

DEPARTMENT OF VETERANS AFFAIRS

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

Acquisition Plan Action ID: VA69D-17-AP-9909

1. Contracting activity:

Department of Veterans Affairs
VISN 12
Clement J. Zablocki VA Medical Center
695-18-1-969-0017

2. Nature and/or description of the action being processed:

The Clement J. Zablocki VA Medical Center VA Medical Center (VAMC) located in Milwaukee, WI and its outlying Green Bay Health Care Center located in Green Bay, WI have the requirement for one (1) Picture Archiving and Communications System (PACS) Upgrade. This procurement will be pursued as a firm fixed price contract in accordance with FAR 13.5 Simplified Procedures for Certain Commercial Items and specifically FAR 13.501 Special Documentation Requirements (to include Brand Name Only competition), 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. This procurement is for Brand Name Only competition.

3. Description of supplies/services required to meet the agency's needs:

<u>CLIN</u>	<u>Item Number</u>	<u>Description</u>	<u>Qty</u>	<u>Unit</u>	<u>Cost</u>	<u>Total Cost</u>
0001A	0001A	Software License and Support (Perpetual License, Vascular PACS upgrades, Milwaukee)	1	EA		
0001B	0001B	Professional Services and Support (Fixed Fee Implementation Services, Education and Training, SOFTWARE UPGRADE SERVICES FOR MILWAUKEE)	1	EA		
0001C	0001C	Hardware and/or Third-Party Software and Support (FOR MILWAUKEE)	1	EA		
0002A	0002A	Hardware and/or Third-Party Software and Support (FOR GREEN BAY)	1	EA		
0002B	0002B	Software License and Support (Perpetual License, FOR GREEN BAY)	1	EA		
0002C	0002C	Professional Services and Support (Fixed Fee Implementation Services, Education and Training, FOR GREEN BAY)	1	EA		
0003A	0003A	Professional Services and Support (VASCULAR REPORT TEMPLATE SERVICES)	1	EA		
<u>Total Price</u>						

Delivery for the requested equipment is expected before December 31, 2017. The period of performance is a one-time delivery for each line item. Fees for services other than those listed here (which are for a one-time delivery) are existing until December 31, 2017 and a separate Purchase Request is submitted to be pursued concurrently with the Services Team at the Great Lakes Acquisition Center (GLAC).

4. Statutory authority permitting Other than Full and Open Competition:

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). This procurement is for Brand Name Only competition.

5. Demonstration that the contractor's unique qualifications or nature of the acquisition requires the use of the authority cited above (applicability of authority):

The Clement J. Zablocki VA Medical Center VA Medical Center (VAMC) located in Milwaukee, WI has the requirement for one (1) to its Vascular PACS Upgrade.

The Clement J. Zablocki VAMC VA Milwaukee and Green Bay Health Care Center owns Siemens Syngodymics v9.5 Cardiology and Vascular Picture Archiving and Communication Systems (PACS). This system stores all echocardiography and angiography studies performed at these locations. It also performs echocardiography services for the Oscar G. Johnson VAMC located in Iron Mountain, MI. Cardiologists and vascular surgeons utilize the system to review images and document structured reports of relevant clinical findings. These findings utilize complex report templates that automatically record measurements from ultrasound machines and physicians to generate a report. This report is seamlessly integrated with Vista CPRS and VistA Imaging through the VistA Clinical Procedures package. The purchase of this software and equipment is required to improve the workflow in the Milwaukee and Green Bay Cardiology and Vascular Departments.

The facility is requesting a brand name procurement to an incumbent vendor, Siemens Medical Solutions USA, Inc., as using a replacement vendor would cost more than \$1M and would not offer the same features. The Clement J. Zablocki VAMC currently owns all licensing to the product and has an active service agreement that includes software upgrades to existing licensed products. Siemens is the only vendor that has a National MOU/ISA, National BAA, and site-to-site VPN with remote access to existing equipment that can perform these services and upgrade existing Siemens software to the next version at no additional cost. The Green Bay Health Care Center system needs to integrate with an HL7 interface gateway at the Clement J. Zablocki VAMC for CPRS and VistA Imaging integration of structured reports. Siemens is the only Cardiology PACS system that allows for both text and PDF report integration with Vista CPRS. This integration is currently in production, and software upgrade is included to ensure continued compatibility. There is no other combination of MOU/ISA, Site-to-Site VPN, Vista CPRS and VistA Imaging integration, and a software update to the existing Syngodynmics system which another vendor can provide. Further, the VA is currently developing vascular report templates with the intent of integration of vascular ultrasound reporting features. Development of these reports has proven difficult with in-house resources and hourly support by expert Siemens consultations is required to finish these highly-automated vascular reports. Siemens is the only vendor with access to these expert consultants on their software to build the structured reports within its software.

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

The IGCE for this request is [REDACTED] and is therefore subject to the Non-Manufacturer Rule. The Non-Manufacturer Rule, whose threshold of \$150,000.00, allows a firm that is not a manufacturer to qualify as a small business on a supply contract set-aside for small business if it supplies the product of a small business made in the United States (15 USC § 637(a)(17); 13 CFR § 121.406).

The Contracting Officer (CO) contacted the manufacturer (Siemens Medical Solutions USA, Inc.) to determine if it has any small business distributors, including Veteran-Owned Small Businesses (VOSBs) or Service-Disabled Veteran-Owned Small Businesses (SDVOSBs). The manufacturer POC indicated [REDACTED]

[REDACTED] These SDVOSBs do not manufacture the offered product and the manufacturer IS a large business; therefore, a Small Business Administration (SBA) Class Waiver is required. The listed NAICS code, NAICS Description, and FSC code (334510, "Electromedical and Electrotherapeutic Apparatus Manufacturing," and 6525) are listed on the SBA's Class Waiver List dated 1/1/2015. Accordingly, a set-aside can be sought, including set-asides for VOSBs and SDVOSBs. Per concurrence from [REDACTED] [REDACTED] HCA approval for use of SBA Class Waivers is not required when seeking set-aside for procurements requiring an SBA Class Waiver under the auspices of the Non-Manufacturer Rule.

Further sources may be sought by removing set-aside requirements if Best Value cannot be determined by the Government so as to ensure that offers are solicited from as many potential sources as deemed practicable.

7. Determination by the co that the anticipated cost to the government will be fair and reasonable:

Fair and reasonable pricing is anticipated to be determined IAW FAR 13.106-3(a)(1): Whenever possible, base price reasonableness on competitive quotations or offers.

8. Description of the market research conducted and the results, or a statement of the reasons market research was not conducted:

Market research was conducted pursuant to FAR Part 10, the Class Deviation – Implementation of the Veterans First Contracting Program as a Result of the U.S. Supreme Court Decision (Class Deviation – Veterans First Contracting Program (VFCP 2016), VHAPM Part 810.001, and PPM 2016-05. Per PPM 2016-05, Implementation of the Veterans First Contracting Program as a Result of the U.S. Supreme Court Decision, the Rule of Two is met for SDVOSBs verified in the Vendor Information Pages (VIP) database in accordance with VAAR Class Deviation 810.001-70. A VIP search IAW VAAR 810.002 was conducted and confirmed for the authorized distributors which was indicated by the manufacturer.

9. Any other facts supporting the use of other than full and open competition:

None

10. Listing of sources that expressed, in writing, an interest in the acquisition:

[REDACTED]
[REDACTED]

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:

No follow-on solicitation actions are planned unless the CO is unable to determine Best Value for the Government, to include price reasonableness; in which case, set-aside requirements would be made.

No further potential actions were identified that would contribute to remove barriers to competition.

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.

Jim Hedman
Contracting Officer
NCO-12 Great Lakes Acquisition Center (GLAC)

Date

13. Approvals in accordance with the VHAPM Part 806.3 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.

Michael Rosenthal
Contracting Officer
NCO-12 Great Lakes Acquisition Center (GLAC)

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.

Alea Barnes
Branch Chief – Equipment
NCO-12 Great Lakes Acquisition Center (GLAC)

Date