

LIMITED SOURCES JUSTIFICATION

ORDER >\$150,000

FAR PART 8.405-6

Acquisition Plan Action ID: VA256-18-AP-2167

1. Contracting Activity: Department of Veterans Affairs, VISN 16, Michael E. DeBakey VA Medical Center. Requisition Number: **580-18-1-255-0374**

2. Description of Action: This acquisition is conducted under the authority of the Multiple-Award Schedule Program (41 U.S.C. 251 and 40 U.S.C. 501). **This is request for Limited** Sole Source approval to Varian Medical Systems. The action will be awarded as a new requirement.

Order against: ☒ FSS Contract Number: **VA797H-14-D-0004**

Name of Proposed Contractor: Varian Medical Systems

Street Address: 3100 HANSEN WAY

City, State, Zip: PALO ALTO, CA. 943041030

Phone: 678.255.3938

3. Description of Supplies or Services: Preventative and corrective maintenance for Varian medical equipment located at MEDVAMC. Equipment. Varian Medical Systems will provide all transportation, parts, labor, software, personnel, travel as required for government Varian equipment.

The period of performance shall be base year and four one year options.

The estimated value of the proposed action is Base Year: **\$ 565,893.12**

Option Year 1: \$ 557,653.00

Option Year 2: \$ 557,653.00

Option Year 3: \$ 557,653.00

Option Year 4: \$ 557,653.00

With Options: \$2,796,505.12

The National Acquisition Center (NAC) awarded the following contract VA797H-14-D-0004 to Varian Medical Systems.

Varian Medical Systems is the original equipment manufacturer (OEM) for the various government equipment listed below.

MANUFACTURER - Varian Medical Systems

EQUIPMENT - Linear Accelerator and supporting equipment

MODEL - Clinac 21EX, Trilogy, Argus Module Support/ Elipse Elements.

SERIAL NUMBER -H140133 (EX), H294275 (Trilogy), H500192, H500208, H500973, H980077, HIT4737.

LOCATION - Michael E. Debakey VA Medical Center 2002 Holcombe BLVD. 77030.

(4) IDENTIFY THE AUTHORITY AND SUPPORTING RATIONALE (see 8.405-6(a)(1)(i)(A), (B), and (C) or 8.405-6(b)), AND IF APPLICABLE, A DEMONSTRATION OF THE PROPOSED CONTRACTOR'S UNIQUE QUALIFICATIONS TO PROVIDE THE REQUIRED SUPPLY OR SERVICE.

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

☒ Only one source is capable of providing the supplies or services required at the level of quality required because the supplies or services are unique or highly specialized;

Varian Medical Systems is the original equipment manufacturer (OEM) providing service to government equipment.

Varian Medical Systems as the OEM possess immediate access to all parts and software necessary to keep the government equipment operation without the risk of third party contractor trying to obtain OEM parts or software. Varian Medical Systems is the possess proprietary data they can only provide.

☐ In the interest of economy and efficiency, 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.

☒ Items peculiar to one manufacturer:

☒ A patent, copyright or proprietary data limits competition. The proprietary data is: Varian Medical Systems (If FAR 8.405-6(a)(2)iii before posting. Do not include specific proprietary data. Only mention the type of equipment, procedure, etc. to show that proprietary supplies or services are being procured.)

Varian Medical Systems possess proprietary operating software and maintenance passwords required to repair the various government systems.

☐ 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.

Varian Medical Systems is the original equipment manufacturer (OEM) providing service to government equipment. Varian Medical Systems as the OEM possess immediate access to all parts and software necessary to keep the government equipment operation without the risk of third party contractor trying to obtain OEM parts or software.

(5) DESCRIBE WHY YOU BELIEVE THE ORDER REPRESENTS THE BEST VALUE CONSISTENT WITH FAR 8.404(d) TO AID THE CONTRACTING OFFICER IN MAKING THIS BEST VALUE DETERMINATION: Service Line (BIO MED) in the past has tried to work with previously awarded Small Business to provide service for similar government equipment that was OEM, which resulted in not exercising option due to the repetitive performance issues that required maintenance, as well as meeting the contractor's request to not exercise and allow release from contract.

Although, contractors continue to communicate they can meet part of the government requirement in regards to maintenance agreements, the government runs the high risk of software, response times, and licenses from thirds party contractors. It is not in the best interest of the government to award diverse contract for maintenance agreements and software when the two are required for the government systems. The contractor shall assume the risk and responsibility for providing the services required to maintain the government medical equipment.

Contractors that can provide OEM services, obtain OEM parts and software should have no issues submitting documentation communicating they are an authorized distributor for OEM parts and software. Contractors that are not able to provide the following as require in the Sources Sought, places the risk on the government to ensure they can meet the requirement throughout the contract.

Varian Medical Systems parts and labor cost are comparable to previous orders within the facility and other VA Hospitals. In addition, per FAR Part 8.408 (d) the price has already been deemed to be fair and reasonable by the National Acquisition Center (NAC).

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

Contracting Officer posted Sources Sought via FedBizOpps 36C25618Q9097 Service Contract for Varian Equipment Varian Clinac EX and Trilogy (See Attached) for all interested vendors to view and answer required question that would assist the Contracting Officer in the contractor capabilities and the risk to the government for obtaining OEM software and parts for the government equipment.

Contracting Officer, sent via email to the three current VOSB/SDVOSB contract holders under NAC Solicitation SPE2D1-15-R-0001 and various emails to contractors from VET BIZ search.

Alliant Enterprises, LLC VA797H-14-D-0002
Franklin Young International VA797H-16-D-0024
Glomax, Inc. VA797H-17-D-0006

All three NAC contractor holders do not possess the capability to meet the government requirement, due to no responsiveness.

Contracting Officer, per compliance with 38 U.S.C. 8127's "Rule of Two" Can confirm that no responses were received from any two SDVOSB/VOSB that would require the procurement to be set aside.

(7) ANY OTHER FACTS SUPPORTING THE JUSTIFICATION:

Contracting Officer posted Sources Sought Notice 36C25618Q9097 for Service Contract for Varian Equipment Varian Clinac EX and Trilogy with NAIC 811219, via the Government Point of Entry (GPE)—FedBizOpps (www.fbo.gov). Resulting in one (1) responses. Remi Group- Large Business- GSA Schedule 03FAC, Contract #GS-21F-0093V.

The current Sources Sought 36C25618Q9097 required contractor to provide communication, authorization letters and evidence they possess the capability to meet the government requirement. Procurement history has proven if the contractor can provide letters upfront from OEM manufacturers the government risk are low. The authorize vendor letter communicates to the Contracting Officer the contractor will be able to obtain OEM parts and OEM software. In addition, the Sources Sought required contractor to communicate they possess OEM training for required services for government requirement.

Per the current Sources Sought posted 36C25618Q9097, only one contractor (Remi Group) responded.

In response to the contractor responses, the Contracting Officer believes it is in the best interest of the government to Sole Source to Varian Medical Systems. Remi Group communicated in their response "Remi does not offer such software environments". The environments, are required for the government equipment. Remi Group is not able to meet the complete government requirement due to the Eclipse and Velocity licensing packages

Further, the Contracting Officer received communication from the Bio Med Service Line, the Subject Matter Experts, (Attached), communicating the following:

Remi Group per Sources Sought responses is not able to meet government uptime requirement per SOW of 97% and Remi proposed an uptime guarantee of 95%. This type of response will place the government at a high risk.

Remi Group per Sources Sought responses is not able to meet government on site response time. SOW specifies on site response by a certified trained Varian engineer within 2 hours after phone contact. Remi proposes they can be on site within 2-4 hours by a qualified field service engineer. This type of response place the government at a high risk.

Contracting Officer contacted Remi Group's professional reference regarding their current contract with the Air Force, resulting in no response (see attached email sent)

Remi Group does not have an interconnection agreement with the VA to perform remote monitoring and diagnostics. This is critical to response times and timely resolution of issues without Varian even having to be onsite for certain issues.

(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:

Contracting Officer will continue to execute due diligence in seeking contractors with the capability and validation.

(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.)*

MOROLAKE M OMORUYI
433610

Digitally signed by MOROLAKE M
OMORUYI 433610
Date: 2018.01.17 11:35:03 -06'00'

SIGNATURE

DATE

Morolake Omoruyi

Supervisor Biomedical Eng

BIO MED

NAME

TITLE

SERVICE LINE/SECTION

Michael E. DeBakey

FACILITY

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

Anthony C
CONTRACTING OFFICER SIGNATURE
Marion 131115

Digitally signed by
Anthony C Marion 131115
Date: 2018.01.17 10:18
-06'00'

01-17-2018

DATE

Anthony Marion, Contracting Officer

NCO 16 DIV III SER B

FACILITY

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.

Le Kisha A
Douglas
157307
SIGNATURE

Digitally signed by Le
Kisha A Douglas 157307
Date: 2018.01.24
10:58:34 -06'00'

DATE

LeKisha A. Douglas
NCO/16, BRANCH CHIEF SER B.

HIGHER LEVEL APPROVAL (Required for orders over \$700,000):

AARON VILLALPANDO
178014
SIGNATURE

Digitally signed by AARON
VILLALPANDO 178014
Date: 2018.01.25 14:59:31 -06'00'

DATE

Aaron Villalpando
Director of Contracting, NCO 16

c. VHA SAO HCA REVIEW AND APPROVAL (over \$700,000 to \$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 restricting consideration of the Federal Supply Schedule contractors to fewer than the number required by FAR Subpart 8.4.

Randy L. Hays
534204
SIGNATURE

Digitally signed by Randy L. Hays
534204
Date: 2018.01.28 11:53:42 -08'00'

DATE

Randy Hays
Acting Director, SAO Central Region
SAO Central Head of Contracting (HCA)