

**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 the supplies or services is of such urgency that providing fair opportunity would result in unacceptable delays.
- ☒ 2. 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.
- ☐ 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 awardees were given fair opportunity to be considered for the original order.

Contract _____ Delivery Order _____

- ☐ 4. It is necessary to place an order to satisfy a minimum guarantee.
- ☐ 5. For orders exceeding the simplified acquisition threshold (SAT), a statute expressly authorizes or requires that the purchase be made from a specified source.
- ☐ 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.

(1) VHA VISN 17 549 VA North Texas Healthcare System in Dallas, TX
2237# 549-17-4-205-0979, PO# 549-B70536

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

Varian Integrated Oncology Information System and Treatment Planning System for the Radiation Oncology Service and the Dallas VA Medical Center.

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

The Varian Integrated Oncology Information System (i.e. ARIA) is a completed system that serves as a database for patient information and patient imaging obtained during Radiation Therapy treatments. The system includes Aria Smart Space which can track patient demographic information, diagnosis, staging, radiation therapy data management, reporting, code capture, and workflow management. In addition, Aria Disease Management allows the oncology team to evaluate, monitor, record and document patient treatment information. The Imaging component of the system provides comprehensive image review to patient verify patient positioning using reference and treatment images. This system works with the current TrueBeam Linear Accelerators in the service to provide enhancements and analysis tools for portal images, kV, and Cone Beam CT images. The Aria System also provides a worklist capture for the Cyberknife that the service is currently installing. The Treatment Planning System portion of this action includes the Portal Dosimetry Package that works with the Eclipse treatment planning system. This package provides the capability to preform pretreatment IMRT QA using the PortalVision electronic imager. Using the Eclipse system, dose predication images are generated. The agency is also requiring the InSightive Analytics package which will allow the service to pull data from the TrueBeam and Aria systems, and the system analyzes the data and presents reports to management. The estimated value of this system is \$879,227.

(4) 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 qualifications 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).

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.

Because Varian is the sole proprietor of Aria and the Portal Dosimetry treatment planning system, this is the vendor of choice. Aria and Portal Dosimetry are systems that allow the full functionality of the Eclipse Treatment Planning system and the Varian TrueBeam Linear Accelerators that the Radiation Oncology service currently owns. By not having the Integrated Radiation Oncology System Varian has available, the service is currently not able to fully use all the technology that the newly installed TrueBeam Linear Accelerators have to offer. No other vendor can supply the similar systems that will fully integrate with the existing equipment in the service and allow full functionality of that equipment.

(5) A determination by the contracting officer that the anticipated cost to the Government will be fair and reasonable.

(6) Any other facts supporting the justification.

Without this integrated system, the newly installed Varian TrueBeam Linear Accelerators and the Eclipse treatment planning system the service currently has in use will not be able to be used to their full functionality. New technologies cannot be implemented currently in the service, due to the lack of full functionality of the new accelerators.

(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.

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

(9) Evidence that any supporting data that is the responsibility of 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.

The Varian ARIA system allows for increased operational efficacy within the Radiation Oncology department.

(10) A written determination by the approving official that one of the circumstances in (b)(2)(i)(A) through (E) of this section applies to the order. **I concur with the above written statements.**

Prepared by:

Approve/Disapprove:

Facility Biomedical Engineer

Contracting Officer (**orders less than \$700,000**)

Approve/Disapprove:

Approve/Disapprove:

Competition Advocate
Per 16.505(b)(2)(ii)(C))
(Required for orders > **\$700,000**
up to **\$13,500,000**)

Head of the Contracting Activity (orders
>**\$13,500,000** up to **\$62,500,000**)