

DEPARTMENT OF VETERANS AFFAIRS

Justification and Approval (J&A)

For

Other Than Full and Open Competition (>\$150K)

Acquisition Plan Action ID: VA263-16-AP-11679

1. **Contracting Activity:** Department of Veterans Affairs, VISN 23, Network Contracting Office 23

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

This procurement is for a sole source, firm-fixed-priced purchase order for software licenses and support for the Virtual Intensive Care Unit (a.k.a. Virtual ICU, TeleICU) components located throughout VISN 23, VISN 15 and VISN 20.

This is being conducted in accordance with FAR 13.5 Simplified Procedures for Certain Commercial Items and specifically FAR 13.501 Special Documentation Requirements, where acquisitions conducted under Simplified Acquisition Procedures are exempt from the requirements of FAR Part 6, but still require a justification using the format of FAR 6.303-2.

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

VISN 23 has now been live with Tele ICU since 2011. The support that is needed for continual use of these services includes annual First DataBank sublicense fee, APACHE sublicense fee, eICU license fee, and the maintenance of the software.

The IGE for the base year for these services is \$278,710.40 and the Period of Performance will be 8/2/2017 – 8/1/2018 with one option year. The total IGE is \$546,220.80.

4. **Statutory Authority Permitting Other than Full and Open Competition:**

- (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;

FAR13.5 Simplified Procedures for Certain Commercial Items: The authority for applying the Simplified Procedures for Commercial Items of FAR 13.5 is 41 U.S.C. 1901 and is implemented by for restricting competition on this procurement via FAR 13.106-1(b)(2).

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

Philips Healthcare is the Original Equipment Manufacturer of our teleICU enterprise-wide system.

Philips currently provides and maintains the link between VISN 23's existing ICU rooms and the

command centers located around the nation (Minneapolis, Chicago, etc) which allows remote intensivists monitoring of our vendor patients. No other known vendors can interface to the existing Tele ICU software and provide the licenses necessary for Tele ICU monitored rooms. No other vendor will be able to interface ADT and Lab HL7 messages into the existing Philips software and provide clinical reporting functionality that interface with eCareManager. Only Philips can satisfy this critical requirement for the VA.

In order to have an alternate vendor provide these services, our TeleICU would need to be completely replaced (estimated to be at a cost of \$10 million or more). However, even if we switched vendors, VISN 23 would still need to pay annual licensing and service fees. In order to provide the same level of care, this contract must be sole sourced to Philips.

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

The original requirement was competitively awarded on contract VA263-P-1011 to Philips Medical Services. The original Request for Proposals received proposals from four vendors. Now that the solution has been implemented, no other vendor's can service Philips' proprietary equipment.

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

The price can be determined fair and reasonable by comparing the prices previously determined fair and reasonable from the original award. The pricing per license procured on original award is the same as the same as the price per license on this award.

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

This solution was previously competed and competitively awarded and with the proprietary nature of this software, no other manufacturer would be able to satisfy our needs. I queried the Vetbiz VIP and contacted the OEM for a list of distributors and they stated that resellers would not be able to satisfy the service component. Based upon my searches and discussion with the OEM it was concluded that there were not any VOSB or small business distributors capable of fulfilling this requirement. No additional market research was conducted.

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

This is a follow on procurement to a formally awarded contract. Soliciting and awarding a new contract would be counterproductive as it would not ensure that the new system would seamlessly integrate into the current system.

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

None.

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:

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

In accordance with FAR Part 39, as VISN 23 moves forward with IT related acquisitions we will pursue modular and interoperable solutions so that the components of the system can be procured or replaced competitively.

- 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.

NICHOLAS MUHLENBRUCH
Biomedical Engineer
VISN 23

Date

- 13. 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.

JESSE R. RHEAULT
Contracting Officer
NCO 23 – Fargo, ND

Date

- c. **Director of Contracting /Designee (Required over\$150K but not exceeding \$700K):** I have reviewed the foregoing justification and find it to be complete and accurate to the best of my knowledge and belief and approve for other than full and open competition.

SCOTT PETRIN
BRANCH CHIEF
NCO 23 – Fargo, ND

Date