

VHAPM Part 806.3 Other Than Full and Open Competition (OFOC) SOP
Attachment 2: Sole Source Justification >\$150K
DEPARTMENT OF VETERANS AFFAIRS
Sole Source Justification and Approval (J&A)
For
DAT EQ092 - BK Medical Ultrasound Systems

Acquisition Plan Action ID: [REDACTED]

1.

Contracting Activity:

Department of Veterans Affairs
Network Contracting Office 19
(NCO19)
6162 S Willow Dr. Suite 300
Greenwood Village, CO 80111

Organizational Activity:

Department of Veterans Affairs
Eastern Colorado Health Care System (ECHCS)
Rocky Mountain Regional VA Medical Center
13611 E Colfax Avenue
Aurora, Colorado 80045

[REDACTED]

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

The proposed action is to justify NCO19 conducting an open market, sole source procurement to Four Points Technology, LLC for the acquisition of ultrasound systems for Urology, Surgery and Endocrinology Departments at the Rocky Mountain Regional VA Medical Center on 13611 E Colfax Avenue, Aurora, Colorado 80045.

FAR13.5 Simplified Procedures for Certain Commercial Items: The intended procurement is for a new firm-fixed-priced order of BK Medical (brand name manufacturer) Flex 800 and Sonotouch ultrasound systems (includes transducers, hardware, software, training and integration licensing), in accordance with FAR 13.5 Simplified Procedures for Certain Commercial Items and specifically FAR 13.501 Special Documentation Requirements (including brand name), 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:

Brand Name: BK Medical Flex 800 System with MR fusion integration (1 Sys)

Brand Name: BK Medical Flex 800 System for Urology (1 Sys)

Brand Name: BK Medical Flex 800 System for Surgery (1 Sys)

Brand Name: BK Medical Sonotouch System for Endocrinology (1 Sys)

Brand Name: BK Medical transducers for Surgery (1 LT)

[REDACTED]

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: 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:

BK Medical, associated with the Analogic Corporation, is a SBA certified small business and manufacturer of the ultrasound system and transducers needed specifically for urological and selected surgical procedures at the Rocky Mountain Regional VA Medical Center. The transducer Prostate Triplane, T-shape Intraoperative, and biopsy 4-WaY Laparoscopic requires sterilization after each used per Infection Control protocol. These transducers; take images in three visionary planes; switch between prostate zones; increase diagnostic value with 3D, Contrast, and Doppler images; and allow for one-time insertion and minimal manipulation using disposable dual guides. BK Medical also manufactures the MR fusion technology that allows Urology to infuse MRI images onto the ultrasound image during the surgery procedure. This application provides Urology a better visibility of the "target of concern" during surgical operation.

ECHCS has one existing BK Medical Flex 800 for Surgical, purchased in 2015 [REDACTED]. The impending procurement includes additional transducers for this existing equipment. Only BK Medical manufactures transducer that are compatible with Flex 800 ultrasound system. ECHCS also purchased six (6) Prostate transducers for Urology in 2014 [REDACTED] that can be reused at the new facility if BK Medical systems are procured. Reusing the existing stock of Prostate transducers allows for a cost saving [REDACTED] by reusing the BK Medical Flex 800 ultrasound system purchased in 2015.

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

In the requesting services market research phase, clinical subject matter experts [REDACTED] were consulted in regards to the functions needed in the new space. Their expertise in the field was also utilized to determine what viable ultrasound products are available in the market that would meet the facilities requirements.

[REDACTED]

[REDACTED]

Market research was also conducted by the Network Contracting Office, details of which are in the market research section of this document. This effort did not yield any additional sources (manufactured brands) that can meet the Government's requirements. Competition is not anticipated for this acquisition. In accordance with FAR 6.305(a) and 13.501, this award action will be synopsisized under NAICS Code 334510 Electromedical Apparatus Manufacturing and Diagnostic Equipment, on the Federal Business Opportunities Page and the justification will be made publicly available on the Governmentwide point of entry.

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

The final contract price will be fair and reasonable by a comparison of published pricing from the brand name manufacturer and the pricing established on their prior HTME contract. Additional market research will be utilized to compare the prices offered to those previously found fair and reasonable for the procurement of the same or similar ultrasound systems purchased by the Department of Veterans Affairs in accordance with FAR 13.106-3(a).

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

Clinical subject matter experts were consulted for the market research of specialized Urology, Surgery and Endocrinology ultrasound systems needed for each department. It was determined that only one brand name vendor would be able to meet ultrasound system requirements outlined in Section 5, and ensure existing transducers are compatible with future ultrasound systems procured for the medical center.

Market research, which included a search of the Vendor Information Pages (VIP) database using the selected NAICS Code 334510 (Electromedical Apparatus Manufacturing) and a search on GSA Advantage, gave indication that the Rule of Two In accordance with (IAW) 38 U.S.C. 8127(d) would not be met by soliciting service disabled veteran-owned small business (SD/VOSB) GSA contract holders. Market research efforts included a search for transducers and ultrasound systems on GSA Advantage, conversations with the manufacturer of the ultrasound equipment, and a search of previous purchase history on the VA/DOD Medical Product Database (MPDB). The GSA Advantage search yielded no results. The conversation with BK Medical's Senior National Accounts Manager, revealed only one (1) Authorized Federal Reseller of items produced by BK Medical. An official letter was provided by BK Medical, authorizing Four Points Technology (a CVE certified service disabled veteran-owned small business) as the only federal distributor of their products. IAW Public Law 109-461, Sec. 8127, The contracting officer does not have reasonable expectation that two or more small business concerns owned and controlled by veterans could not meet the requirements of the purchase request at a fair and reasonable price; however, it is recognized that one (1) small business manufacturer and one (1) service disabled veteran-owned small business distributor can meet the requirement at a fair and reasonable price. [REDACTED]

[REDACTED] NCO19 has determined it to be in the best interest of the government to conduct a sole source procurement to Four Points Technology, LLC, the only authorized federal distributor of the required BK Medical ultrasound systems and products.

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Additional market research found some of the BK Medical ultrasound systems having Denmark as the place of manufacturer. In compliance with the Buy American Act, Denmark is a member of the World Trade Organization (WTO) Government Procurement Agreement (GPA) as a European Union member state under the April 6th, 204 Revised GPA. The intended procurement is not excluded from coverage by the U.S. schedule of the WTO GPA as indicated in FAR Part 25.401 Exceptions. Under the Trade Agreements Act (19 U.S.C. 2512), in acquisitions covered by the WTO GPA, acquire only U.S.-made or designated country end products or U.S. or "designated country" services, unless offers for such end products or services are either not received or are insufficient to fulfill the requirements. Denmark is a "Designated country" as defined by FAR Part 25.003-Definitions.

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

The ultrasound equipment outlined in this justification will be procured under NAICS Code 334510 Electromedical and Electrotherapeutic Apparatus Manufacturing, using Product Service Code 6525– Imaging Equipment and Supplies. NAICS Code 334510 is classified under the Small Business Administration's Non-Manufacturer Class Waiver List using Product Service Code 6525.

Furthermore, the non-manufacturer waiver is not applicable because manufacturer is a SBA certified small business under NAICS Code 334510 and this action is not being set-aside or competed.

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

Manufacturer

B-K Medical Systems, Inc.
8 Centennial Dr.
Peabody, MA, 01960

Federal Distributor

Four Points Technology, LLC
14900 Conference Center Dr. Ste. 100
Chantilly, VA, 20151

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:

NCO19 acknowledges the importance of protecting the integrity of the procurement system and are committed to working in manner that promotes competition to the greatest extent practicable in order to compete requirements and overcome barriers to competition in future acquisitions. The VA has and will continue to meet with industry on a periodic basis for continued input and feedback on acquisition strategies. The Requesting Service will continue working with the NCO19 in conducting market research to identify opportunities to compete future requirements

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.

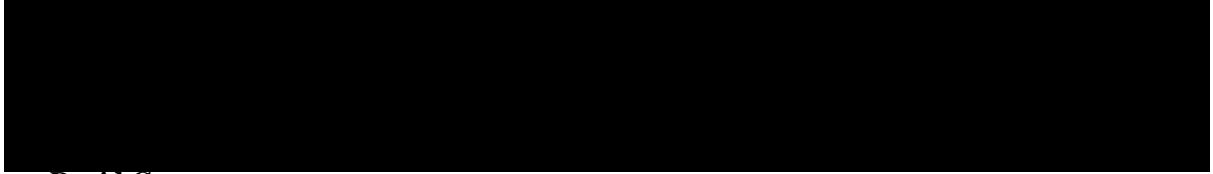


Kelly Luu
Biomedical Engineer
VA Eastern Colorado Healthcare System

Date

13. Approvals in accordance with the [VHAPM Part 806.3 OFOC SOP](#):

- a. **Contracting Officer's Certification (required)**: I certify that the foregoing justification is accurate and complete to the best of my knowledge and belief.



David Geary
Contracting Officer - Supply II West Branch Chief, Network Contracting Office 19
SAO West: Rocky Mountain Acquisition Center

- b. **One Level Above the Contracting Officer (Required over \$150K but not exceeding \$700K)**: I certify the justification meets requirements for other than full and open competition.

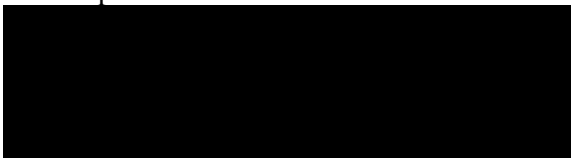


09/22/2017

for
Curtis M. Jordan
Director of Contracting, Network Contracting Office 19
SAO West: Rocky Mountain Acquisition Center

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 \$68 million) or approve (\$700K to \$68 million) for other than full and open competition.



Delia A. Adams, MBA, CPCM
Executive Director, Service Area Office West
Head of Contracting Activity (HCA)

09/22/17

Date