

DEPARTMENT OF VETERANS AFFAIRS

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

Acquisition Plan Action ID: VA256-18-AP-4595

- 1. Contracting Activity:** Department of Veterans Affairs, VISN 16, Biloxi VA Medical Center
NCO 16 DIV II SUPPLY – 502
520-18-2-077-0095
- 2. Nature and/or Description of the Action Being Processed:** A firm-fixed price order with a base and 4 option years will be awarded for this recurring annual requirement for special stains for use with the previously purchased Dako Special Stainer.

FAR13.5 Simplified Procedures for Certain Commercial Items: This procurement is for Agilent Special Stains in accordance with FAR 13.5 Simplified Procedures for Certain Commercial Items and specifically FAR 13.501 Special Documentation Requirements, 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.

- 3. Description of Supplies/Services Required to Meet the Agency's Needs:** Special Stains manufactured by Agilent for use with the Dako Artisan Link Special Staining System.
Base year: \$41,182.68
Base + 4 Options: \$205,913.40

4. Statutory Authority Permitting Other than Full and Open Competition:

- (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;

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 hereby implemented to allow restricting competition on this procurement via FAR 13.106-1(b)(2).

- 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 Dako Artisan Link Special Staining System manufactured by Agilent has been purchased for use at the Biloxi VAMC lab. Only

stains manufactured by Agilent are compatible with the Dako Artisan Staining Systems. Stains from any other manufacturer would void the warranty on the Stainer and potentially skew test results thereby impacting patient care. According to market research all special staining systems are only compatible with their respective brand specific stains. Accordingly, Agilent Technologies is the only manufacturer of the Dako Special Staining System as well as the required special stains. Requesting Artisan Brand Stains in the acquisition is essential to the Government's requirement, thereby precluding consideration of a product manufactured by another company.

6. **Description of Efforts Made to ensure that offers are solicited from as many potential sources as deemed practicable:** Sources Sought Notice 36C25618Q9228 was posted on FBO for five days. Two responses were received. One response received from the large business manufacturer, Agilent, and one response received from a VOSB distributor. Both vendors stated they can provide the required stains. Agilent has provided a statement advising they are the sole manufacturer of Dako Instruments and reagents.
7. **Determination by the CO that the Anticipated Cost to the Government will be Fair and Reasonable:** Price reasonableness will be determined based on competition and comparison to past pricing and IGCE prices prior to award.
8. **Description of the Market Research Conducted and the Results, or a Statement of the Reasons Market Research Was Not Conducted:** As described in Section 6 above, market research, in accordance with FAR Part 10, was conducted by synopsis of the proposed acquisition, advising industry of the pending acquisition and soliciting inquiries from interested parties. The Sources Sought Notice posted on FBO received 2 responses from vendors capable of providing the Agilent special stains. FPDS research shows that special stains have been purchased from large business manufacturers as well as VOSB distributors via open market purchase orders or delivery orders against VISN BPAs. There is no FSS contract or VISN 16 BPA in place for these special stains.
9. **Any Other Facts Supporting the Use of Other than Full and Open Competition:** This is a justification to solicit brand name only quotes for Agilent Special Stains IAW FAR 6.302-1 from VOSB vendors.
10. **Listing of Sources that Expressed, in Writing, an Interest in the Acquisition:**
Agilent Technologies, Inc.
6392 Via Real
Carpinteria, CA 93013

Government Scientific Source
12351 Sunrise Valley Drive
Reston, VA 20191

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: The Dako Special Staining System was procured using competitive acquisition procedures. An order with a base and 4 option year periods is required to meet the annual recurring requirement for the stains to be used with this staining system. The stains for this system are brand name specific. However, there is a reasonable expectation that adequate competition exists in the current market place for these stains.

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.

Marthena W Moffett 192356	Digitally signed by Marthena W Moffett 192356 Date: 2018.03.22 15:03:19 -05'00'	03/22/2018
Marthena Moffett Assistant Chief P&LMS Biloxi -520		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.

LONEST BONTON 182209	Digitally signed by LONEST BONTON 182209 Date: 2018.03.22 15:27:44 -05'00'	Date
Lonest Bonton Contracting Officer NCO 16 DIV II SUPPLY - 502		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.

Renata Ott 1604558	Digitally signed by Renata Ott 1604558 Date: 2018.03.22 16:04:28 -05'00'	2018.009.20050
Renata Ott BRANCH CHIEF NCO 16 DIV II SUPPLY - 502		Date