awarded on January 26, 2017, and cancelled on February 09, 2017 because Atos Medical Inc. was not allowing other vendors to distribute product.

Lancaster is in need of this product to prevent patient cancellation orders. Lancaster and CMOP's Contracting office have determined that the best way to resolve the shortage problem is to purchase the product directly from ATOS Medical at a firm fixed price for the next 9 months.

Atos Medical Inc. is the only Company capable of providing the supplies described in Section III above without the CMOP's experiencing unacceptable delays in fulfilling this Med-surge items.

A letter from the Atos Medical Inc. is attached stating they are the manufacturer.

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

Lancaster CMOP has procured this product many times in the past from SDVOSB but as of January, the manufacturer has cancelled purchases to other distributors for mishandling of distribution.

This product was procured on January 20, 2017, awarded on January 26, 2017, and cancelled on February 09, 2017 because Atos Medical Inc. was not allowing other vendors to distribute product.

Lancaster is in need of this product to prevent patient cancellation orders. Lancaster and CMOP's Contracting office have determined that the best way to resolve the shortage problem is to purchase the product directly from ATOS Medical at a firm fixed price for the next 9 months.

7. Determination by the Contracting Officer that the Anticipated Cost to the Government will be Fair and Reasonable:

Lancaster CMOP has been doing micro purchases in house to fulfill these products, but the quantities required for distribution to all our facilities on a monthly basis is too demanding. The Lancaster and Contracting CMOP office have determined that the best way to resolve the issue and prevent back orders is to buy directly from the Vendor.

Description of the Market Research Conducted and the Results, or a Statement of the Reasons Market Research Was Not Conducted:

Market Research was conducted by searching GSA Advantage for Heat and Moisture Exchanger and no matches were found. Searched under ATOS and the listing Atos Medical Inc. came up with a schedule contractor of RGH Enterprises, Inc. which is a large business and not authorized to distribute ATOS Medical's product per Representative Doug Sanchez of ATOS Medical Inc.

Navigated Google and found that Atos Medical is the manufacturer of both these products. Checked SAM and found that they are a Surgical and Medical Instrument Manufacturing Company using NAICS code 339112.

Finally, I checked our VISTA records under product code #7290 and #7291 and found that product was procured on January 20, 2017, awarded on 01/26/2017, and cancelled on 02/09/2017 due to Atos Medical Inc. not allowing other vendors to distribute their product.

A letter from the Atos Medical Inc. is attached stating they are the manufacturer.

8. Any Other Facts Supporting the Use of Other than Full and Open Competition:

A letter from the Atos Medical Inc. is attached stating they are the manufacturer and exclusive distributor of their product.

9. Listing of Sources that Expressed, in Writing, an Interest in the Acquisition:

N/A

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:

At this time, VA has no other vendors that can provide these brand name Products.

A letter from the Atos Medical Inc. is attached stating they are the manufacturer and exclusive distributor of their product.

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.

Graf, Mary
L. _____
Mary Graff
Logistics Manager

Digitally signed by Graf, Mary L.
DN: dc=gov, dc=va, ou=Entities,
ou=InternalStaff, cn=Graf, Mary
L.
Date: 2017.03.27 14:25:06 -05'00'

03/27/2017
Date

Chapter VI: Other Than Full and Open Competition (OFOC) SOP
Attachment 3: Request for Sole Source Justification Format >\$150K

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.

Douglas H.
Reed 1114517
Digitally signed by Douglas H. Reed 1114517
DN: dc=gov, dc=va, o=internal, ou=people,
0.9.2342.19200300.100.1.1=douglas.reed3@va.g
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Date: 2017.03.30 14:34:20 -05'00'

Douglas H. Reed
Contracting Officer
NCO 15 CMOP Division

03/30/2017

Date

- b. **Supervisory Contract Specialist (Required over\$150K but not exceeding \$700K)**: I certify the justification meets requirements for other than full and open competition.

Linda S.
Bayer
387356
Digitally signed by Linda S. Bayer
387356
DN: dc=gov, dc=va, o=internal,
ou=people,
0.9.2342.19200300.100.1.1=linda.bay
er@va.gov, cn=Linda S. Bayer 387356
Date: 2017.03.30 15:22:02 -05'00'

Linda S. Bayer
NCO 15 CMOP Division
Supervisor

03/30/2017

Date