

DEPARTMENT OF VETERANS AFFAIRS

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

Acquisition Plan Action ID: VA249-18-AP-5319

1. **Contracting Activity:** Department of Veterans Affairs, VISN 09, Memphis VA Medical Center (VAMC), 1030 Jefferson Avenue, Memphis, TN 38104-2127. The Network Contracting Office (NCO) 9 is responsible for the proposed contracting action. The identifying purchase request is 614-19-1-069-0005.
2. **Nature and/or Description of the Action Being Processed:** Sole source award to the Equipment Manufacturer Swisslog Healthcare. A new firm-fixed price contract with a base year and four 1-year options is desired.

FAR13.5 Simplified Procedures for Certain Commercial Items: This procurement is for preventative maintenance for the PillPick and BoxPicker located at VA Medical Center Memphis, and pharmacy manager subscription and software maintenance; 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 6, but still require a justification using the format of FAR 6.303-2.

3. **Description of Supplies/Services Required to Meet the Agency's Needs:** This procurement is for the service and support for the Swisslog Pharmacy Automation System at VA Medical Center Memphis, which consists of: (1) PillPick – Preventative Maintenance; (2) BoxPicker – Preventative Maintenance; (3) Pharmacy Manager Subscription; and (4) Software Maintenance. The base year price is \$195,680, with a base year and four 1-year options priced at \$1,012,237.00. The period of performance for the base year and four 1-year options is from 10/1/2018 through 9/30/2023.

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

FAR13.5 Simplified Procedures for Certain Commercial Items: The authority for applying the Simplified Procedures for Commercial Items of FAR 13.5 is 41 U.S.C. 1901 and is implemented by for 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):** The Swisslog PillPick and BoxPicker Systems are highly specialized pharmacy automation systems. Swisslog's PillPick and BoxPicker are complex robotic inventory management solutions specifically designed for inpatient pharmacy. The PillPick is a fully automated solution that provides patient or cart specific unit dose medications on a patented pick ring. The BoxPicker is the industry's only modular inventory management solution that will allow for storing standard and refrigerated medications and can have multiple users loading or unloading (or both) at the same time. In addition, Swisslog's PillPick and BoxPicker products are not commoditized and are not serviced by non-Swisslog factory trained personnel.

The letter from the manufacturer states Swisslog Healthcare is the sole provider of service and support for the PillPick and BoxPicker. There were no matches in VetBiz for Swisslog, PillPick or BoxPicker. There were however 241 veteran owned matches for NAICS 811219. A Sources Sought and Intent to Sole Source were both posted to FedBizOpps with no response from industry. The Dynamic Small Business Search (DSBS) provided no matches for PillPick or BoxPicker. There was one match for Swisslog, where the vendor provided pneumatic tube system installations. GSA eLibrary did not provide matches for PillPick or BoxPicker. FPDS and the Interagency Contract Directory did not provide matches.

Lack of required planned preventative maintenance by a skilled professional will have a direct impact on system operation, equipment reliability and availability. Failure to maintain the equipment by performing regular scheduled maintenance during the warranty period could also lead to billable repairs, considering a lack of maintenance on wear and tear items can be deemed abuse of the equipment.

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

Sources Sought 36C24918Q9448 notice was posted to FedBizOpps from 6/12/2018 to 6/19/2018 requesting availability and capability of all qualified sources to perform service and support for the following Swisslog Systems: (1) PillPick – Preventative Maintenance; (2) BoxPicker – Preventative Maintenance; (3) Pharmacy Manager Subscription; (4) Software Maintenance. There were no responses to this sources sought from industry.

Intent to Sole Source 36C24918Q9507 notice was posted to FedBizOpps from 7/5/2018 to 7/20/2018 advising industry of the pending acquisition and soliciting inquiries from interested parties. No responses were received.

These surveys of the market place have confirmed the VA's market research assumptions regarding the capability of industry not being able to meet the VA's needs. The VA will proceed with a sole source procurement of a maintenance contract with TRANSLOGIC Corporation dba: Swisslog Healthcare (DUNS: 102552015).

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

The anticipated price is determined to be fair and reasonable based on FAR 13.106-3(a)(2):
(ii) Comparison of the proposed price with prices found reasonable on previous purchases at VAMC's in San Francisco, Las Vegas, Houston and New Orleans;
(vi) Comparison to the Independent Government Cost Estimate. Estimates are provided for the PillPick and BoxPicker equipment and software maintenance, and software subscription.
(vii) Federal facility prices are comparable to what commercial customers pay for the same services. Memphis VAMC has received further discounts for these services.

8. Description of the Market Research Conducted and the Results, or a Statement of the Reasons

Market Research Was Not Conducted: The letter provided by the manufacturer stated that Swisslog Healthcare is the sole manufacturer and provider of service and support for the PillPick and BoxPicker equipment. Swisslog does not utilize any 3rd party distributors, dealers or service groups to offer their products or maintenance services for pharmacy automation products. Any work performed on a Swisslog Healthcare System or individual piece of equipment other than an Authorized Swisslog Healthcare Agent would void the one-year existing Swisslog Healthcare warranty. This equipment was purchased September 2017. Installation began late spring, early summer and is expected to be live by year end. The projected life expectancy of the equipment is ten (10) years.

Market research was conducted in accordance with FAR Part 10, using:

VetBiz – VIP was unable to provide vendors capable of performing preventive maintenance for the Swisslog PillPick and BoxPicker. Therefore, it is determined that two or more veteran-owned small-businesses are not capable and are not likely to submit a quote at a fair and reasonable price.

Posted Sources Sought 36C24918Q9448 and Intent to Sole Source 36C24918Q9507 notices to FedBizOpps, no replies received from industry.

DSBS – The Dynamic Small Business Search Tool was used to determine if any small businesses provided maintenance service for the Swisslog PillPick and BoxPicker equipment. There were no matches for PillPick, PillPick and NAICS 811219, BoxPicker, BoxPicker and NAICS 811219, Swisslog and NAICS 811219. There was however one vendor match for Swisslog. This vendor provided pneumatic tube system installations for several vendor systems, including Swisslog. There are 3,852 vendors with the NAICS 811219.

GSA eLibrary “Swisslog” – provides equipment pricing and software pricing for the PillPick and BoxPicker Systems, and support and maintenance for AutoPacks under contract V797D-50470. There is no GSA pricing for PillPick, BoxPicker maintenance and software support. No other vendors are listed that provide PillPick or BoxPicker equipment or maintenance support.

FedBizOpps – No matches for Swisslog, PillPick or BoxPicker.

FPDS – FPDS search of Swisslog reveals equipment purchases, installations. There were no results for PillPick. BoxPicker service was procured by NCO 21.

Interagency Contract Directory (www.contractdirectory.gov) produced zero (0) results. As described in Section 6 above, market research, in accordance with FAR Part 10, was conducted by synopsis of the proposed acquisition, advising industry of the pending acquisition and soliciting inquiries from interested parties.

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

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

Translogic Corporation dba: Swisslog Healthcare
10825 E. 47th Avenue
Denver, CO 80239-2913
DUNS: 102552015

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 manufacturer has created barriers preventing third party vendors from maintenance work on the PillPick and BoxPicker equipment. There is presently no other economical option available to maintain the current VAMC Memphis Swisslog PillPick and BoxPicker equipment. Replacing the system with another pharmacy automation system is not feasible. Lack of required preventative maintenance by a skilled professional will have a direct impact on system operation, equipment reliability and availability. This maintenance agreement will cover preventative maintenance in addition to any equipment outages. Until the manufacturer allows third party vendors to maintain the equipment, the only available course of action is to continue market research and analysis, to monitor market changes.

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.

Kayla S. Griggs
643330

Digitally signed by
Kayla S. Griggs 643330
Date: 2018.09.10
14:45:49 -05'00'

Kayla Griggs
Memphis VAMC - Biomedical Engineer
Intern, VHA

09/10/2018

Date

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
343718

Digitally signed by Craig
S. Ziegemeier 343718
Date: 2018.09.11 07:41:07
-05'00'

Craig S. Ziegemeier
Contracting Officer, NCO 9

09/11/2018

Date

- 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.

Charles W.
Worsham 918897

Digitally signed by Charles
W. Worsham 918897
Date: 2018.09.11 07:48:34
-05'00'

Charles W. Worsham
Branch Chief Services West, NCO 9

Date

- c. **Division II Chief:** I certify the justification meets requirements for other than full and open competition.

Robert M
Kellner 184085

Digitally signed by Robert M
Kellner 184085
Date: 2018.09.11 08:22:58
-05'00'

Robert M. Kellner
Division II Chief, NCO 9

Date

- d. **DoC NCO 9:** I certify the justification meets requirements for other than full and open competition.

Linda S. Greaves
404790
Linda S. Greaves
Director of Contracting,
Network Contracting Office 9 (NCO 9)

Digitally signed by Linda S.
Greaves 404790
Date: 2018.09.11 09:42:18 -05'00'

Date

- e. **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 approve (\$700K to \$68 million) for other than full and open competition.

TERRY L.
SPITZMILLER
394683

Digitally signed by TERRY
L. SPITZMILLER 394683
Date: 2018.09.11 13:01:15
-04'00'

Terry L. Spitzmiller
Acting Executive Director,
Service Area Office (SAO) Central

09/11/2018

Date