

## DEPARTMENT OF VETERANS AFFAIRS

### Justification and Approval

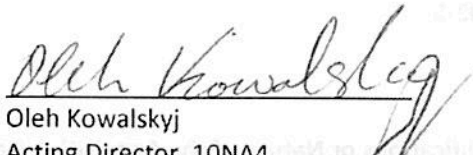
For

### Other Than Full and Open Competition

1. **Contracting Activity:** Department of Veterans Affairs, Program Contracting Activity Central, 6150 Oak Tree Blvd., Suite 300, Independence, OH 44131
2. **Nature and/or Description of the Action Being Processed:** VHACO is seeking a contractor to improve the efficiency of existing electric driven chillers by implementing a Chiller Efficiency Program. This program will use ChillerCheck software manufactured by Chillergy Systems LLC.
3. **Description of Supplies/Services Required to Meet the Agency's Needs:** VHA has identified 23 facilities with 57 chillers to implement the Chiller Efficiency Program using ChillerCheck software. The estimated cost to implement the Program for these selected facilities is \$52,000. The expected period of performance is one year from contract award date.
4. **Statutory Authority Permitting Other than Full and Open Competition:**
  - (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;
5. **Demonstration that the Contractor's Unique Qualifications or Nature of the Acquisition Requires the Use of the Authority Cited Above (applicability of authority):** ChillerCheck software is essential to the Government's requirement because it is the only commercially available software that produces data needed for the Chiller Efficiency Program. Chillergy Systems LLC is the only manufacturer of ChillerCheck software. Chillergy Systems LLC's software, formulae and technology are unique and protected by several issued and pending U.S. patents. Market research indicates other companies' similar products do not meet, or cannot be modified to meet the requirement because substantial duplication of cost to the Government would occur that cannot be recovered through competition.
6. **Description of Efforts Made to ensure that offers are solicited from as many potential sources as deemed practicable:** ChillerCheck software can be purchased directly from Chillergy Systems LLC or third party contractors. Previously there was only one available third party contractor to install the software. Chillergy was contacted and agreed to work with additional third party contractors in order to increase competition.
7. **Determination by the Contracting Officer that the Anticipated Cost to the Government will be Fair and Reasonable:** A comparison of proposed prices received in response to the solicitation will be used to

determine fair and reasonable pricing. Proposals are expected from two or more vendors which will increase price competition. Pricing will also be compared to pricing obtained from the last time this program was implemented at other VA facilities.

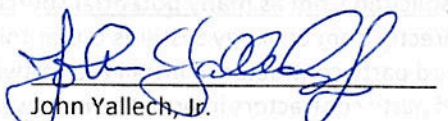
8. **Description of the Market Research Conducted and the Results, or a Statement of the Reasons Market Research Was Not Conducted:** Knowledgeable individuals in Government and industry were contacted regarding market capabilities to meet requirements. The results of recent market research undertaken to meet similar or identical requirements were also reviewed, including market survey for contract VA701-P-0012 conducted in February, 2010. Governmentwide databases of contracts and other procurement instruments intended for use by multiple agencies available at [www.contractdirectory.gov](http://www.contractdirectory.gov), [www.vetbiz.gov](http://www.vetbiz.gov) and GSA eBuy were also queried; however, no contractors offering ChillerCheck are listed on GSA schedules. Product literature published by Chillergy Systems LLC available on-line at <http://chillercheck.com/> was also reviewed.
9. **Any Other Facts Supporting the Use of Other than Full and Open Competition:** Not applicable.
10. **Listing of Sources that Expressed, in Writing, an Interest in the Acquisition:** See Section VI above.
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:** Every effort will be made to encourage Chillergy Systems LLC to work with additional third party contractors in order to increase competition for future procurements.
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.

  
Oleh Kowalskyj  
Acting Director, 10NA4  
VHACO, Office of Healthcare Engineering

Aug 21, 2012  
Date

13. **Approvals in accordance with FAR 6.304**

- a. **Contracting Officer's Certification (required):** I certify that the foregoing justification is accurate and complete to the best of my knowledge and belief.

  
John Yallech, Jr.  
Contracting Officer  
Program Contracting Activity Central

8/21/2012  
Date

- b. NCM/PCM (Required \$3K and above): I certify the justification meets requirements for other than full and open competition.



Richard Dahmen  
Program Contract Manager  
Program Contracting Activity Central

8/22/2012  
Date