

DEPARTMENT OF VETERANS AFFAIRS

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

Acquisition Plan Action ID: VA263-17-AP-5012

1. **Contracting Activity:** Department of Veterans Affairs, NCO 23, St. Cloud VA Health Care System, 4801 Veterans Drive. St. Cloud Minnesota, 56303-2099. Organizational activity: Minneapolis VA Health Care System, One Veterans Drive, Minneapolis Minnesota 55417. This is a Brand Name Only justification for a competitive acquisition.

2237: 618-17-2-040-0137

2. **Nature and/or Description of the Action Being Processed:** This procurement is for a firm-fixed price purchase order for Agilent Technologies Inc Brand Name only equipment for the Minneapolis VA Health Care System in accordance with FAR 13.501 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:** This procurement is for Agilent Technologies equipment. The Minneapolis VA Health Care System (MVAHCS) Forensic Toxicology Laboratory and the Omaha VA Laboratory are requesting a Brand Name only capital purchase for five (5) benchtop gas chromatography/mass spectrometer (GCMS) analyzers which will be utilized for Drugs of Abuses testing. The MVAHCS will obtain four (4) of these GCMS analyzers to replace the current four (4) GCMS analyzers. The Omaha VA will be obtaining one (1) GCMS analyzer and this is a first-time purchase for them. The purchase of the instrument (GC, MSD, Autoinjector, sampler tray, Ion Gauge), ChemStation with application software (instrument operation/control and sample analysis), Mass Hunter sample processing software, Laser Printer, Monitor, Installation, Training and validation of the system, and a one year warranty.
4. **Statutory Authority Permitting Other than Full and Open Competition:**

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):** This is a brand name justification in support of FAR 11.105, Items Peculiar to One Manufacturer. The Minneapolis VA Health Care System requires Agilent Technologies equipment (five benchtop gas chromatography/mass spectrometer (GCMS) analyzers. The Minneapolis VA Health Care System Forensic Toxicology laboratory and the Omaha VA Laboratory are proposing a Brand Name only purchase of a GCMS System.

Robustness - The MVAHCS Forensic Toxicology currently has 4 GCMS systems purchased from Agilent Technologies. The laboratory has used the Agilent GCMS systems for drug analysis since the inception of the Toxicology laboratory in 1988. These instruments are used to detect and identify the presence of drugs in patient's urine and blood samples and they are utilized in the Workplace Drug Testing program at the MVAHCS Forensic Toxicology laboratory. The Agilent GCMS systems are without a doubt the industry leader in the robustness of the hardware, the sample injector, the vacuum pumps, and the gas pneumatic systems. The Agilent GCMS systems are the most durable GCMS systems in the market place. Currently, one of our systems has been in use for 20 years i.e. since 1997. The Minneapolis VA Toxicology laboratory has first-hand knowledge of this as we have experienced the reliability of the Agilent GCMS systems. These are very sophisticated and intricate pieces of equipment which require many months if not years of experience to operate.

Operation and Maintenance - The daily operation of the laboratory is performed by 10 or 11 different individuals and therefore they rely on consistency of protocols and the ease of use of these protocols, similar to the operation in a factory. Transition from the old systems to the new systems will be much easier because the laboratory personnel have been used to working with the Agilent systems for the past 21 years. There are several common parts and features between the old and new analyzers which would allow for a much shorter training period for the operation, use, and maintenance for the laboratory staff who support and utilize these instruments. The Bio-Medical staff are experienced in troubleshooting and repairing these instruments needs to be taken into consideration as well. They are very familiar with these instruments which then allows for minimal downtime and which is impactful to the patient workload.

Inert Mass Spectrometer Source – Low maintenance on the Mass Spectrometer source as the source is made of a proprietary material which benefits the end user by staying clean for longer periods of time. This results in the reduction of down time of the instrument. This is a feature of the Agilent GCMS systems which is way ahead of the other systems in the marketplace.

Ease of Use – Mass Hunter Software - There are several companies which manufacture GCMS systems. While the hardware manufactured by all the companies is compatible, the key to the ease of use of the system is the software on the systems which drive the operation of the instrument and the processing of the sample results. Every manufacturer has different software and these are totally different. It takes a very long time (months) to train an individual to become totally familiar with the operation of the software which drives competent use of the GCMS system. Furthermore, the hardware components and maintenance protocols and schedules are very different. The software system which is utilized on the Agilent system (Mass Hunter software) has many similarities to the software which is used on the current systems. The Mass Hunter which operates the GCMS system is very easy to use and is very superior to other software systems which are found in the other GCMS systems. The Mass Hunter software is an upgrade of the system which supports our current GCMS systems. This will make the transition from the present system to the Mass Hunter system much easier for the laboratory personnel.

Given this background and the work environment in the Forensic Toxicology laboratory, we are recommending a brand name only purchase for the GCMS analyzers as these Agilent systems are very durable and the intention is to use these system for the next 10-15 years, thereby making this a very cost effective purchase for the MVAHCS and the Omaha VA.

6. **Description of Efforts Made to ensure that offers are solicited from as many potential sources as deemed practicable:** As this will be a Brand Name Only solicitation, market research was conducted via FBO. An RFI was posted on FBO.gov researching potential SDVOSB/VOSB sources. One SDVOSB and two VOSBs expressed interest in the RFI and stated they can perform. Thus, the procurement will be advertised on FBO as a VOSB set aside so those vendors will be able to provide quotes. Grey market language will be included in the solicitation to ensure the vendors are authorized distributors.
7. **Determination by the Contracting Officer that the Anticipated Cost to the Government will be Fair and Reasonable:** Price will be determined to be fair and reasonable through comparing quotes received from the solicitation and market research such as, but not limited to, reviewing past purchases, list pricing, GSA pricing and comparable items.
8. **Description of the Market Research Conducted and the Results, or a Statement of the Reasons Market Research Was Not Conducted:** An internet search was conducted, however this is a brand name only procurement. A search of VIP was conducted, and the 8 major component part numbers were searched with no matches found. The vendor's rep was contacted to ask about potential SDVOSB/VOSB distributors and although they stated that SDVOSB may participate as suppliers for materials and services, they did not list any specific SDVOSB authorized distributors. Thus, I posted an RFI on FBO.gov searching for potential SDVOSB/VOSB vendors. In response to the RFI, one SDVOSB and two VOSB firms expressed interest and stated they can perform.
9. **Any Other Facts Supporting the Use of Other than Full and Open Competition:** None
10. **Listing of Sources that Expressed, in Writing, an Interest in the Acquisition:**
1. Professional Technical Services LLC
 2. TEVET
 3. Government Scientific Source
 4. Shimadzu (no evidence of Veteran status)
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:** Market research will be conducted for future procurements to determine if there are any other manufacturer's products that are compatible with the existing VA owned equipment.
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.

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 correct to the best of my knowledge and belief.

07/6/2017

Date

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

7/6/2017

Date