

LIMITED SOURCES JUSTIFICATION

ORDER >\$150,000

FAR PART 8.405-6

Acquisition Plan Action ID: VA263-17-AP-6861

This acquisition is conducted under the authority of the Multiple Award Schedule Program. The material or service listed in par. 3 below is sole source, therefore, consideration of the number of contractors required by FAR Subpart 8.4 – Federal Supply Schedules, is precluded for the reasons indicated below.

Restricted to the following source: Provide *original manufacturer's* name for material or contractor's name for service. (If a sole source manufacturer distributes via dealers, ALSO provide dealer information.)

Manufacturer/Contractor: BD Biosciences

Manufacturer/Contractor POC & phone number: Carol Acosta, 877-232-8995

Mfgr/Contractor Address: 2350 Qume Drive, San Jose, CA 95131

Dealer/Rep address/phone number: same as above

The requested material or service represents the minimum requirements of the Government.

(1) AGENCY AND CONTRACTING ACTIVITY:

Department of Veterans Affairs
NCO 23 Contracting
708 South Third Street, Suite 200E
Minneapolis MN 55415

VISN:

23

(2) NATURE AND/OR DESCRIPTION OF ACTION BEING APPROVED:

Service task order for preventive and emergency maintenance, including parts coverage of the BD Immunocytometry FACSCalibur flow cytometry units for Tissue Typing and Pathology & Lab, and a FACS Canto II at the Iowa City VA Health Care System.

(3) (a) A DESCRIPTION OF THE SUPPLIES OR SERVICES REQUIRED TO MEET THE AGENCY'S NEED:

Service Contract for preventive BD Immunocytometry FACSCalibur Flow Cytometry units at the Iowa City VA Health Care System. The current task order expires on 9/30/17. The new task order needs to include the provision for four option years. The vendor providing the required services must be capable of performing preventive and emergency maintenance on the BD Immunocytometry FACSCalibur system in accordance to the original manufacturer's specifications. The new contract must be awarded effective 10/1/17 to avoid a lapse in coverage.

(b) ESTIMATED DOLLAR VALUE: The estimated cost for these services is \$38,217.72 base year (10/1/17 to 9/30/18) or \$192,999.50 for the base plus four option years.

(c) REQUIRED PERIOD OF PERFORMANCE: 10/1/17 TO 9/30/18 with four option years.

(4) IDENTIFICATION OF THE JUSTIFICATION RATIONALE (SEE FAR 8.405-6), AND IF APPLICABLE, A DEMONSTRATION OF THE PROPOSED CONTRACTOR'S UNIQUE QUALIFICATIONS TO PROVIDE THE REQUIRED SUPPLY OR SERVICE. (CHECK ALL THAT APPLY AND COMPLETE)

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Specific characteristics of the material or service that limit the availability to a sole source (unique features, function of the item, etc.). Describe in detail why only this suggested source can furnish the requirements to the exclusion of other sources.

A patent, copyright or proprietary data limits competition. Any other company besides Becton Dickinson would not have access to the software keys for this equipment, as they are proprietary. Additionally, they will not sell Original Equipment Manufacturer parts to a third-party service company. We cannot allow reverse engineered or refurbished parts to be used in medical equipment. Third party service providers would also not be able to obtain certification of training from the manufacturer, as it is not available. Only certified manufacturer trained personnel should be allowed to work on this equipment.

These are "direct replacements" parts/components for existing equipment.

The material/service must be compatible in all aspects (form, fit and function) with existing systems presently installed/performing. Describe the equipment/function you have now and how the new item/service must coordinate, connect, or interface with the existing system.

The new work is a logical follow-on to an original Federal Supply Schedule order provided that the original order was placed in accordance with the applicable Federal Supply Schedule ordering procedures. The original order must not have been previously issued under sole source or limited source procedures.

An urgent and compelling need exists, and following the ordering procedures would result in unacceptable delays.

(5) DESCRIBE WHY YOU BELIEVE THE ORDER REPRESENTS THE BEST VALUE CONSISTENT WITH FAR 8.4 TO AID THE CONTRACTING OFFICER IN MAKING THIS BEST VALUE DETERMINATION:

Based on industry standards, service for medical equipment typically is charged at a rate anywhere from 9-12% of the acquisition price of the asset. The 4 line items included in this contract are worth \$387,721, so "fair" contract cost should be anywhere from \$34,895 to \$46,527 per year. The quote received from BD is within that range.

(6) DESCRIBE THE MARKET RESEARCH CONDUCTED AMONG SCHEDULE HOLDERS AND THE RESULTS OR A STATEMENT OF THE REASON MARKET RESEARCH WAS NOT CONDUCTED:

Market research was not done. There are no other companies that can offer this service due to the proprietary software owned by Benton Dickinson and the inability of third party servicers to obtain Original Equipment Manufacturer (OEM) parts for maintenance and repairs.

(7) ANY OTHER FACTS SUPPORTING THE JUSTIFICATION:

This equipment is highly sensitive and specialized. A malfunction of this equipment could cause patient misdiagnoses and resulting improper treatment. The manufacturer holds parts and service information as proprietary, so there would be no third-party service available for full coverage of the equipment, unless reverse engineered or refurbished parts were used, which is unacceptable. Only Original Equipment Manufacturer (OEM) parts may be used. If service were to be performed by a third party, all liability would be on the Iowa City VAMC for any possible equipment malfunctions.

(8) A STATEMENT OF THE ACTIONS, IF ANY, THE AGENCY MAY TAKE TO REMOVE OR OVERCOME ANY BARRIERS THAT LED TO THE RESTRICTED CONSIDERATION BEFORE ANY SUBSEQUENT ACQUISITION FOR THE SUPPLIES OR SERVICES IS MADE:

None, there are no other vendor that can provide the service for the equipment. When replacement equipment is procured, that process will be done competitively.

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(9) 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. I understand that processing of this limited sources justification restricts consideration of Federal Supply Schedule contractors to fewer than the number required by FAR Subpart 8.4. *(This signature is the requestor's supervisor, fund control point official, chief of service or someone with responsibility and accountability.)*

_____ SIGNATURE	_____ DATE	
_____ NAME	_____ TITLE	_____ SERVICE LINE/SECTION
_____ FACILITY		

(10) APPROVALS IN ACCORDANCE WITH THE [VHAPM, Volume 6, Chapter VI: OFOC SOP](#): *This part if filled out by Contracting Staff as part of the Justification*

a. CONTRACTING OFFICER'S CERTIFICATION (required): I certify that the foregoing justification is accurate and complete to the best of my knowledge and belief.

_____ CONTRACTING OFFICER/DESIGNEE'S SIGNATURE	<u>July 17, 2017</u> DATE
<u>Sandra McAnany, Contracting Officer</u> NAME AND TITLE	<u>NCO 23, Minneapolis</u> FACILITY

b. Director of Contracting/DESIGNEE: I certify that the foregoing justification is accurate and complete to the best of my knowledge and belief.

_____ SIGNATURE	<u>July 17, 2017</u> DATE
<u>Kelly Nussbaum, JNCO 23 Services Branch Chief</u> NAME	
NCO/PCO X Director of Contracting	