

DEPARTMENT OF VETERANS AFFAIRS

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

Acquisition Plan Action ID: VA249-18-AP-0611

1. **Contracting Activity:** Department of Veterans Affairs, NCO 09, VAMC Memphis, Tennessee, 38104. Transaction number 614-19-1-069-0011.

2. **Nature and/or Description of the Action Being Processed:** This procurement will be awarded as a new contract and is for maintenance and repair of the linear accelerator equipment and software located at the Memphis, Tennessee VA Medical Center. This is in accordance with FAR 13.5 Simplified Procedures for Certain Commercial Items and specifically FAR 13.501 Special Documentation Requirements, where acquisitions conducted under Simplified Acquisition Procedures are exempt from the requirements of FAR Part 6, but still require a justification using the format of FAR 6.303-2. A firm-fixed price, base year with two one-year options contract will be awarded.

3. **Description of Supplies/Services Required to Meet the Agency's Needs:** This contract will provide full service and support of the Varian TrueBeam Linear Accelerator and accessories, including the TrueBeam Linear Accelerator - H191511, MLC 120 – HML0354, MV Imager – HXM2442, KV Imager – HXK2442, and Rapid Arc – HRD2359, which shall provide routine preventative and corrective maintenance in order to ensure optimal working condition and lessen the likelihood of down time. Also, the Varian TruBeam system has a dedicated VPN connection that allows the OEM to remotely connect into the system to diagnose user-specified issues, push security patches, allow for error log retrieval, and assist users and service engineers from a remote location. The total estimated value is \$569,370.00. The period of performance is 10/01/2018 – 09/30/2020.

4. **Statutory Authority Permitting Other than Full and Open Competition:** The authority for applying the Simplified Procedures for Commercial Items of FAR 13.5 is 41 U.S.C. 1901 and is implemented by restricting competition on this procurement via FAR 13.106-1(b)(2).

5. **Demonstration that the Contractor's Unique Qualifications or Nature of the Acquisition Requires the Use of the Authority Cited Above (applicability of authority):** Varian Medical Systems is the only source for required preventive maintenance, inspections, repairs and urgent services. The vendor has proprietary software that is not offered or authorized to third party vendors. A letter was received from Varian's service department which states that Varian doesn't authorize third-party vendors to service Varian equipment due to proprietary hardware and software, to include software updates. This contract also requires remote access to perform diagnostics for expedited service/repair of the linear accelerator, which is a highly specialized system. All software patches, upgrades,

updates, revisions etc., are available only by the manufacturer. The proprietary service support software can only be accessed by Varian.

6. **Description of Efforts Made to ensure that offers are solicited from as many potential sources as deemed practicable:** Previous procurement action included a sources sought notice. This procurement action includes a sources sought notice and notice of intent to sole source. These notices were posted on Federal Business Opportunities to inform the public of the Department of Veterans Affairs procurement intent. For this procurement, a sources sought (36C24918Q9530) was posted on FBO from 07/19/2018 – 07/25/2018. An intent to sole source (36C24918Q9543) was posted on FBO from 08/04/2018 – 08/20/2018. The Remi Group, LLC responded with an interest to provide service on 07/25/2018. Remi Group, LLC cannot access Varian's proprietary service support software. This includes help desk support, upgrade and maintenance releases.
7. **Determination by the CO that the Anticipated Cost to the Government will be Fair and Reasonable:** The Contracting Officer requested government discounts from the vendor. The CO will compare quoted pricing to historical documents, the IGCE and will negotiate with the contractor to obtain fair and reasonable pricing.
8. **Description of the Market Research Conducted and the Results, or a Statement of the Reasons Market Research Was Not Conducted:** Market research was conducted on Federal Business Opportunities of other current procurements for service on the linear software. This revealed that others VA Hospitals who utilized Varian equipment and software sole source these services only to Varian Medical Systems. A search was conducted on the Veterans Information Pages (VetBiz) and against NAICS 811219. However, none of the vendors listed can provide service due to Varian's proprietary software. Through market research, it has been determined that the requested commercial preventive maintenance and repairs services are available from only one source. A sources sought (36C24918Q9530), and intent to sole source notice (36C24918Q9543) were posted to FBO by the Contracting Officer. Upon expiration, one vendor (Remi Group, LLC) came forward with a capabilities statement. However, it was determined that the vendor could not provide the required services for lack of accessibility through the requirements that protects this specialized equipment and lack of access to Varian's proprietary software. A letter was received from Varian Medical Systems stating they are the sole provider of this equipment and service.
9. **Any Other Facts Supporting the Use of Other than Full and Open Competition:** This procurement for preventative maintenance and repair services provided only by Varian Medical Systems will adhere to the mandated equipment maintenance standards.
10. **Listing of Sources that Expressed, in Writing, an Interest in the Acquisition:** Varian Medical Systems, Inc. (small business) and The Remi Group, LLC (large business)
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:** There is currently only one source for the required preventative maintenance and repair services. The Contracting Officer will continue to conduct market

research and synopsise future requirements for these same services to see if any additional vendors can provide these services to 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.

_____	09/12/2018
Kayla Griggs	Date
Biomedical Engineer	
Memphis VAMC Hospital	

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.

_____	_____
Craig S. Ziegemeier	Date
Contracting Officer	
Network Contracting Office (NCO-9)	

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

_____	_____
Weston Worsham	Date
Services Branch Chief West	
Network Office (NCO-9)	