

**DEPARTMENT OF VETERANS AFFAIRS**  
**Justification and Approval**  
**For**  
**Other Than Full and Open Competition**

**1. Contracting Activity:** Department of Veterans Affairs, NCO 15, Kansas City VA Medical Center

Program Office: Medical Subspecialty Care (112)  
Purchase Request: 589-12-2-1409-0011  
Justification is for Other than Full and Open Competition

**2. Nature and/or Description of the Action Being Processed:**

Pursuant to VHA Standard Operating Procedure (SOP) *Other than Full and Open Competition Procurements*, written justification is required for other than full and open competition for contract actions exceeding \$3,000. Action to be awarded is a new indefinite-delivery, indefinite-quantity contract with firm-fixed prices.

**3. Description of Supplies/Services Required to Meet the Agency's Needs:**

Acquisition is for on-site Medical Physicist services to be provided to the Kansas City VAMC to include the Overland Park, KS Radiation Oncology Center. Estimated value of the contract is established at \$193,916. Period of performance is six months. The estimated amount of full time equivalent (FTE) required for this contract is 1.1; equivalent to 1,142 hours for the six-month period.

**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;
- (X) (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):**

**Background**

The Kansas City VAMC is in the process of opening a new Radiation Oncology Center to provide better patient access to Radiation Therapy services and decrease Fee-basis (purchased care) costs by \$5,500,000 per year for the Kansas City VAMC and Eastern Kansas VAMC(s). Retention of a Medical Physicist is essential for the opening (and operation) of the Radiation Oncology Center. Without a Chief Medical Physicist on staff, the Radiation Oncology Center will not be approved to begin (and continue) patient treatment delivery. Due to Fee-base appointment and salary constraints, the

Kansas City VAMC cannot immediately retain the incumbent<sup>1</sup> Medical Physicist. Therefore, due to unusual and compelling urgency, a sole-source contract is required to immediately secure the continued services of the incumbent Medical Physicist.

### **Recruitment and Retention Efforts**

Week ending June 2, 2012 the incumbent Medical Physicist's employment through Fee-based appointment expired. Prior to the Fee-based appointment being exhausted (i.e. reaching the maximum allowable pay per calendar year), the incumbent Medical Physicist agreed to a special salary that the Kansas City VAMC anticipated could be approved. When Human Resources worked out the details, however, the current position classification of GS-12 for Health (not Medical) Physicist was \$30,000 less than expected. Due to the lower salary, the incumbent Medical Physicist subsequently declined the GS-12 position. The Kansas City VAMC's solution is to reclassify the position to at least GS-13 and again request the special salary. This would allow the Kansas City VAMC to be able to successfully recruit and retain the incumbent Medical Physicist in a system where retention of a highly qualified Medical Physicist is extremely difficult due to a VHA pay system designed for Health (not Medical) Physicists. The Kansas City VAMC has deemed this approach both practical and viable and anticipates approval by VA Central Office; however, the anticipated timeline for approval will be several weeks to months. Despite this delay with re-classification, the full time employment option is considered the best option for the Government since it would: 1) result in significant savings compared to contracted or Fee-based services, and 2) successfully retain a highly qualified Medical Physicist on staff.

### **Impact**

The incumbent Medical Physicist has completed the Radiation Oncology Center's shielding, acquisition process, acceptance, commissioning and testing of the equipment. Replacing the Medical Physicist at this juncture would result in significant delays to the Radiation Oncology Center's opening and operation. The severity of the situation is best exemplified by the following guidance and clarification provided by the VA National Health Physics Program(NHPP):

*If the Kansas City VA facility replaces the current approved chief therapeutic medical physicist with another physicist, the replacement physicist cannot immediately take over from the incumbent without delays in beginning treatment delivery. The replacement physicist would need to review all of the commissioning and acceptance information for the linac, treatment planning system, and imaging systems. The replacement physicist would also be expected to review and approve all of the department's policies and procedures relevant to treatment delivery, calibration, and safety. The replacement physicist would be expected to familiarize himself or herself with these systems (linac, TPS, imaging systems, and information system) and might need to be sent for training on some of them. The replacement physicist would be expected to perform confirmatory measurements and testing of all of these systems; he or she would not be able to just accept the existing measurements taken by the incumbent. This confirmatory testing would not include just the systems themselves individually, but also end-to-end testing to verify how they work together.*

---

<sup>1</sup> Word "incumbent" is used to denote the Medical Physicist that previously provided services.

*The Radiation Therapy Physicists are seldom knowledgeable on all systems. A physicist familiar with Elekta linacs may not be familiar with Varian linacs, a physicist familiar with the Pinnacle3 treatment planning system may not be familiar with the Eclipse system, and a physicist familiar with the MOSAIQ rad onc information system may not be familiar with ARIA. This is like aviation; a pilot who flies MD80 aircraft cannot immediately transition to Boeing 757s. In summary, replacing the incumbent with another physicist will cause significant delays in initiating patient treatments.*

The following is the projected timeline for Radiation Oncology Center's opening and operation. These milestones are only obtainable if the incumbent Medical Physicist's services are immediately secured:

- MosaiQ on-site training scheduled tentatively July 9 thru 11th, 2012
- Live patient CT Simulator training scheduled July 11 thru 13, 2012
- Standard 3D conformal therapy will begin on the first patient on July 23, 2012
- IMRT will follow in 2-3 weeks after starting with the 3D treatment
- At the end of August the unit is expected to be fully functional at capacity
- Rapid Arc is expected by the end of September

If the Radiation Oncology Center is not operational due to the lack of a Medical Physicist, the Government will continue to incur the following unrecoverable costs:

- \$175,476 a year for the facility (i.e. building) lease;
- \$5,200,000 for equipment already purchased, delivered, installed and commissioned;
- Associated labor costs for Radiation Oncologist, Dosimetrist, Therapeutic Radiology Technologists, Nurse, Bio-Med Tech, and Clerk. Costs include salary and benefits estimated at \$90,000 per month (not including the Medical Physicist); and
- Approximately \$300,000 a month to Fee-base the radiation oncology services.

Radiation Oncology requires a cohesive team of highly trained professional staff members. Due to the incumbent Medical Physicist's experience in the field, trust and respect for the program has been garnered from many Radiation Oncologists including previous and existing Kansas City VAMC Radiation Oncologists. To elaborate, the incumbent's Fee-basis employment as the Medical Physicist was a significant contributor in the recruitment of highly qualified Radiation Oncologist. There is a significant risk for loss of employment of the current Radiation Oncology Section Chief if the program does not become operational soon.

#### **Projected Timeline for Successful Recruitment**

The following is the projected timeline for successful recruitment (i.e. hiring). Process from start to finish is approximately +/- 187 days.

1. The Position Description (PD) must be reclassified at the GS-13 level. The GS-12 level cannot adequately meet the special salary range originally pursued because the special salary is capped at 25% of the 12 level. Timeline : approximately 3 months through classification process.
2. Once PD is approved, the job analysis and job announcement package is changed to the GS-13 level and the position is posted for applicants, closes, and a selectee is chosen. Timeline: approximately 30 days.

3. Once selected, the special salary request goes to the both the VAMC Director and VISN Director for approval. Timeline: approximately 7 days.
4. VHA Office of Human Resources Management (OHRM) performs a technical review of the package. Timeline: approximately 30 to 45 days including step 5 below.
5. The VHA Under Secretary for Health approves.
6. The Under Secretary's approval is sent to the Office of Personnel Management (OPM) for concurrence. Timeline: approximately 30 days.

### Summary of Options Considered

Below is a summary of options considered by the Kansas City VAMC to secure the services of the incumbent Medical Physicist. Summary includes pros, cons and determination if the respective option can meet the unusual and compelling urgent need:

Option	Pros	Cons	Meet Unusual and Compelling Need
Full-time Government employment	Lower cost for the Government  Less risk for turnover	Processing time constraints  Requires approval from OHRM, Under Secretary for Health and OPM	<b>No:</b> Approval is being sought; however, unsure of timeliness
Fee-basis employment	Rapid implementation	Annual salary cap limits full-time employment	<b>No:</b> Option has been exhausted
Open contract (i.e. competitive) solicitation	Competitive acquisition of highly qualified Medical Physicist may yield lower rates due to competition	Process is lengthy	<b>No:</b> Time to implement a competitive contract is approximately 213 days <sup>2</sup>
Sole-source contract with incumbent Medical Physicist	Rapid implementation  Highly qualified individual meeting all of the Kansas City VAMC needs  No requirement to re-commission or retrain for NHPP	Cost (i.e. price reasonableness more difficult to determine)	<b>Yes:</b> Unusual and compelling need can be met.

<sup>2</sup> Based on Standard Operating Procedure 160-10-01, *Procurement Process*

## Procurement History

September 30, 2010: the Kansas City VAMC requested the Network Contracting Office (NCO) to pursue a Federal Supply Schedule (FSS) contract for a locum tenens Medical Physicist. Due to the Kansas City VAMC's Radiation Oncology Center being new, the requirements needed to include extensive experience with startup of similar programs; therefore, the Kansas City VAMC elected to change the acquisition to a "commercial" ( i.e. open market) acquisition in March 10, 2011.

August 24, 2011: Prior to award, Kansas City VAMC requested that the open market acquisition be canceled. Prior to August 24, 2011, the Kansas City VAMC received indications that highly-qualified candidates might be willing to accept employment on the Federal GS Pay Scale if special pay incentives are approved.

November 5, 2011: Kansas City VAMC requested the NCO to pursue an open market acquisition for a Medical Physicist. Acquisition was initiated as a contingency realizing special pay consideration required significant time for the approval process. Acquisition is currently in the pre-solicitation phase.

## Contractor's Qualifications

The incumbent is a PhD level, Board-Certified Medical Physicist with the following additional strengths:

- 29 years of experience including 18 years as Chief Medical Physicist
- 12 years of experience in the VHA System
- National level involvement as the reference Medical Physicist for the Office of the Inspector General for Physics Quality Assurance in the VHA Radiation Oncology Centers
- Experienced in setting up new radiation oncology programs
- Sizeable research and teaching experience
- Experience in all of the following systems that we currently have in the Radiation Oncology Center: Trilogy, MosaicQ, Eclipse, Philips Big Bore Simulator

## **6. Description of Efforts Made to ensure that offers are solicited from as many potential sources as deemed practicable:**

Due to the unusual and compelling nature of the procurement, no additional sources will be sought. Pursuant to FAR 6.305, the agency will make publically available the justification by posting the justification within 30 days of contract award to the Government Point of Entry, FedBizOpps.

## **7. Determination by the Contracting Officer that the Anticipated Cost to the Government will be Fair and Reasonable:**

The contracting officer will evaluate the reasonableness of the offered prices to ensure that the cost to the Government will be both fair and reasonable. As a commercial item, price analysis will be employed by examining and evaluating the proposed price without evaluating its separate cost elements and proposed profit. Price analysis techniques to be utilized are: 1) comparison of proposed prices in response to previous solicitations, and 2) comparison of proposed prices to published rates (e.g. Federal Supply Schedule).

**8. Description of the Market Research Conducted and the Results, or a Statement of the Reasons Market Research Was Not Conducted:**

The service required by the Kansas City VAMC is currently only available from one source; therefore, due to unusual and compelling urgency for acquiring the services from that source, market research was not conducted.

**9. Any Other Facts Supporting the Use of Other than Full and Open Competition:**

No additional pertinent facts are available to support the use of other than full and open competition.

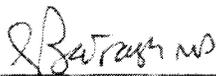
**10. Listing of Sources that Expressed, in Writing, an Interest in the Acquisition:**

No other source expressed interest (in writing) in the acquisition.

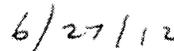
**11. A Statement of the Actions, if any, the Agency May Take to Remove or Overcome any Barriers to Competition before Making subsequent acquisitions for the supplies or services required:**

The Kansas City VAMC's experience is that recruitment and retention of a highly qualified Medical physicist is very difficult in the current pay system designed for Health (not Medical) Physicists; therefore, the VAMC is currently working with the VA National Radiation Oncology Program, VHA Office of Human Resources Management and Office of Personnel Management to reclassify the position to ensure successful recruitment and retention of a highly-qualified Medical Physicist. Should recruitment efforts not be successful, the Kansas City VAMC is prepared to acquire these services through alternate sources (e.g. contract).

**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.



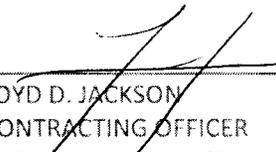
AHMAD BATRASH, MD  
CHIEF, MEDICAL SUBSPECIALTY CARE  
KANSAS CITY, MO VAMC



Date

**13. Approvals in accordance with FAR 6.304**

a. **Contracting Officer's Certification: (required)** I certify that the foregoing justification is accurate and complete to the best of my knowledge and belief.

  
\_\_\_\_\_  
LOYD D. JACKSON  
CONTRACTING OFFICER  
NETWORK CONTRACTING OFFICE 15

6/27/12  
\_\_\_\_\_  
Date

b. **NCM/PCM** : I certify the justification meets requirements for other than full and open competition.

  
\_\_\_\_\_  
BERNADETTE COTHERN  
NETWORK CONTRACT MANAGER  
NETWORK CONTRACTING OFFICE 15

7-3-2012  
\_\_\_\_\_  
Date