

DEPARTMENT OF VETERANS AFFAIRS

Justification and Approval

For

Exception to Fair Opportunity Memo

Acquisition Plan Action ID: VA69D-17-AP-5259

1. **Contracting Activity:** Department of Veterans Affairs, VISN 12, VA Illiana Healthcare System 1900 East Main Street Danville Illinois 61832, Biomedical Engineering Service

Great Lakes Acquisition Center Network 12 Contract Office
1900 East Main Street Danville IL 61832

Purchase Order Request Number 550-17-3-029-0614 has been submitted for this requirement.

2. **Description of Action:**

The proposed sole source task order against Contract Number SPE2D1-17-D-0023 is for a one-year base firm-fixed price (FFP) effort for Maintenance Services for a Siemens Somatom AS20 CT unit. The task order will include a base year Plus Four (4) additional One (1) year options, to be exercised at the discretion of the government.

3. **Description of Supplies or Services:** The VA Illiana Health Care System located in Danville, Illinois owns a Somatom Definition AS20 CAT Scan manufactured by Siemens, EE # 32114, located in building 58, first floor.

The Contractor shall furnish all parts, labor, supervision, material, test equipment, and emergency services, including transportation cost necessary to perform preventative maintenance and unlimited emergency repairs on the CAT Scan Unit at the VA Illiana Health Care System, 1900 East Main Street, Danville, Illinois for the period of July 1, 2017 through June 30, 2018 for base year and for four more optional years starting from July 1, 2018 through June 30, 2022.

The maintenance agreement shall also include access to diagnostic software, remote assistance services, and system updates for bug fixes and reliability improvements.

The total estimated value of the proposed action is \$437,478.75. (Inclusive of options)

4. **Statutory Authority:** The statutory authority permitting an exception to fair opportunity is Section 41 U.S.C. 4106(c) as implemented by the Federal Acquisition Regulation (FAR) Subpart 16.505 Subpart 16.505(b)(2)(i):

() FAR Subpart 16.505(b)(2)(i)(A): The agency need for the supplies or services is so urgent that providing a fair opportunity would result in unacceptable delays.

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(X) FAR Subpart 16.505(b)(2)(i)(B): 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.

() FAR Subpart 16.505(b)(2)(i)(C): The order must be issued on a sole-source basis in the interest of economy and efficiency because it is a logical follow-on to an order already issued under the contract, provided that all awardees were given a fair opportunity to be considered for the original order.

() FAR Subpart 16.505(b)(2)(i)(D): It is necessary to place an order to satisfy a minimum guarantee.

() FAR Subpart 16.505(b)(2)(i)(E): For orders exceeding the simplified acquisition threshold, a statute expressly authorizes or requires that the purchase be made from a specified source". The statutory authority permitting an exception to fair opportunity for this action is 38 U.S.C. 8127(c), known as the Veterans First Contracting Program which provides the authority to directly contract with a Service-Disabled Veteran-Owned Small Business (SDVOSB) or a Veteran-Owned Small Business (VOSB).

() FAR Subpart 16.505(b)(2)(i)(F) In accordance with section 1331 of Public Law 111-240 (15 U.S.C. 644(r)), contracting officers may, at their discretion, set aside orders for any of the small business concerns identified in 19.000(a)(3). When setting aside orders for small business concerns, the specific small business program eligibility requirements identified in part 19 apply.

5. Rationale Supporting Use of Authority Cited Above:

Based on extensive market research, as described in paragraph eight of this document, it was determined that use of the Original Equipment Manufacturer is the most logical course to obtain all the necessary components of service and maintenance of the Siemens Somatom Definition CT Unit. Siemens has stated that they do not have any authorized 3rd party providers who would have access to original parts, software updates, and remote assistance services. All of these components are critical to a successful maintenance and service plan for a VA Hospital system in order to maintain function of a critical testing system.

6. Efforts to Obtain Competition: Market research was conducted, details of which are in the market research section of this document. This effort did not yield any additional sources that can meet the Government's requirements. There is no competition anticipated for this acquisition. 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 ascertain if there are changes in the market place that would enable future actions to be competed. If the discovery is made that

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Siemens has authorized 3rd party service providers with access to the necessary updates and remote services, a new competition will be considered to allow for a competitive response opportunity.

8. Market Research:

A sources sought notice, VA69D-17-N-1028 was issued to the Federal Opportunities website. No response to this request was received. A search of the SBA Dynamic Small business tool and Vetbiz indicated no potential Small or Veteran Owned Small business sources. A general internet search revealed two potential small business maintenance sources; each was contacted by the Contracting Officer. To date, only one responded and indicated additional cost for maintenance due to travel distance of 6.5 Hours to the facility site. The manufacturer Siemens has a joint DLA/NAC Contract that include pricing for maintenance services. Siemens was contacted regarding third party providers with capability to perform maintenance services within the facility locality. They responded that they do not have any authorized 3rd party servicers. They stated that Siemens Diagnostics tools are proprietary and not shared with non-authorized entities. These tools and access would have to be purchased by the facility at an additional cost.

9. Other Facts: Failure to use the Original Equipment Manufacturer for this acquisition would expose the government to the potential use of non-certified parts as Siemens does not have authorized third party providers. It would also not provide for manufacturer updates and bug fixes as well as online support services provided by the manufacturer.

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.

Srinivas Ganti
Chief Biomedical Engineering
VA Illiana Healthcare System

05-22-2017

Date

11. Determination that Anticipated Cost is Fair and Reasonable: This award will be made against a competitively issued IDIQ Contract. The maintenance services required by this acquisition were included in the contract. The pricing was determined reasonable at the time of award.

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

Kevin Adkins
Contracting Officer
Great Lakes Acquisition Center NCO12

05/23/2017

Date

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

a. **Director of Contracting /Designee (Required over \$150K but not exceeding \$700K)**: I certify the justification meets requirements for other than full and open competition.

Mr. Paul Lauro
NCO 12 Director of Contracting
Great Lakes Acquisition Center

Date