

Justification for an Exception to Fair Opportunity

FAR 16.505(b)(2)(i)(C) – Logical Follow-on

(1) Identification of the agency and the contracting activity.

This Justification for an Exception to Fair Opportunity is on behalf of VISN 10, VAMC Cleveland, OH, and will be executed by, the Department of Veterans Affairs National Acquisition Center (NAC) located in Hines, Illinois.

(2) Nature and/or description of the action being approved.

This activity intends to issue a sole-source delivery orders against Indefinite Quantity contract VA797H-17-D-0022 awarded to Philips for the purchase of an upgrade to the Advanced Micro-Connector technology, which offers pin-less design for exceptional reliability and performance at the VISN 10, VAMC Cleveland, OH.

(3) A description of the supplies or services required to meet the agency's needs, including the estimated value.

The existing Philips High frequency xMATRIX sector array transesophageal transducer with PureWave Crystal technology is requiring an upgrade. This upgrade includes a fully functional transducer with 8 to 2 MHz extended operating frequency range that images in 2D, Live xPlane, Live 3D, 3D Zoom, Full Volume and 3D color modes. Includes MMode, PW Doppler, CW Doppler, harmonics, true electrocautery suppression, and adaptive autocool. Provides a user configurable button on the handle to assist with certain workflow efficiencies during TEE exam. Includes ECG interface cable, and 1 disposable tip protector. It also includes a 1-year warranty.

The total estimated value is \$484,067.00.

(4) An identification of the exception to fair opportunity (see 16.505(b) (2)) and the supporting rationale, including a demonstration that the proposed contractor's unique qualification or the nature of the acquisition requires use of the exception cited. If the contracting officer uses the logical follow-on exception, the rationale shall describe why the relationship between the initial order and the follow-on is logical (e.g. in terms of scope, period of performance, or value).

The order will be issued on a sole-source basis as logical follow-on to delivery orders VA797H-15-J-0153, VA797H-15-J-0154, VA797H-15-J-0155, VA797H-13-J-0728, VA797H-13-J-0730, VA797A-17-J-0479, and VA797A-16-J-0332; in accordance with FAR 16.505(b)(2)(i)(C). Delivery Order 36A79719N0551 will be awarded under IDIQ contract VA797H-17-D-0022.

This follow-on order will be issued on a sole-source basis to the Philips, as the integration and validation are guaranteed without risk of downtime or delay of services due to incompatibility or the need for further integration development. This is upgrading proprietary software and hardware which only the original vendor can secure, implement and support. No other manufacturer can provide the necessary technology to upgrade the

current purchased system with the VA, without losing compatibility and functionality of the entire system and, also jeopardizing patient care.

- (5) A determination by the Contracting Officer that the anticipated cost to the Government will be fair and reasonable.**

All items are currently on Philip's IDIQ contract VA797H-17-D-0022. The quoted price for each item is at or below the IDIQ not-to-exceed contract price, and the IDIQ contract pricing has been determined fair and reasonable by a contracting officer.

- (6) Any other facts supporting the justification.**

None.

- (7) A statement of the actions, if any, the agency may take to remove or overcome any barriers that led to the exception to fair opportunity before any subsequent acquisition for the supplies or services is made.**

Future requirements will be assessed on a case by case basis and all attempts will be made to provide fair opportunity to all schedule holders.

- (8) The contracting officer's certification that the justification is accurate and complete to the best of the contracting officer's knowledge and belief.**

By signing this justification, the Contracting Officer hereby certifies that the justifications are accurate and complete to the best of their knowledge.

- (9) Evidence that any supporting data that is the responsibility of the technical or requirements personnel (e.g., verifying the Government's minimum needs or requirements or other rationale for an exception to fair opportunity) and which form a basis for the justification have been certified as complete and accurate by the technical or requirements personnel.**

By signing this justification, the requiring activity hereby certifies that the justifications are accurate and complete to the best of their knowledge.

- (10) A written determination by the approving official that one of the circumstances in (b)(2)(i)(A) through (F) of this section applies to the order.**

Based on the information contained herein, a determination has been made that this requirement meets the exception at FAR 16.505(b)(2)(i)(C) since it is a logical follow-on to an order already issued under the contract. All awardees were given a fair opportunity to be considered for the original order.

CERTIFICATION AND APPROVAL

TECHNICAL/REQUIREMENTS CERTIFICATION:

Pursuant to FAR 16.505(b)(2)(ii)(B)(9), I certify that any supporting data that is my responsibility and which forms a basis for the justification is complete and accurate to the best of my knowledge and belief.

Anthony Lelli
VAMC Cleveland, OH
Facility Biomedical Engineer

September 10, 2019
Date

CONTRACTING OFFICER CERTIFICATION:

Pursuant to FAR 16.505(b)(2)(ii)(B)(8), I certify that the justification is complete and accurate to the best of my knowledge and belief.

Glennis M. Haynes
Contracting Officer
VA National Acquisition Center – Hines
High-Tech Medical Equipment Ordering Division

Date

Monica E. Mende
VA National Acquisition Center – Hines
Chief, High-Tech Medical Equipment Ordering-B Division

Date