



DEPARTMENT OF VETERAN AFFAIRS  
Office of Acquisition and Logistics  
National Acquisition Center  
P.O. Box 76  
Hines, IL 60141

**Justification for an Exception to Fair Opportunity**  
FAR 16.505(b)(2)(i)(C) – Logical Follow-On

**Background:** All supplies/services acquired under Indefinite Delivery Indefinite Quantity (IDIQ) Multiple Award Contracts (MACs) are provided through award of Delivery Orders (DOs). MAC DOs are awarded under the authority of the FAR 16.505(b) which requires all prime awardees under multiple award IDIQ contracts are given a “**fair opportunity**” to be considered for each DO exceeding \$3,500.

The FAR in 16.505 (b)(2)(i) identifies six authorized exemptions to fair opportunity, which are listed below:

- A. The agency need for the supplies or services is of such urgency that providing fair opportunity would result in unacceptable delays.
- B. Only one such awardee is capable of providing the supplies or services required at the level of quality required because the supplies or services ordered are unique or highly specialized.
- C. The order should be issued on a sole-source basis in the interest of economy and efficiency as a logical follow-on to a DO already issued under the IDIQ contract, provided that all the awardees were given fair opportunity to be considered for the original order.
- D. It is necessary to place an order to satisfy a minimum guarantee.
- E. For orders exceeding the simplified acquisition threshold (SAT), a statute expressly authorizes or requires that the purchase be made from a specified source.
- F. In accordance with section 1331 of Public Law 111-240 (15 U.S.C. 644(r)), contracting officers may, at their discretion, set aside orders for any of the small business concerns identified in FAR 19.000(a)(3). When setting aside orders for small business concerns, the specific small business program eligibility requirements identified in part 19 apply.

**(1) Identification of the agency and the contracting activity.**

This Justification for an Exception to Fair Opportunity is on behalf of the Veterans Affairs Sierra Nevada Health Care System located in Reno, Nevada executed by the Veterans Affairs National Acquisition Center located in Hines, Illinois.

**(2) Nature and/or description of the action being approved.**

This activity proposes to issue a sole-source delivery order against the High-Tech Medical Equipment multiple-award Indefinite Delivery, Indefinite Quantity contract VA797H-17-D-0022 awarded to Philips.

Original Delivery Order #:797830720  
Equipment: MRI Model #: INTERA 1.5T  
Manufacturer: Philips Medical Systems  
Procurement Source: VA National Acquisition Center

Original Purchase Order #: 654-B300001  
Serial #: 10482  
Award Date: 9/23/2003  
Acquisition Date: 09/22/2004

**(3) A description of the supplies or services required to meet the agency’s needs, including the estimated value.**

Justification for an Exception to Fair Opportunity  
dStream for Achieva 1.5T Upgrade PO# 654-B69023  
Source Selection Info – See FAR 3.104 & FAR 2.101



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The completed upgraded system will convert the existing system from SmartPath to dStream digital broadband architecture. All installation equipment, accessories and software for this upgrade will be compatible with the existing stationary Philips Intera 1.5T system. Other system performance expectations include:

- The ScanTools software and all optional software packages currently installed on the host computer will be updated to the latest versions.
- ScanTools software will be upgraded to ScanTools Pro.
- DirectDigital RF receives technology to sample the MR signal directly in the RF coil on the patient. The expected outcome is increased patient comfort, decreased need for repositioning of coils, fewer retakes and faster exams.
- FlexStream workflow, which increases system versatility and throughput
- EasyExpand feature which enables plug and play expansion of clinical capabilities without major upgrades.
- Improved clarity by digitizing the signal directly on the patient.
- The system will be forward-compatible to easily access emerging applications such as body and cardiac, and for established applications like neuro and musculoskeletal imaging.
- The MRI upgrade will include Microsoft 64-bit Windows Operating System supported by Microsoft.

The estimated total value of this equipment is \$ [REDACTED]

- (4) An identification of the exception to fair opportunity (see 16.505(b)(2)) and the supporting rationale, including a demonstration that the proposed contractor's unique qualification or the nature of the acquisition requires use of the exception cited. If the contracting officer uses the logical follow-on exception, the rationale shall describe why the relationship between the initial order and the follow-on is logical (e.g. in terms of scope, period of performance, or value).**

The order will be issued on a sole-source basis in the interest of economy and efficiency as a logical follow-on to a DO already issued under the Philips IDIQ contract VA797H-17-D-0022 where all items are on contract and have previously been determined fair and reasonable and fair opportunity was given.

We are requesting an extensive MRI system upgrade for equipment that was initially procured through Philips. The magnet, a primary system component from the initial purchase, will remain in place and essentially most of the rest system will be replaced. This upgrade will extend the life of the MRI system for another 10 years in lieu of procuring a new system and service would be provided by Philips throughout this period. Philips is the only vendor that has the supplies, services and unique qualifications to meet this government requirement.



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- (5) **A determination by the Contracting Officer that the anticipated cost to the Government will be fair and reasonable.**

All items are currently on Philip's IDIQ contract VA797H-17-D-0022 and have previously been determined fair and reasonable at time of award.

- (6) **Any other facts supporting the justification.**

The current MRI System uses the Microsoft Windows XP Operating System. Microsoft ended support for the Windows XP operating systems in April 2014. Without Microsoft support, our operating system will no longer receive security updates that provide protection from harmful viruses, spyware, and other malicious software that may alter medical device functionality. Upgrading the current system will provide the required level of medical device security.

The upgraded MRI system will have a 10-year life expectancy, the same as a new system. This period is derived from the CSN Catalog link: <https://vaww.ecms.va.gov/isms>. This guide is used for all medical device/system life expectancies. Although the entire system has a 10-year life expectancy the manufacturer's life expectancy, for just the magnet, is much greater. The manufacturer provides a one year standard warranty on the magnet after the system is upgraded. They will also continue to service this equipment through the 10-year life expectancy.

Furthermore, this non-competed upgrade is advantageous from a cost stand point. Installation of a new system would require removal of the North exterior wall to the MRI building. Removal of this wall is required to permit installation of a new magnet with the use of a crane, which is not required for the upgrade. The Facility Projects Team estimates this work to cost approximately \$[REDACTED] and a new system is estimated at \$[REDACTED] for a total of \$[REDACTED] versus \$[REDACTED] for this upgrade. The following table provides a side by side comparison of the cost of the upgrade versus the estimated cost of purchasing a new system.

Upgrade vs New Pricing	Upgrade Existing Equipment	New Equipment	Price Difference
MRI Solution	\$[REDACTED]	\$[REDACTED]	[REDACTED]
Ambient Experience	\$[REDACTED]	\$[REDACTED]	\$[REDACTED]
Turnkey Estimate	\$[REDACTED]	\$[REDACTED]	\$[REDACTED]
<b>Totals</b>	<u>\$[REDACTED]</u>	<u>\$[REDACTED]</u>	<u>\$[REDACTED]</u>

As shown above, the non-competed upgrade results in savings of over [REDACTED], therefore it has been determined that it is in the best interest of the government.



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- (7) A statement of the actions, if any, the agency may take to remove or overcome any barriers that led to the exception to fair opportunity before any subsequent acquisition for the supplies or services is made.**

Future MRI System procurements will synchronize the equipment procurement more closely with the facility projects funding process allowing all vendors to participate in the fair opportunity process.

- (8) The contracting officer's certification that the justification is accurate and complete to the best of the contracting officer's knowledge and belief.**

By signing this justification, the Contracting Officer hereby certifies that the justification is accurate and complete to the best of their knowledge.

- (9) Evidence that any supporting data that is the responsibility of the technical or requirements personnel (e.g., verifying the Government's minimum needs or requirements or other rationale for an exception to fair opportunity) and which form a basis for the justification have been certified as complete and accurate by the technical or requirements personnel.**

By signing this justification, the Facility Biomedical Engineer hereby certifies that the justification is accurate and complete to the best of their knowledge.

- (10) A written determination by the approving official that one of the circumstances in (b)(2)(i)(A) through (F) of this section applies to the order.**

Based on the information contained herein, a determination has been made that this requirement meets the exception at FAR 16.505(b)(2)(i)(C).



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CERTIFICATION AND APPROVAL

TECHNICAL/REQUIREMENTS CERTIFICATION:

Pursuant to FAR 16.505(b)(2)(ii)(B)(9), I certify that any supporting data that is my responsibility and which forms a basis for the justification is complete and accurate to the best of my knowledge and belief.

David L.  
Rodriguez 710351

Digitally signed by David L.  
Rodriguez 710351  
Date: 2018.02.28 12:45:21  
-08'00'

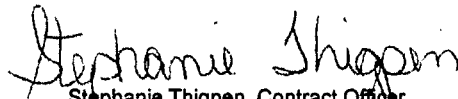
02/28/2018

Date

David L. Rodriguez  
Facility Biomedical Engineer  
Veterans Affairs Sierra Nevada Health Care System

CONTRACTING OFFICER CERTIFICATION:

Pursuant to FAR 16.505(b)(2)(ii)(B)(8), I certify that the justification is complete and accurate to the best of my knowledge and belief.

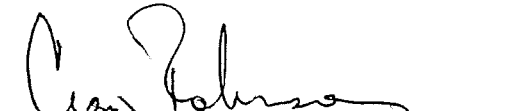
  
Stephanie Thigpen, Contract Officer

Digitally signed by Stephanie E. Thigpen 220707  
DN: dc=gov, dc=va, o=internal, ou=people,  
0.9.2342.19200300.100.1.1=stephanie.thigpen@va.gov, cn=Stephanie E.  
Thigpen 220707  
Date: 2018.02.28 14:48:05 -06'00'

Stephanie E. Thigpen  
Contracting Officer (orders less than \$700,000)  
VA National Acquisition Center – Hines  
High-Tech Medical Equipment Ordering Division

Date

COMPETITION ADVOCATE APPROVAL:

  
Craig Robinson

Craig Robinson  
Competition Advocate (orders > \$700,000 up to \$13,500,000)  
VA National Acquisition Center – Hines  
Associate Executive Director  
Pursuant to 16.505(b)(2)(ii)(C))

03/01/2018

Date