

DEPARTMENT OF VETERANS AFFAIRS

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

Acquisition Plan Action ID: 36C770-20-AP-0103

1. Contracting Activity:

Department of Veterans Affairs
Network 15 Contracting Office (NCO 15)
3450 South 13th Street
Leavenworth, KS 66048

Department of Veterans Affairs,
VA CMOP Leavenworth
5000 S. 13th St
Leavenworth KS 66048

Purchase request number: 761-20-1-014-0026 –

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

- J&A addressing limiting sources of competition for MedSurg RFQ due to:
 - o mandated Grey Market Requirements (GMR)
 - o physician mandated Name Brand Only (NBO)
- GMR specify Original Equipment Manufacturer (OEM) only.
- NBO specify no generic MedSurg item bid accepted
- GMR specify only OEM authorized dealers, and distributors can bid.
- MedSurg Vendor bids without OEM authorization will not be accepted
- GMR limits competition to only OEM authorized Vendors.
- NBO limits competition to only those Vendors who carry Name Brand Only.
- There are more than one OEM/NBO authorized Vendors.

FAR13.5 Simplified Procedures for Certain Commercial Items:

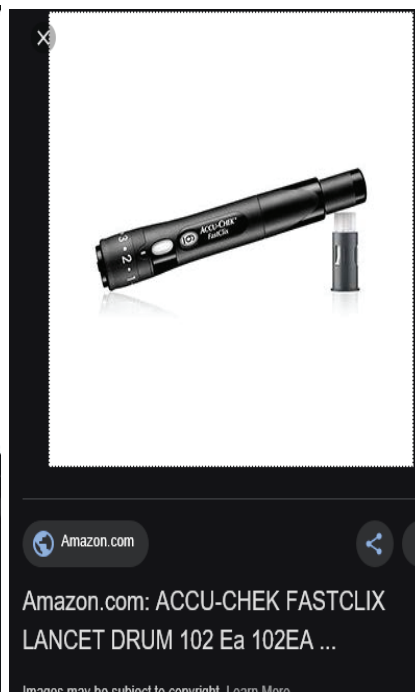
This procurement is for MedSurg Supply Item, in accordance with FAR 13.5 Simplified Procedures for Certain Commercial Items and specifically FAR 13.501 Special Documentation Requirements, where acquisitions conducted under Simplified Acquisition Procedures are exempt from the requirements of FAR Part 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

1	ONE TOUCH VERIO (GLUCOSE) TEST STRIP	53885-0272-10	Name Brand Only	LifeScan	100perBX	1200	BX
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2	LANCET, ACCU-CHEK FASTCLIX DRUM	65702-0288-10	Name Brand Only	AccuCheck	102perDrum	744	BX
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3	LANCET,TRUEDRAW DEVICE	56151-0142-01	Name Brand Only	SunMark	1 EA	500	EA
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4	SENSOR, GLUCOSE, ELECTRODE, ENLITE SENSOR, GLUCOSE VALUES RELAYED TO PUMP/CGM MONITOR	MMT-7008A	Name Brand Only	Medtronic	5perBX	192	BX
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Enlite™ Sensor (5 pack)
Product Code: MMT-7008A

5	TABLET CRUSHER	7685-0700-29	Alt NDC	APEX	1 EA	300	EA
5a			76855-0700-71	APEX			
5b			79573-0009-16	ACU-LIFE			
5c							



6	RESERVOIR MINIMED	MMT-332A	Name Brand Only	Medtronic	10perBX	1800	BX
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MMT-332A MINIMED® 3.0 ML RESERVOIR (10/Box) from Medtronic ...

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).

- VHAPM Part 813.106-1/2 The Grey Market requirements limits competition to Manufacturer authorize distributors, and authorized resellers.
- Only OEM authorized Vendors can submit bids for the MedSurg item listed in the RFQ.
- Only Vendors who carry the MedSurg Name Brand Only items can bid.

5. Demonstration that the Contractor's Unique Qualifications or Nature of the Acquisition Requires the Use of the Authority Cited Above (applicability of authority):

- This is not a J&A for a Sole Source procurement.
- This a J&A for a Name Brand Only Items - available from multiple suppliers.
- Name Brand Only is designated under Physician's Orders.
- The attending Physician has prescribed Name Brand MedSurg items - noted above - for Veteran Patient Use.
- The CMOP facility and CMOP contracting office do not have the authority to arbitrarily change or modify the Physician's Prescription (i.e. substitute a generic brand for a name brand).
- Within the Veterans Health Administration brand name drugs and medical surgical (MedSurg) products may be prescribed by physicians when in their clinical judgment the brand name drug/MedSurg will provide a better therapeutic outcome for patients.
- Brand name drugs and MedSurg are requested when there is a clinical requirement for the drug/product or there is history of clinical requirements for the drug/product and inventory must be maintained to meet anticipated requirements.

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

Solicitation 36C77020Q0085, MedSurg Items - will be posted to FedBizOps as a limited competition. A pre-solicitation notice was posted to FedBizOps on 11/6/2019.

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

The CO anticipates the cost will be considered fair and reasonable based on the following:

- CO anticipates bids from two or more SDVOSB Vendors who carry these MedSurg items in their catalogues.
- Comparison against historical purchases.
- Comparison to the IGCE.

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

- Vip.Vetbiz.Va.Gov search NAICS Code 325413 shows 22 SDVOSB's capable of bidding.
- The CO has a reasonable expectation that two or more SDVOSBs will bid on this RFQ.
- There are authorized vendors who sell the above MedSurg products or can get the product from an authorized source.
- RFQ will be posted as an SDVOSB Set-Aside

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

- These are reoccurring "Name Brand Only" MedSurg procurements.
- MedSurg Vendors have submitted bids in the past on these Name Brand Only RFQs.
- Commercial Vendors understand/agree on the reasoning behind Name Brand Only items.
- At no time have any RFQs with Name Brand Only Items been Protested based on restricting competition.
- Historically Name Brand Only MedSurg RFQs are awarded to SDVOSB Suppliers.

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

- 3T Federal Solutions – SDVOSB
- Veterans Healthcare Supplies – SDVOSB
- Marathon Medical Corp – SDVOSB

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:** None.

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.

Brittany Mejia

Brittany Mejia
Inventory Mgmt Specialist
761 CMOP Logistics Office

10-31-19

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.

Julian S. Lake 251184

Digitally signed by Julian S. Lake
251184
Date: 2019.11.06 14:37:34 -06'00'

Julian Lake
Contracting Officer
NCO15/CMOP Division

Date