

DEPARTMENT OF VETERANS AFFAIRS

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

Acquisition Plan Action ID: 36C242-19-AP-3922

- 1. Contracting Activity:** Department of Veterans Affairs, Veterans Health Administration, Network Contracting Office 02. This procurement supports the following VA VISN 02 facilities:

VAMC Buffalo (VA Western New York Healthcare System)
3495 Bailey Ave
Buffalo, NY 14215

VAMC Batavia (VA Western New York Healthcare System)
222 Richmond Ave
Batavia, NY 14020

VAMC Albany
113 Holland Ave
Albany, NY 12208

VAMC Bath (VA Finger Lakes Healthcare System)
76 Veterans Ave
Bath, NY 14810

VAMC Canandaigua (VA Finger Lakes Healthcare System)
400 Fort Hill Ave
Canandaigua, NY 14424

VAMC Rochester OP Clinic
465 Westfall Rd
Rochester, NY 14620

VAMC Syracuse
800 Irving Ave
Syracuse, NY 13210

VA Rome OP Clinic
125 Brookley Rd # 510
Rome, NY 13441

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

VHA Network Contracting Office 02 intends to award a bridge contract to provide Philips's Picture Archiving and Communication System (PACS) for the Radiology Departments at the VA Medical

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Centers identified above while a replacement system is implemented. This action is intended to ensure continuation of this vital service. The VA National Acquisition Center (NAC) has awarded a long-term replacement of this system. The term of this action will be a one-year base with three 6-month option periods.

Base: October 1, 2019 to September 30, 2020
Option 1: October 1, 2020 to March 31, 2021
Option 2: April 1, 2021 to September 30, 2021
Option 3: October 1, 2021 to March 31, 2022

FAR13.5 Simplified Procedures for Certain Commercial Items: This procurement is for commercial IT Services 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.

3. **Description of Supplies/Services Required to Meet the Agency's Needs:** The estimated value of the base period is \$579,697.00. The total estimated value of the base and all options is \$1,476,244.00.

This requirement is for VISN 02 Upstate VA Medical Centers to continue service of their current FDA approved PACS system which is used to electronically store medical images from modalities in Radiology/Imaging and to transmit images to diagnostic and clinical review workstations. Currently, VISN 2 has their radiology images in a Philips proprietary archive. Continuation of this service is critical and required to ensure patient care is not interrupted.

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;

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 current PACS vendor (Philips) stores image data in a proprietary DTS compression format, along with annotations and markups placed by Radiologists when the images were interpreted. No other vendor can access this database of stored medical images in a seamless and timely fashion. Abrupt

cessation of services would be detrimental to patient care from a quality, safety, time and cost standpoint. As a replacement PACS has been awarded, the transition process will begin shortly. The transition of images from the current proprietary format into a vendor neutral archive is a complex, time consuming process that is likely to take from 18 – 24 months to complete. During the transition period it will be necessary to maintain a contract with the current vendor to ensure the integrity and safe conversion of the data. Only Philips can maintain the functionality of the current PACS solution for clinical care while the data is migrated to a vendor neutral archive. Philips will not need to install or replace any hardware to provide continued service under this agreement. Maintaining the Philips system is the only option that would not severely disrupt clinical operations during the transition period, as the introduction of a new vendor during the transition period is not practical as it would require both Radiologists and Clinicians to access separate systems for comparison of old and new images. Additionally, a new system is already being implemented as soon as is possible.

6. **Description of Efforts Made to ensure that offers are solicited from as many potential sources as deemed practicable:** A public notice of the VA's intent to negotiate with a sole source was posted to FBO from September 3, 2019 to September 10, 2019. No additional sources responded to this notice. Additionally, the replacement system has already been awarded by the VA NAC and utilized competitive procedures.
7. **Determination by the CO that the Anticipated Cost to the Government will be Fair and Reasonable:** Philips has offered continued use of this system at [REDACTED] per study during the base period and [REDACTED] per study during the options. This price is equal to the prices Philips has previously awarded under NAC Task Order VA797N-14-F-0060. A fair and reasonable price determination will in part be based on a comparison of the prices on this task order which have previously been determined to be 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 VIP using NAICS "511210" and keywords "Philips PACS" and "intelliSpace" did not return any results. A search of SBA's DSBS using NAICS "511210" and keywords "Philips PACS" and "intelliSpace" did not return any results. Only limited market research has been conducted as using other than Philips during this transition period would require an entirely new hardware solution that would take as long as the newly awarded system to implement and would therefore be redundant. In addition to the time commitment required, there are significant implementation costs that would be duplicated. Attempting to implement an entirely new PACS solution would not meet the current need. The need for an all new PACS solution has been met through competitive means and is awaiting implementation.
9. **Any Other Facts Supporting the Use of Other than Full and Open Competition:** While this action is being initiated with urgency to prevent a lapse in this critical service, urgency is not one of the reasons this action is being conducted without competition. Having additional time to plan for this procurement would not have allowed for a competitive procurement. In this case, it is unavoidable that the services of the incumbent are required at least until the awardee can begin implementation.

The lack of contractual coverage for this service during this transition period resulted due to a communication breakdown. As the NAC had been the contracting office for the previous contract and the newly awarded contract, the using service believed the NAC would be able to issue a task

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order for the transition period. The NAC is unable to do so because the Philips DIN PACS Contract has expired and they do not award open market contracts at the VISN level for this type of service. Notice was provided to Network Contracting Office 02 on August 27, 2019 that a bridge contract would be required.

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:

Network Contracting Office 02 will work to ensure there is improved coordination and communication between the VISN 2 Medical Center customers, NCO 02 CO's and the National Acquisition 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.

Melinda S
Bishop 189421

Digitally signed by
Melinda S Bishop 189421
Date: 2019.09.11
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Melinda Bishop
PACS Administrator

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.

Joseph R.
Cellino 391287

Digitally signed by Joseph
R. Cellino 391287
Date: 2019.09.11
08:28:27 -04'00'

Joseph Cellino
Contracting Officer
Network Contracting Office 02

- 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.

Cheryl M
Brimmer 113171

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M Brimmer 113171
Date: 2019.09.11
09:24:40 -04'00'

Cheryl Brimmer
Branch Chief, Services Team 1
Network Contracting Office 02

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- c. **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 recommend approval (if over \$68 million) or approve (\$700K to \$68 million) for other than full and open competition.

JOSEPH MALETTA
1347841



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MALETTA 1347841
Date: 2019.09.12 12:27:53
-04'00'

Joseph P. Maletta
Executive Director, Regional Procurement Office – East (RPO-E)
Veterans Health Administration