

DEPARTMENT OF VETERANS AFFAIRS

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

Acquisition Plan Action ID: VA242-17-AP-9792

Transaction #: 630-18-1-4456-0012

1. **Contracting Activity:** Department of Veterans Affairs, Network Contracting Office (NCO 2), James J. Peters VA Medical Center.

2. **Nature and/or Description of the Action Being Processed:** Full Service & Maintenance for Invivo Solutions Service Equipment located at VA New York Harbor Healthcare System (NYHHS). The service contract will include the following:
 - a. DYNASUITE NEURO 3 ACCESS ANYWHERE SOFTWARE
 - b. SENSAVUE FMRI
 - c. DYNACAD 3.3 BREAST W/INT & PROSTATE DIAG SW

3. **Description of Supplies/Services Required to Meet the Agency's Needs:** The Contractor shall maintain the equipment in accordance with the Original Equipment Manufacturer (OEM) Standards by furnishing all necessary labor, unlimited technical phone support, equipment, tools, materials, repair service, shipping charges and all peripherals and including software updates and upgrades and parts for. The contractor will provide repair service, which may consist of calibration, cleaning, oiling, adjusting, replacing parts and maintaining the equipment, including all intervening calls necessary between regular services calibrations. The total estimated value including all options is \$212,000.00. The estimated period of performance is:
 - Base Year: December 1, 2017 to November 30, 2018;
 - Option Year One: December 1, 2018 to November 30, 2019;
 - Option Year Two: December 1, 2019 to November 30, 2020;
 - Option Year Three: December 1, 2020 to November 30, 2021; and
 - Option Year Four: December 1, 2021 to November 30, 2022

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;

5. **Demonstration that the Contractor's Unique Qualifications or Nature of the Acquisition Requires the Use of the Authority Cited Above (applicability of authority):** Invivo is the Original Equipment Manufacturer (OEM) and exclusive seller of Invivo Solutions Software updates and upgrades. The software system has supported the MRI system for multiple years, so this procurement is to continue support service and maintenance of the software support. The Invivo MRI is a highly specialized equipment which already interfaces with Department of Veterans Affairs system. It is more advantageous to sole-source through the OEM than have a new contractor develop a new interface which will represent substantial duplication of cost to the government that is not expected to be recovered through competition. The Invivo Solutions service is the core of the MRI management system, and provide substance management mechanism for performing the tasks required at the MRI station. The system cannot function without the Invivo Solutions service. Additionally, market research shows that there is no other vendor capable or interested in this procurement.
6. **Description of Efforts Made to ensure that offers are solicited from as many potential sources as deemed practicable:**
 - a) Sources Sought Synopsis posted in FBO from September 14 through September 28, 2017 returned zero results;
 - b) Request for Information posted from September 14 through September 28, 2017 in GSA returned zero results;
 - c) VIP Search returned zero SDVOSB;
 - d) SBA Search returned zero results; and
 - e) Search of FPDS records shows that most of the procurements for similar scope of work have been done by either Phillips or Invivo. Phillips owns Invivo. Other two vendors showed on the report, but they don't provide maintenance and/or repair.
7. **Determination by the CO that the Anticipated Cost to the Government will be Fair and Reasonable:** The anticipated price will be determined fair and reasonable by comparing to IGCE and historical data for similar procurements.
8. **Description of the Market Research Conducted and the Results, or a Statement of the Reasons Market Research Was Not Conducted:** Market research conducted as described in section 6 shows that the requirement is available in Open Market through the Original Equipment Manufacturer a Large Business.
9. **Any Other Facts Supporting the Use of Other than Full and Open Competition:** Invivo Corp., the Original Equipment Manufacturer, stated in writing that the software in Sensavue MRI is proprietary to Invivo Corp. No other contractor has access to software updates.
10. **Listing of Sources that Expressed, in Writing, an Interest in the Acquisition:**
 - Invivo Corp, Large Business. Phillips is Invivo's parent organization.
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:**
 - Notice of Intent to sole source and J&A will be posted in FBO so that other contractors are aware for future purposes.

VHAPM Part 806.3 Other Than Full and Open Competition (OFOC) SOP
Attachment 2: Request for Sole Source Justification Format >\$150K

- New market research will be conducted before an option is exercised.

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.

(This signature is the requestor's supervisor, fund control point official, chief of service, someone with responsibility and accountability)

ALEXANDER Digitally signed by ALEXANDER CHIN 169578
DN: dc=gov, dc=va, o=internal, ou=people,
0.9.2342.19200300.100.1.1=alexander.chin@v
a.gov, cn=ALEXANDER CHIN 169578
Date: 2017.10.17 14:19:43 -0400
CHIN 169578

10/17/17

Name Alexander Chin
Title Biomedical Engineer
Facility Manhattan, VAMC

Date

13. Approvals in accordance with the VHAPM Part 806.3 OFOC SOP: *This part if filled out by Contracting Staff as part of the Justification*

- 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.

Lawrence Uncer
Contracting Officer, NCO 2

Date

- 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.

NCO 2 Director of Contracting or Designee
Division Chief, NCO 2

Date