

DEPARTMENT OF VETERANS AFFAIRS

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

Acquisition Plan Action ID: 36C250-18-AP-~~294~~ 2994

1. **Contracting Activity:** Department of Veterans Affairs, NCO 10, Ann Arbor VA Medical Center; 2237 506-19-1-1527-0015

2. **Nature and/or Description of the Action Being Processed:** Contractor shall provide service maintenance to Leica Microsystems Equipment located at the Ann Arbor VA Medical Center. Additionally, the vendor shall provide the software updates to the COR as they will apply any administrative updates to the ScanScope CS2. Maintenance includes all aspects of the proprietary system including emergency repairs Mon-Fri 8 PM to 5 PM.

FAR13.5 Simplified Procedures for Certain Commercial Items: This procurement is for maintenance and software support for Leica Microsystems equipment in accordance with FAR 13.5 Simplified Procedures for Certain Commercial Items.

3. **Description of Supplies/Services Required to Meet the Agency's Needs:** The service maintenance for the equipment and software support includes thirteen pieces of LEICA Microsystems equipment owned by the Ann Arbor VA Medical center. Each line item includes the equipment number and serial number. Silver service package for each piece of equipment includes emergency repairs, certified OEM parts, and software updates, and technical support. Annual planned preventive maintenance inspection is included.

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

- (1) Only One Responsible Source and No Other Supplies or Services Will Satisfy Agency Requirements per FAR 6.302-1;
- (2) Unusual and Compelling Urgency per FAR 6.302-2;
- (3) Industrial Mobilization, Engineering, Developmental or Research Capability or Expert Services per FAR 6.302-3;
- (4) International Agreement per FAR 6.302-4
- (5) Authorized or Required by Statute FAR 6.302-5;
- (6) National Security per FAR 6.302-6;
- (7) Public Interest per FAR 6.302-7;

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):

Leica Microsystems INC. is the only firm capable of providing the supplies and services described for this service. Leica Microsystems INC. is the OEM and provided certified OEM parts and software upgrades for this maintenance service. The demand for high quality and accuracy of the equipment being serviced under the proposed contract is of utmost importance due to the need for accurate diagnosing of cancerous cells via slide preps, strainers, among other things. Leica Microsystems does not authorize third parties to provide this service.

- 6. Description of Efforts Made to ensure that offers are solicited from as many potential sources as deemed practicable:** Intent to sole source was posted on August 8, 2018. The post stated that the Government intends, in accordance with FAR 6.302.1 (only one responsible source and no other supplies or services will satisfy agency requirements), to negotiate on a sole source basis with the LEICA Microsystems INC for this service to provide all parts, materials, labor, supervision, test equipment, technical manuals, and transportation necessary to perform preventative maintenance and unlimited emergency repairs on Government Owned LEICA Microsystems for pathology and the LEICA Aperio ScanScope CS2 (software updates only). No solicitation package is available. A determination not to compete is solely within the discretion of the Government. Any response to this notice must show clear and convincing evidence that competition would be advantageous to the Government. Responses must be received NLT 3:00 PM EST on 08/13/2018. No telephonic inquiries shall be accepted. All responses must be e-mailed to the contracting officer. No responses were received as a result of the post.

- 7. Determination by the CO that the Anticipated Cost to the Government will be Fair and Reasonable:** Price of maintenance for various line items for the is requirement were compared to other contracts. Pricing was found consistent for the Peloris and Scanscope equipment across VA contracts within NCO 10. LEICA provides quotes with 3% increase per year on contracts, which is normal across biomedical maintenance for unlimited maintenance and support due to anticipated increase in maintenance with the age of the equipment. I requested the percent increase per year to be lowered to 2% considering this will be a base plus four one year option contract. LEICA responded with a new quote with a 2% increase from previous year and for each option year.

- 8. Description of the Market Research Conducted and the Results, or a Statement of the Reasons Market Research Was Not Conducted:** As described in Section 6 above, market research, in accordance with FAR part 10, was conducted by synopsis of intent to sole source advising industry of the pending acquisition and providing time for interested parties to submit reason not to sole source.

- 9. Any Other Facts Supporting the Use of Other than Full and Open Competition:** LEICA Microsystems is the OEM for this equipment as stated in paragraph 5 above.

- 10. Listing of Sources that Expressed, in Writing, an Interest in the Acquisition:** Only LEICA Microsystems was sought and provided interest.

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: No actions are planned for the maintenance of this equipment as long as it is in lifecycle use for the Ann Arbor VA Medical Center.

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.

Adam Biddle
Biomedical Engineering
Ann Arbor VA Healthcare System

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.

Christopher D. Gundy
Contracting Officer, NCO 10

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.

Andrew J. Craig
Supervisory Contract Specialist, NCO 10
Branch Chief, Services Team #4