

## JUSTIFICATION FOR AN EXEMPTION TO FAIR OPPORTUNITY (**ORDERS < SIMPLIFIED ACQUISITION THRESHOLD \$150,000**)

**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 be given a “**fair opportunity**” to be considered for each Delivery Order. The FAR identifies six authorized exemptions to fair opportunity, which are listed below.

**Results of Market Surveys:** Detail the results of any market survey conducted, which would support the decision to waive the requirement for fair opportunity under a multiple award contract (i.e., if only one contractor is capable of providing the services document how this was determined).

**Identification/Justification for Exemption:** If the requirement qualifies for one of the six exemptions to fair opportunity, check the appropriate exception and provide justification. Please note, currently, only four of the six are applicable to the HTME Program and are listed below:

- ☐ 1. **The agency need for services is of such urgency that providing fair opportunity would result in unacceptable delays.**  
*Justification should address the following:*
- a. The date that the material/service is required
  - b. The approximate length of the delay that would result if the competitive award were to occur
  - c. Full explanation as to *WHY* the delay would occur as a result of competition and as to *WHY* award to the selected source would result in faster performance.
  - d. Impact to the mission if the delay occurred.
- ☐ 2. **Only one such contractor is capable of providing such services required at the level of quality required because the services ordered are unique or highly specialized.**  
*Justification should address the following:*
- a. Why the selected source is the *ONLY* one capable of providing these particular services, keeping in mind that *ALL* of the contractors selected for award under a multiple award contract were previously determined to be capable of providing these services. Also address why the other multiple award contract holders *NOT* recommended for award *CAN'T* perform the work.
  - b. An estimated dollar value/length of time that it would take to bring the other multiple award contract holders up to speed in this particular area.
  - c. The length of time that this work is expected to last in relation to the answer to letter b. For instance, if this is a one-time task then it doesn't make sense to foster the competition if doing so is expensive. However, if this tasking will occur over several years, then fostering competition may make sense. Address this issue fully.
- ☒ 3. **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 contractors were given fair opportunity to be considered for the original order.**  
*Justification should address the following:*

**Contract VA797H-13-J-0559/B20067, Delivery Order \_\_\_\_\_**

- The facility is requesting to purchase software and hardware upgrade for Vitrea workstations. This upgrade will allow us:
  - To replace the outdated servers. The current servers are so outdated as a result the time to load a patient's exam for postprocessing is too long, not to mention the additional delay once an exam is loaded and postprocessing software is opened.
  - The software is used by Cardiology, Cardiothoracic Surgery, Surgical Oncology, as well as Radiology. The physicians' time must be used efficiently by minimizing delays in exam loading and postprocessing. The volume of examinations loaded onto the Vitrea servers is projected to increase and the above problems will be exacerbated unless addressed through upgrades in capacity. to obtain comprehensive liver, thyroid and breast Elastography examinations, which is going to provide more specific and accurate diagnosis. By doing that we would be able to decrease the load on our MRI section
- Upgraded software (CTLIVER, OLEA and CARDMR) is going to be used in postprocessing of liver, prostate and cardiac studies respectively. Our current basic version of Vitrea does not allow us to use it towards advanced post processing. Updated version particularly is going to enhance the liver transplant program MEDVAMC is known for. In addition, in conjunction with the Urology and Cardiology services our department is developing prostate and cardiovascular advanced services, which requires advanced image post processing.
- In addition, the majority of the Vitrea access is through TalkStation computers currently, which do not have the adequate computing power to handle the Vitrea post-processing software. The TalkStation computers' low computing power serve as an additional point of delay. At a minimum, 2 desktop workstations dedicated solely to running Vitrea software are needed to allow for efficient use of post-processing time, especially for memory-intensive applications such as cardiac imaging (Coronary CTA, TAVR, Electrophysiology). The current dedicated Vitrea desktop workstations are antiquated and have demonstrated marked decrease in computing speed over the past 2 years, resulting in waste of time waiting for software loading and processing.
- Market research was conducted through online research of the specifications of this software. The result of the search and information gathered from numerous sites and research has been discovered that we can only purchase this software from Vital Images, Inc.

☐ **4. It is necessary to place an order to satisfy a minimum guarantee.**

**Justification should address the following:**

- a. Address the minimum guarantee for the contractor (e.g., \$3,000), including the amount of orders awarded to date.

☐ 5. For orders exceeding the simplified acquisition threshold (SAT), a statute expressly authorizes or requires that the purchase be made from a specified source. (NA)

☐ 6. 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 [19.000](#)(a)(3). When setting aside orders for small business concerns, the specific small business program eligibility requirements identified in part 19 apply.

Once it is established that the work is either **urgent or unique** (exception #1 or #2), provide the impact. **“Schedule delays” is not a valid impact.** Below are some, but not all, the impacts which are acceptable:

1. Patient Care
2. Financial harm to the Government
3. Ability to carry out assigned missions

Prepared by:

Approve/Disapprove:

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Project Office/Station POC

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Contracting Officer