

DEPARTMENT OF VETERANS AFFAIRS

Justification and Approval

For

Exception to Fair Opportunity Memo

Acquisition Plan Action ID: 36C246-18-AP-0209

1. **Contracting Activity:** The Department of Veterans Affairs, NCO 6, Kernersville HCC, Kernersville, NC. (659-Salisbury).
2. **Description of Action:** This is a request for a Phillips Monitor IntelliVue MX700 System and related equipment. This is a Brand Name Only requirement.
3. **Description of Supplies or Services:** The Surgery department requires Philips IntelliVue MX700 for the operating room anesthesia workstation. The Philips IntelliVue MX700 is requested for standardization of equipment between three facilities, Salisbury, Charlotte, and Kernersville VAMCs. The VAMC currently stocks disposables resources for the equipment. The staff using this system have been trained in the use of this system and related components. The biomed technicians are trained in preventative maintenance and have parts for service equipment as required.
4. **Statutory Authority:** The statutory authority permitting an exception to fair opportunity is Section 41 U.S.C. 4106(c) as implemented by the Federal Acquisition Regulation (FAR) Subpart 16.505 Subpart 16.505(b)(2)(i):
 - () FAR Subpart 16.505(b)(2)(i)(A): The agency need for the supplies or services is so urgent that providing a fair opportunity would result in unacceptable delays.
 - () FAR Subpart 16.505(b)(2)(i)(B): Only one 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.
 - ☒ FAR Subpart 16.505(b)(2)(i)(C): The order must be issued on a sole-source basis in the interest of economy and efficiency because it is a logical follow-on to an order already issued under the contract, provided that all awardees were given a fair opportunity to be considered for the original order.
 - () FAR Subpart 16.505(b)(2)(i)(D): It is necessary to place an order to satisfy a minimum guarantee.
 - () FAR Subpart 16.505(b)(2)(i)(E): For orders exceeding the simplified acquisition threshold, a statute expressly authorizes or requires that the purchase be made from a specified source". The statutory authority permitting an exception to fair opportunity for this action is 38 U.S.C. 8127(c), known as the Veterans First Contracting Program which provides the authority to directly contract with a Service-Disabled Veteran-Owned Small Business (SDVOSB) or a Veteran-Owned Small Business (VOSB).

VHAPM Part 816.5—Indefinite-Delivery Contracts
Attachment 1: Request for Exception to Fair Opportunity Memo Format

() FAR Subpart 16.505(b)(2)(i)(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 19.000(a)(3). When setting aside orders for small business concerns, the specific small business program eligibility requirements identified in part 19 apply.

5. Rationale Supporting Use of Authority Cited Above:

This is a Brand Name only (Philips MX700) supply being requested for this procurement because this equipment will be an extension the Phillips IntelliVue system currently being used. The system is currently used at the Salisbury, Charlotte, and Kernersville VAMCs. The training on this equipment is paramount to safety. The monitors requested are brand name Phillips MX700 for standardization across three facilities; which are covered by rotating personnel; Additional, medical center staff maintain their competencies, and biomed training and the requested equipment. Remaining with the same brand name machine is in the best interest of the Government.

6. Efforts to Obtain Competition: None sought, as this is a Brand Name only buy in the interest of economy as a logical follow to order previously issued via competition under order # VA246-17-P-6895. Further, Market research was conducted, details of which are in section 8 of this justification.

7. Actions to Increase Competition: In order to remove or overcome barriers to competition in future acquisitions for this requirement, the Government will continue to conduct market research to ascertain if there are changes in the market place that would enable future actions to be competed.

8. Market Research: Market research conducted IAW Far part 10. A VIP query returned two hundred and ninety-three (293) potentially capable vendors (239- SDVOSBs and (54) VOSB) under NAICS Code 339112. A query of FPDS resulted in over (4) instances of “IntelliVue Monitor” purchased by the Dept of Veterans Affairs. Additionally, the SEWP Market Research tool yielded only one capable authorized reseller source for this brand name requirement. In accordance with FAR 16.505(B)(2)(i)(c), this buy is a logical follow-on to a previous order. Justification will be posted publicly on the government point of exchange (GPE) with availability to all appropriate NASA SEWP V GWAC holders within 14 days after placing the order.

9. Determination that Anticipated Cost is Fair and Reasonable: The government posits fair and reasonable pricing precedent to award as Catalog prices on NASA SEWP V GWACs have already been determined to be fair and reasonable. Moreover, price analysis shall be conducted by comparing the successful quote to the Independent Government Cost Estimate.

10. Other Facts: N/A

11. Technical and Requirements Certification: I certify that the supporting data under my cognizance, which are included in this justification, are accurate and complete to the best of my knowledge and belief.

Stephanie Stephens, RN,BSN,
Surgical Service
Salisbury VA Health Care System
Date: May 31, 2108

VHAPM Part 816.5—Indefinite-Delivery Contracts
Attachment 1: Request for Exception to Fair Opportunity Memo Format

13. Approvals:

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



Contracting Specialist

06/27/2018

Date

- b. **Approved By:**

Contract Officer
Paul O. Waite
NCO616L-81239

06/27/2018

Date