

**DEPARTMENT OF VETERANS AFFAIRS**

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

**Acquisition Plan Action ID: VA701-17-AP-0114**

**1. Contracting Activity:**

Department of Veterans Affairs (VA), Program Contracting Activity Central (PCAC), 6150 Oak Tree Boulevard, Suite 300, Independence, Ohio 44131 and the Veterans Health Administration (VHA), Office of Informatics and Analytics (OIIG) Library Network Office (LNO) offer this Justification for Other Than Full and Open Competition. Purchase Request number is 776-17-4-8251-0300.

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

This request is for a new base plus options firm fixed price contract of the VA enterprise-wide subscription to the Elsevier Nursing Package, which includes ClinicalKey for Nursing and Clinical Skills, which will be accomplished following the procedures in Federal Acquisition Regulations (FAR) Part 12 and Part 13.5.

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

The VHA Medical Center libraries, Central Office staff, and the staff at all the VA Medical Center (VAMCs), Community Based Outpatient Clinics (CBOCs), and other affiliated programs and offices require continued access to the web-based Elsevier Nursing Package Subscription, 24 hours a day, 7 days a week, which satisfies the needs of hospitals that are always open and staffed. The Elsevier collection is heavily used by VA librarians, clinicians, researchers, and educators for access to medical and surgical content and includes practice monographs, patient education handouts, and procedural videos. Continued access to the Clinical Key Subscription is critical to medical staff and supplies information used directly in patient care.

The estimated total value of the procurement is \$4,977,561.00 for one (1) base year plus three (3) twelve (12) month options

Base Period of Performance - September 30, 2017 to September 29, 2018.

**4. 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;

**FAR13.5 Simplified Procedures for Certain Commercial Items:** This procurement of the Clinicalkey Nursing Subscription is 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.

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

Elsevier is the sole distributor of their online product; the web-based version of the Clinicalkey Nursing Package Subscription, making them the only source available to provide access to the service.

In addition to the numerous articles, videos, and journals that are proprietary to Elsevier; many articles while available online at separate sources, Elsevier through the Nursing Package Subscription, provides access to all of the articles at one source. This allows the practitioner to search quickly through all relevant articles for information that is critical to patient care.

The subscription is powered by Elsevier's Smart Content, tagged with Elsevier Merged Medical Taxonomy (EMMeT), which enables ClinicalKey to understand clinical terms and thus discover medical content that is the most relevant, plus find related content that would be missed by other search engines. Elsevier's Smart Content has been designed to understand the vast number of relationships between clinical concepts. By organizing these relationships in a hierarchical manner, it guarantees that Clinical Key provides specific, targeted results to nurse's questions. The tool allows the user to filter search results by clinically meaningful subcategories (content type, specialty, and by relevant clinical categories like treatment and diagnosis). Specialty specific tools enable users to quickly go from topic overview to in depth specialty information to meet clinical challenges.

Elsevier also meets VA's needs by providing enterprise-wide access to their content with no geographic or concurrent user limitations, content in both HTML and PDF formats, access to online only supplements and images, and detailed usage reports.

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

Market research was conducted by GSA, Vetbiz, and Dynamic Small Business website searches. Additionally, Elsevier was asked if they allow resellers of this database. These efforts and results are detailed in section 8 below. Additionally, a special notice of intent to sole source (VA701-17-N-0136) was posted to FBO.gov on 05/04/2017 with responses due by 05/18/2017 at 10:00 AM. No responses were received.

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

The Government has developed an Independent Government Cost Estimate (IGCE) for this procurement. The estimated total value of the procurement is \$4,977,561.00 which includes one (1) twelve (12) month base period, plus three (3) twelve (12) month option periods.

Base period	\$1,180,932.00
Option 1	\$1,222,265.00
Option 2	\$1,265,044.00
Option 3	\$1,309,320.00
Total estimated Contract Value (base + 3 options)	\$4,977,561.00

The annual percentage increase of 3.5% is reasonable based on prior year's percentage increase and market trends for similar subscriptions.

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

In accordance with FAR Part 10, market research has been conducted for this acquisition. The following techniques were used:

A. *GSA/FFS Market Research*

Market Research was conducted on April 5, 2017 on the GSA e-Library under Schedule 76 – Publication Media/SIN 760-2 – Periodicals, Subscriptions Services. There are a total of 25 vendors, a total of one (1) SDVOSB vendors, and two (2) VOSB vendors. These SDVOSB and VOSB vendors were searching in VetBiz to determine if they are CVE-verified SDVOSB or VOSB business. None of The businesses found in GSA are CVE-verified SDVOSB or VOSB businesses. The SDVOSB and VOSB vendors' pricelists were searched using the keyword "Elsevier". The Search yielded Three (3) possible matches. A review of these vendor's price lists found these vendors did not offer the specific subscription or equivalent listed in the governments statement of work.

B. *VetBiz.gov*

A search was conducted March 7, 2017 on www.vetbiz.gov to attempt to find veteran businesses (SDVOSB and VOSB) utilizing NAICS code 519130, (Internet Publishing and Broadcasting and Web Search Portals). The search produced 76 results. Upon review of the 76 businesses, none of the capabilities listed under remarks, match the requirements of the Statement of Work (SOW) by providing the specific subscription services required the Department of Veteran Affairs.

C. *Dynamic Small Business Search – Open market*

A search was conducted via [http://dsbs.sba.gov/dsbs/search/dsp\\_dsbs.cfm](http://dsbs.sba.gov/dsbs/search/dsp_dsbs.cfm) located within the Small Business Association's (SBA) website utilizing NAICS code 519130 and the keyword "Elsevier," to find potential small business vendors. The search results came back with zero (0) results. Another search was conducted using NAICS Code 519130 and keyword ClinicalKey. The search came back with zero (0) results

D. *Elsevier Inquiry*

The Senior National Accounts Manager of Elsevier, [REDACTED], was contacted by Email and asked if they would allow any resellers, like they had during FY16. [REDACTED] stated the last contract was an exception granted for FY 16 due to time constrains, and will not be the case for any other year. [REDACTED] stated that only way that Elsevier would be able to use a reseller would be dependent on the Department of Veterans Affairs COR signing the Terms & Conditions agreement. Elsevier would then update the contract to add signature lines and remove the "attachment" and provide it to a VA CO for signature or formal acknowledgement.

During FY 2016 the Department of Veteran Affairs legal counsel said the VA could not accommodate Elsevier requirements with resellers, citing the Governing Law Clause:

"Commercial license agreements may be made a part of this Contract but only if both parties expressly make them an addendum. "

"If a commercial license agreement is made an addendum, only those provisions addressing data rights regarding the Government's use, duplication and disclosure of data (e.g., restricted computer software) are included and made a part of this Order, and only to the extent that those provisions are not duplicative or inconsistent with Federal law, Federal regulation, the incorporated FAR clauses and the provisions of this Order.; those provisions in the commercial license agreement that do not address data rights regarding the Government's use, duplication and disclosure of data shall not be included or made a part of the Order."

Legal Council was contacted on 4/5/17 to see if this determination, made during fiscal year 2016, was still valid. Legal confirmed this is still valid.

#### E. *FBO.gov*

A special notice of intent to sole source (VA701-17-N-0136) was posted to FBO.gov on 05/04/2017 with responses due by 05/18/2017 at 10:00 AM. One (1) response was received, with the vendor submitting a capability statement. Upon review of the capability statement the vendor did not satisfy multiple sections of the statement of work listed below:

- 2.5.1 Product is 508 compliant
- 2.5.1.1 If product is not 508 compliant, vendor must describe measures being taken to bring product into compliance and date, within 12 months of contract award, that product will be 508 compliant. OR
- 2.5.1.2 If product is not 508 compliant and vendor must describe why no work is being done to make it 508 compliant
- 2.5.21.1 Search multiple databases simultaneously with hyperlinks to the full-text articles and/or abstracts within the service
- 2.5.22.7 Ability to search for a specific journal
- 2.5.22.19 Ability for authorized users to save searches

Because the capability statement did not satisfy these sections of the statement of work, it was determined that the vendor did not meet the government's requirements.

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

The content of the ClinicalKey Subscription contains numerous journals, books, and features that are not contained in any other product on the marketplace.

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

Elsevier is the sole source that expressed, in writing, an interest in the acquisition.

**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:**

VA will continue to perform market research in attempts to find other sources before exercising options and/or soliciting a new award in the future.

**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.

[Redacted Signature] \_\_\_\_\_  
[Redacted Name]  
Librarian  
Library Network Office

\_\_\_\_\_  
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.

[Redacted Signature] \_\_\_\_\_  
[Redacted Name]  
Contracting Officer  
Program Contracting Activity Office (PCAC)

\_\_\_\_\_  
Date

b. **Director of Contracting /Designee:** I certify the justification meets requirements for other than full and open competition.

[Redacted Signature] \_\_\_\_\_  
[Redacted Name]  
Director of Contracting  
Program Contracting Activity Central (PCAC)

\_\_\_\_\_  
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 for other than full and open competition.

\_\_\_\_\_  
[REDACTED]  
VHA Head of Contracting Activity (HCA)  
Service Area Office (SAO) Central

\_\_\_\_\_  
[REDACTED]  
Date