

**DEPARTMENT OF VETERANS AFFAIRS**

**Justification and Approval (J&A)**

**For**

**Other Than Full and Open Competition (>\$150K)**

1. **Contracting Activity:** Department of Veterans Affairs, VISN 23, Black Hills Medical Center  
2237: 618-18-3-6065-0032
2. **Nature and/or Description of the Action Being Processed:** The action being sought is a firm-fixed-price purchase order for the procurement of annual maintenance for VISN 23 PowerScribe hardware, software, license and upgrades in the amount of \$213,702.50.
3. **Description of Supplies/Services Required to Meet the Agency's Needs:** Nuance PowerScribe Speech Recognition System annual maintenance. The proposed action is to provide technical support including maintenance for hardware, software, licenses, and upgrades for the Nuance PowerScribe Speech Recognition System installed in VISN 23. The estimated cost is \$213,702.50 with a period of performance from 4/1/2018 through 3/31/2019.
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):** The PowerScribe Speech Recognition System has been previously furnished by Nuance. The PowerScribe Speech Recognition system is a major VISN 23-wide solution utilized by radiologists to create reports for 450,000 annual imaging studies. The services of Nuance are essential for the ongoing maintenance and usage of the system. The PowerScribe software is proprietary and Nuance owns the source software code, so the annual maintenance is only available from Nuance.
6. **Description of Efforts Made to ensure that offers are solicited from as many potential sources as deemed practicable:** The original requirement was advertised in FBO as a Combined Synopsis with intent to enter into a sole source with Nuance. However, an opportunity was provided for the general public to respond to the requirement. This was conducted and competitively awarded on contract 618-A30537 to Nuance.

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7. **Determination by the Contracting Officer that the Anticipated Cost to the Government will be Fair and Reasonable:** Any open market items prices will be compared to prices that were found fair and reasonable on previous purchases.
8. **Description of the Market Research Conducted and the Results, or a Statement of the Reasons Market Research Was Not Conducted:** In prior year solicitations for PowerScribe annual maintenance, advertisement has been made in FBO with intent to enter into a sole source with Nuance. No other vendors who service similar type of equipment have responded to the prior year solicitations.
9. **Any Other Facts Supporting the Use of Other than Full and Open Competition:** The users are familiar and satisfied with the current PowerScribe system thus minimizing the effect on radiologist productivity with learning a new application.
10. **Listing of Sources that Expressed, in Writing, an Interest in the Acquisition:** *See Section 6 above.*
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:** In order to enhance competition, the speech recognition system would have to be replaced, which is cost prohibitive in relation to the estimated cost of annual maintenance.
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.



Name Jennifer Gersten  
Title Biomedical Engineer  
Facility VISN 23

1/12/2018

Date

13. **Approvals in accordance with the [VHAPM, Volume 6, Chapter VI: 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.

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Pamela Phillips  
Contracting Officer  
Facility BHHCS

02/22/2018

Date

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- b. **Director of Contracting /Designee (Required \$150K and above):** I certify the justification meets requirements for other than full and open competition.

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Johnathan Allen  
NCO 23 Facility Branch Chief  
Facility BHHCS

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Date