

DEPARTMENT OF VETERANS AFFAIRS

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

Acquisition Plan Action ID: 460-17-2-5384-0011

Contracting Activity: Department of Veterans Affairs, VISN 04, *WILMINGTON* Medical Center, 1601 Kirkwood Highway, Wilmington, DE 19805

Nature and/or Description of the Action Being Processed:

The proposed action is for procurement of a pulsed xenon UVC disinfection system of like design to facilities current 2 Xenex systems with compatibility with existing tracking/trending software. The sole manufacturer and distributor of pulsed xenon ultraviolet (UV) disinfection technology is:

Xenex Disinfection Services, LLC.
121 Interpark Blvd. Suite 104
San Antonio, TX 78216

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

The Xenex robot is the only portable UV disinfection system using pulsed xenon ultraviolet light. The system is already established and utilized in the Medical Center and supported by an existing service contract. Procurement of a different system would require staff training on multiple systems with different publicized run times and placement criteria. The Medical Center would incur additional cost for support services, as a new system would require a new service contract and would not be compatible with existing room tracking software package.

- From an operational perspective pulsed xenon technology is able to achieve a sporicidal kill (C diff) in a single 4 minute cycle. Market research of available continuous mercury UV systems identify a sporicidal cycle time of up to 45 minutes. Access to Care is one of the Medical Center's key drivers. 40 additional minutes of operating time adds to delays in bed turnover, backs up the Emergency Department, and is detrimental to Veteran centered care.

- Xenex UV is broad spectrum and operates along the entire germicidal spectrum (200-280 nm); conversely mercury UV is narrow spectrum and only achieves 253.7 nm.

- Xenex is the only available portable UV light disinfection system that does not use bulbs containing mercury. In the event of a Xenex bulb breakage, no HAZMAT clean-up procedures would be required vs. procedures required for breakage of any mercury vapor bulb. Continuous UV has been linked to equipment degradation related to surgical lights,

monitor screens, and polymer surfaces.

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;
- () (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;

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

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

Sources Sought Synopsis: A sources sought announcement was issued on FBO on 4/27/2017, under VA244-17-N-0825. All potential respondents' information was passed along to the technical team for review to see if we would be able to set this up as

a Brand Name or Equal solicitation. None of the respondents met the technical capability as requested for in the sources sought announcement. The reasoning from the technical team on why each did not meet the need is posted in the briefcase under P02. A sources sought announcement was also placed on GSA under VA244-17-N-1276 on 4/27/17, which yielded no responses from this request.

The CO also reached out to NCO 6 on 8/10/17 because there was an award on FPDS for the same item. This was also a sole source acquisition for this exact same product, with Xenex Disinfection Services, LLC. This contract award from NCO 6 along with redacted invoices from the vendor showing other commercial sales will be requested for purposes of determining any proposed prices as being fair and reasonable.

Market survey was conducted and found that Xenex is the only UV disinfection solution available that does not use bulbs containing mercury. Other UV devices, such as TRU-D, were also researched. TRU-D, as well as all other UV providers, uses bulbs that contain mercury.

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

The anticipated cost will be considered fair and reasonable based on previous purchases for the same equipment. Awards listed on FPDS under VA246-17-P-7526 and VA246-17-P-7511 show the exact same item purchases allowing me to make a determination on the cost. These contracts along with redacted invoices from the vendor showing other commercial sales will be requested for purposes of determining any proposed prices as being fair and reasonable.

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

As described in Section above, market research, in accordance with FAR Part 10, was conducted by synopsis of the proposed acquisition, advising industry of the pending acquisition and soliciting inquiries from interested parties.

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

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

Square One Solutions LLC
1222 Melvin Ave
Racine, WI 53402

Rapid UVC Disinfecter
150 Linden Oaks
Rochester, NY 14625-2802

Glomax, Inc
11650 Olio Road
Suite 1000-285
Fishers, IN 46037

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: The CO will continue to post announcements on FBO.gov and GSA ebuy for any future procurements to asses market conditions that may change over time.

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.

Name
Title
Facility

Date

1. **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.

Name
Title
Facility

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.

08/14/2017

Name
NCO/PCO XX Director of Contracting or Designee
Facility

Date

- c. **VHA SAO HCA Review and Approval:** I have reviewed the foregoing justification and find it to be complete and accurate to the best of my knowledge and belief and recommend approval (if over \$13.5 million) or approve (\$700K to 13.5 million) for other than full and open competition.

Name

VHA Head of Contracting Activity (HCA)

Date

- d. **VA Deputy Senior Procurement Executive Approval (over \$13.5 million but not exceeding \$68 million):** 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.

Name

Deputy Senior Procurement Executive (DSPE)
Office of Acquisition and Logistics
Department of Veterans Affairs

Date

- e. **VHA Senior Procurement Executive Approval (over \$68 million):** 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.

Name

Deputy Assistant Secretary for Acquisition and Logistics
Senior Procurement Executive (SPE)
Department of Veterans Affairs

Date