

DEPARTMENT OF VETERANS AFFAIRS

Justification and Approval (J&A) For
Other Than Full and Open Competition (>SAT)

Acquisition Plan Action ID: VA252-18-AP-3839

1. **Contracting Activity:**

Department of Veterans Affairs, VISN 12, Jesse Brown VA Medical Center, 537-18-2-969-0148.

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

This is a justification and approval for a sole source procurement which will be awarded as a new firm-fixed-priced contract for required video and imaging equipment that will be used in operating rooms at Jesse Brown VA Medical Center.

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

The equipment required under this action is video and imaging equipment which will be used in the operating room for surgeries at Jesse Brown VA Medical Center that utilize HD video scopes and further video image integration. HD camera heads, camera boxes, and new wiring and routers are required to transmit images to new monitors. The equipment currently in the operating room is manufactured by Karl Storz. This action is to replace and upgrade current equipment and integrate with existing Karl Storz equipment.

Description	Part Number	Qty
4K Image1 S Connect W/H3 Link Exchange Upgrade	P-IMAGE1S-H3KT-TRD	8
4K Image1 S H2-Z Exchange/Upgrade	P-TH100-TRADE	16
AIDA HD Connect DVD with Smartscreen	P-20205501-TRADWE1	8
Video Cart with Full Door	9606-32	3
Sony Up DR80MD Medical Grade Printer	P-WU1333	8
26" LED Monitor, 1920x1080	9826NB-US	19
Xenon 300 Watt, Spare Lmap Module with Heat Sink	20133027	7
Video Image Processor, Config	WUIS1970	6
OR1 Mini NEO	WUIS1871	6
Touchpanel 21.5" Medical LCD Monitor	WUIS1566-01	6
Kit, Interconnect OR Mini NEO	WUIS1930	6
Desk Mnt, 10"-24"	WUIS1594	6
Interface Kit, Touch Panel OR1 Mini NEO Remote	WUIS1932MOD	6
Endoscopic Camera Integration	WUIS1874M01	6
Interface Kit, Panasonic Monitor, US	WUIS1948M02	18

Rear Cable Cover for 26" Panasonic Monitor	WUIS1682	18
AUD, 2 Speakers Integrated	WUIS1935M00	6
Interface Kit, AIDA, Remote	WUIS1880M00	6
Kit, Aux Plate, SVID, CVID, SDI	WUIS1845M00	12
4 in 1 Input Universal Video Integration	WUIS1873M01	12
Install Suplies	WUIS926	6
Installation Kit	WUIS786	6
Installation	KSIS-INSTALL	1
Project Management	KSIS-PM	1
Vario View 26" Yoke Upgrade Kit	NEW	12
De-install and Install	INSTALLATION	1

The estimated value of the proposed action is \$1,158,995.58. This equipment requires a 30 day lead time to prep, delivery, and install, which is typical for an acquisition of this size. The estimated delivery/final installation date is 10/28/2018. The facility is ready to accept delivery as soon as possible.

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

41 USC §3304(a)(5), 38 U.S. Code § 8127, as implemented by FAR 6.302-5 (Authorized or Required by Statute). COs may use the non-competitive (sole source) procedures authorized in VAAR 819.7007 or 819.7008 up to \$5,000,000. Check the specific VAAR clause used below:

- (X) 819.7007 Sole source awards to a verified service-disabled veteran-owned small business; or
- () 819.7008 Sole source awards to a verified veteran-owned small business

5. Demonstration that the Contractor's Unique Qualifications and/or Nature of the Acquisition Requires the Use of the Authority Cited Above (applicability of authority):

38 U.S.C. 8127 provides the authority to sole source to SDVOSB. This purchase is for Karl Storz equipment, which they also have included on their NAC FSS contract V797D-30255. Karl Storz has stated via email they have only one SDVOSB (L1 Enterprises) authorized to distribute their equipment, and they have stated that this SDVOSB can provide the required equipment at the NAC FSS pricing in the open market. Because Karl Storz stated L1 Enterprises is their sole SDVOSB distributor they were the only SDVOSB reviewed.

The surgeons and staff at the Jesse Brown VAMC have been using Karl Storz equipment in the operating rooms since 2007. They are extremely comfortable with the equipment and systems in place. If another brand was purchased it would require training for all staff who work in the operating rooms, and would require an unknown amount of time for the surgeons and doctors to replicate the speed and accuracy they currently have with their procedures due to it being a new system and equipment. This additional training and unknown quantity of getting up to speed with a different solution for the staff significantly elevates the risk of adverse patient care and/or delays.

Additionally, the Jesse Brown VAMC currently owns operating room equipment (lights and insufflators) that is manufactured by Karl Storz and which would need to be replaced if another brand of equipment was purchased. The estimated amount of this existing equipment is approximately \$12,000 per room for 7 rooms totaling approximately \$84,000. It is possible, if another brand were purchased, that this existing equipment could be used but that would require

staff other than the surgeon or doctor to make adjustments to the equipment as the procedure progressed as opposed to the surgeon or doctor making the adjustment themselves, which is how it currently operates. That stated, having staff other than the surgeons or doctors attempt to make the necessary adjustments could delay the procedures and have a very negative impact on patient care. The facility has stated this avenue is unacceptable. It is for the reasons stated above and taken as a whole that it is in the best interests of the VA that SDVOSB L1 Enterprises is selected as the contractor and the authority above is cited.

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

One SDVOSB (L1 Enterprises) was reviewed. Karl Storz has stated L1 Enterprises is the sole SDVOSB distributor of their equipment and that L1 Enterprises is authorized to provide the equipment at the same price as is listed on Karl Storz's NAC FSS contract. Because L1 Enterprises can provide the required equipment at FSS contract pricing, and because they are the sole SDVOSB authorized as a distributor of Karl Storz, and in attempt to meet the Veteran-owned small business goals as stipulated in 38 U.S.C. 8127, it is in the best interest of VA to procure the required equipment using non-competitive procedures.

7. Determination by the CO that the Anticipated Cost to the Government will be Fair and Reasonable:

The required equipment is included under Karl Storz's established VA NAC FSS contract. FAR 8.404(d) states prices for supplies have already been determined to be fair and reasonable and ordering activities are not required to make a separate determination of fair and reasonable pricing. L1 Enterprises is the sole authorized SDVOSB distributor for Karl Storz, and Karl Storz has stated that L1 Enterprises is authorized to offer that FSS pricing on the open market. Because of this, it is determined that the anticipated pricing offered by L1 Enterprises will be fair and reasonable. There are some installation costs not included under Karl Storz's NAC FSS contract. The CO intends to use previous purchases to determine the installation costs under this action is fair and reasonable.

Additionally, there is existing Karl Storz equipment (lights and insufflators) that is not being replaced and will need to integrate with the equipment being purchased under this procurement. If another brand's equipment was purchased that would also require the purchase of that brand's lights and insufflators, the estimated cost is approximately \$84,000. This is cost prohibitive and further illustrates the anticipated pricing offered by L1 Enterprises will be fair and reasonable.

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

The IGCE for this request is \$1,158,995.58; this equipment procurement is therefore subject to the Non-Manufacturer Rule. The NAICS code for this procurement is 334510 and its small business size standard is 1,250 employees. The FSC code is 6525. The listed NAICS code, NAICS Description, and FSC code are listed on the Small Business Administration's Non-Manufacturer Rule Class Waiver List dated 1/1/2015, therefore the Non-Manufacturer Rule is waived for this class of procurements, meaning a SDVOSB is eligible for award under VAAR 819.7003.

A VIP query using only NAICS 334510 resulted in 167 SD/VOSB but did not reveal anything conclusive. Because of this the CO used a combination of NAICS and key words. A VIP query using NAICS 334510 and key word "HD video" resulted in zero SD/VOSB. A third VIP query using NAICS 334510 and key word "video monitors" resulted in zero SD/VOSB.

Karl Storz is the original equipment manufacturer. Karl Storz has confirmed via email that they have only one authorized SDVOSB distributor – L1 Enterprises. Karl Storz also confirmed that L1 Enterprises can offer the Karl Storz's NAC FSS pricing on the open market.

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

None.

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

- Karl Storz (Large Business – Original Manufacturer)
- L1 Enterprises (SDVOSB – Authorized Distributor for Karl Storz)

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:

If subsequent acquisitions for this type of equipment is required the VA will conduct market research at that time and proceed, as it applies to the FAR, VAAR, and any other pertinent regulations and/or policies, in a manner that is determined to be in the best interest of the Government.

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.

D. Benton, Chief of Surgery 9/20/18
Name Date
Title
Facility

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.

Daniel R. Rasmussen Digitally signed by Daniel R.
457897 Rasmussen 457897
Date: 2018.09.20 14:33:23 -05'00'
Daniel Rasmussen Date
Contracting Officer/Branch Chief
Great Lakes Acquisition Center

- b. **One Level Above the Contracting Officer (Required over the SAT but not exceeding \$700K):** I certify the justification meets requirements for other than full and open competition.

Paul M. Lauro Digitally signed by Paul M.
1463508 Lauro 1463508
Date: 2018.09.20 14:46:33
-05'00' 20 Sep 2018
Paul Lauro Date
NCO 12 Director of Contracting
Great Lakes Acquisition Center

- c. **VHA SAO HCA Review and Approval:** I have reviewed the foregoing justification and find it to be complete and accurate to the best of my knowledge and belief and recommend approval (if over \$68 million) or approve (\$700K to \$68 million) for other than full and open competition.

TERRY L. SPITZMILLER Digitally signed by TERRY
394683 L. SPITZMILLER 394683
Date: 2018.09.20 16:21:58
-05'00' 09/20/2018
Terry L. Spitzmiller Date
Acting Executive Director
SAO Central Region