



DEPARTMENT OF VETERAN AFFAIRS
Office of Acquisition and Logistics
National Acquisition Center
P.O. Box 76
Hines, IL 60141

Justification for an Exception to Fair Opportunity
FAR 16.505(b)(2)(i)(B) – Only one capable source

(1) Identification of the agency and the contracting activity.

This Justification for an Exception to Fair Opportunity is on behalf of VISN 5, VAMC Baltimore, MD and will be executed by the Department of Veterans Affairs National Acquisition Center (NAC – 36A797) located in Hines, IL.

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

This activity intends to issue a sole-source delivery order against Indefinite Quantity contract VA797H-17-D-0022 awarded to Philips Healthcare (“Philips”) for additional MR Breast Coil and necessary hardware and software to upgrade the 1.5T MR at the Baltimore VA Medical Center.

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

The customer is in need of a 16-channel breast coil, as well as necessary software updates and additional training for their current Philips MR. The estimated value of the resultant order is \$281,005.90.

(4) An 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 qualification 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).

The order will be issued on a sole-source basis in accordance with FAR 16.505(b)(2)(i)(B) as only one source is capable of providing the supplies and services at the level of quality required. Only Philips, the original equipment manufacturer (OEM) of the existing MR in Baltimore, is able to provide coils and software that is compatible with the unit. The equipment was originally procured and installed in FY13. The OEM is the only Contractor able to provide the upgrade due to the proprietary nature of the items to be procured. The OEM is the only organization capable of owning trade information about the system and therefore is the only one qualified to provide and perform the upgrade. Training will also be provided to local Biomedical staff as a part of this delivery order.

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

All items to be purchased as part of this upgrade are currently on contract VA797H-17-D-0022. The quoted price for each item is at or below the contract price. Pricing has been determined fair and reasonable at the contract level.

(6) Any other facts supporting the justification.

None

(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.

All prospective delivery orders are competed among all contract holders. Once an order is placed for proprietary equipment, it is generally not possible to compete follow-on acquisitions for upgrades because the system to be upgraded is proprietary in nature. Future requirements will be handled on a case by case basis and all attempts will be made to provide fair opportunity to all schedule holders when appropriate.

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

By signing this justification, the Contracting Officer hereby certifies that the justifications are accurate and complete to the best of their knowledge.

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

By signing this justification, the requiring activity hereby certifies that the justification is accurate and complete to the best of their knowledge.

(10) A written determination by the approving official that one of the circumstances in (b)(2)(i)(A) through (F) of this section applies to the order.

Based on the information contained herein, a determination has been made that this requirement meets the exception at FAR 16.505(b)(2)(i)(B). Only one source can provide the required supplies and services.

CERTIFICATION AND APPROVAL

TECHNICAL/REQUIREMENTS CERTIFICATION:

Pursuant to FAR 16.505(b)(2)(ii)(B)(9), I certify that any supporting data that is my responsibility and which forms a basis for the justification is complete and accurate to the best of my knowledge and belief.

Zachary Smith
VISN 5
Chief Biomedical Engineer

CONTRACTING OFFICER CERTIFICATION:

Pursuant to FAR 16.505(b)(2)(ii)(B)(8), I certify that the justification is complete and accurate to the best of my knowledge and belief.

Iliana Jorge
Contracting Officer
VA National Acquisition Center – Hines
High-Tech Medical Equipment Ordering Division

Reagan P. Criddle
VA National Acquisition Center – Hines
Chief, High-Tech Medical Equipment Ordering Division