

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

**Acquisition Plan Action ID:** VA257-18-AP-4792

**1. Agency:** Department of Veterans Affairs

**Contracting Activity:** Network Contracting Office 17 (NCO-17)  
7201 W. Interstate 40, Ste. 100  
Amarillo, TX 79106-2612

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

NCO-17 intends to enter into an open market sole source contract with bioMerieux, Inc. for the acquisition of reagents and consumable supplies. The proposed contract action will be a standing-order; where the requested items will be ordered on an as-needed basis throughout the performance of the contract. The proposed contract action will be awarded as a new firm-fixed-price contract action. The contract will consist of a base period of performance of one year and have four option periods. Base period of performance: 10/1/2018 through 9/30/2019.

**FAR13.5 Simplified Procedures for Certain Commercial Items:**

This procurement is for commercial off the shelf reagents and consumable supplies, which will be acquired in accordance with FAR Subpart 13.5, Simplified Procedures for Certain Commercial Items. The contract value, to include the costs of all option periods, is estimated over the SAT.

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

<u>Item#</u>	<u>Description</u>	<u>Product #</u>	<u>Est. Annual Quantity</u>
0001	GN ID Card	21341	100
0002	GP ID Card	21342	50
0003	YST ID Card	21343	20
0004	ETEST Ceftriaxone, TX 30 US 30	412302	6
0005	ETEST Ceftazidime/Avibactam, 30 Strips	419046	4
0006	ETEST Ceftolozane/Tazobactam, US 256	414445	4
0007	ETEST Ceftriaxone, TX 256 US S30	412300	6
0008	ETEST Doripenem, DOR 32 US S30	412325	3
0009	DENSICHEK Plus Standards	21255	5
0010	ETEST Tigecycline, TGC 256 US B100	533548	2
0011	API 20 C AUX, 25 + 25	20210	4
0012	ETEST Vancomycin, VA 256 US S30	412486	8
0013	ETEST Ertapenem, ETP 32 US B30	531640	10
0014	ETEST Benzylpenicillin, PGL 32 US S30	412264	10
0015	ETEST Daptomycin, DPC 256 US S30	412323	5
0016	AST-GP67, 20 Cards	22226	250

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Attachment 2: Request for Sole Source Justification Format >SAT

0017	AST-GN67, 20 Cards	413399	350
0018	ETEST Benzylpenicillin, PGL 32 US F100	502658	1
0019	ETEST Ceftaroline, CPT 32 US B30	537540	4
0020	ETEST Imipenem, IP 32 US S30	412373	10
0021	ETEST Meropenem, MP 32 US B30	513840	10
0022	ETEST Levofloxacin, LE 32 US S30	412392	3
0023	ETEST Moxifloxacin, MX 32 US S30	412410	3
0024	ETEST Linezolid, LZ 256 US S30	412394	3
0025	ETEST Daptomycin, DPC 256 US F100	535058	1
0026	ETEST Meropenem, MP 32 US B100	513848	1

The contract will be considered a standing order; where, the supplies are ordered on an as-needed basis throughout the period of the contract.

**Estimated amount, base period: \$REDACTED**

**Estimated amount, to include all options: \$REDACTED**

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

41 U.S.C. 1901, as implemented by the procedures in FAR Subpart 13.5.

- ( X ) (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:**

FAR Subpart 13.5 authorized the use of simplified procedures for the acquisition of supplies and services in amounts greater than the SAT, but not exceeding \$7 million.

**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 South Texas Veterans Health Care System (STVHCS) Pathology & Laboratory Medicine Service owns and operates two bioMerieux VITEK 2 analyzers. VITEK 2 systems are only intended to be used with proprietary identification (ID), susceptibility (AST) test cards and ETEST antimicrobial strips. bioMerieux is the manufacturer and sole distributor of the VITEK 2 and the associated consumable supplies required to operate the analyzers.

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

A special notice, notice of intent to award a sole source procurement, was posted on the Federal Business Opportunities (FBO) website under 36C25718Q9657 on 7/2/2018. The notice stated that all responsible sources may submit a capability statement, proposal or quotation, which shall be considered by the agency to determine if a comparable source is available and more advantageous to the government. The notice archived in FBO on 7/18/2018 with no responses to the notice.

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

The Contracting Officer has determined the anticipated proposed costs to be fair and reasonable. The Contracting Officer can compare the proposed prices to the price list costs and the costs determined fair and reasonable on previous purchases to determine price fair and reasonable.

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

A search of the mandatory sources of procurement of supplies, UNICOR and Ability One, identified that they do not offer the requested bioMerieux supplies.

A search of GSA Advantage revealed that bioMerieux offers their VITEK 2 analyzers on the website; however, they do not offer their reagents and consumable supplies for the analyzers on GSA.

A search of the Office of Small and Disadvantaged Business Utilization's (OSDBU) Vendor Information Pages (VIP) did not find a Service-Disabled Veteran-Owned Small Business or Veteran-Owned Small Business that can provide the requested supplies. A search of VIP with North American Industry Classification System (NAICS) code 325413 revealed that 24 vendors utilize the NAICS code as a capability. A search of VIP with NAICS 325413 and keyword "bioMerieux" produced no (0) matches. A search of VIP with keyword "bioMerieux" produced no (0) matches.

A search with the Small Business Administration's (SBA) Dynamic Small Business Search (DSBS) tool did not identify a small business that can provide the requested supplies. A search of the DSBS with keyword "bioMerieux" produced no (0) matches.

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

bioMerieux SA provided sole source documents to the requesting activity stating their analyzers and testing materials are proprietary and that bioMerieux is the sole distributor of their products.

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

None

**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:**

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bioMerieux, Inc. is the only firm capable of providing the requested supplies. Market research will be conducted prior to the exercise of options and for new requirements to determine if there have been any changes in the marketplace.

- 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.

Signature:

//SIGNED// 7/27/2018  
REDACTED Date:  
Laboratory Manager  
Pathology & Laboratory Medicine Service  
South Texas Veterans Health Care System

**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.

Signature:

//SIGNED// 8/3/2018  
REDACTED Date:  
Contracting Officer

- 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.

Signature:

//SIGNED// 8/3/2018  
REDACTED Date:  
Chief, Division I  
Network Contracting Office 17, SAO-W