

DEPARTMENT OF VETERANS AFFAIRS  
Justification and Approval  
For  
Other Than Full and Open Competition

1. **Contracting Activity:** Department of Veterans Affairs, VISN 8, James A. Haley VA Hospital (JAHVAH). This is a Justification for Other Than Full and Open Competition under purchase request 673-13-1-023-0012.
2. **Nature and/or Description of the Action Being Processed:** This action is to procure histology laboratory testing supplies and will be awarded as a new firm fixed price type contract.
3. **Description of Supplies/Services Required to Meet the Agency's Needs:** This requirement is to procure reagents, antibodies and preparation kits essential to accomplish patient diagnostic testing. These supplies are necessary to continue operation of Immunohistochemistry (IHC), In Situ Hybridization (ISH) and Special Stains (SS) instruments in the Histology laboratory. The delivery date for these supplies is December 10, 2012. The total estimated value of this acquisition is \$496,316.
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;
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 VA owned Ventana Medical Systems Inc diagnostic instrumentation requires unique reagents and prep kits not available from any other source. The current supply of in vitro diagnostic substances will only meet the JAHVAH requirements through December 7, 2012. These supplies are needed at once to continue patient testing critical to providing Veteran care. Accordingly, Ventana Medical Systems, Inc. is the only vendor capable of providing the supplies described in Section 3 above to meet the urgent delivery requirement without the Veteran's Health Administration experiencing unacceptable delays in fulfilling its patient testing requirements.
6. **Description of Efforts Made to ensure that offers are solicited from as many potential sources as deemed practicable:** Efforts to seek competition included review of the Department of Veterans Affairs Federal Supply Schedule 65VII for In Vitro Diagnostics, Reagents, Test Kits and Test Sets. The schedule includes eight vendors, none of which could provide reagents in the timeframe required or those compatible with the equipment presently used in the JAHVAH histology laboratory. Efforts are currently underway to establish a VISN wide requirements type contract to accomplish the diagnostic testing on a cost per test basis. That contract is expected

to be awarded in January 2013. Once that contract is awarded, future requirements will be competed amongst those awardees. This proposed action will not be synopsised in accordance with the exception at FAR 5.202(2) since the JAHVAH would be seriously injured if the agency complied with the time periods specified in FAR 5.203.

7. **Determination by the Contracting Officer that the Anticipated Cost to the Government will be Fair and Reasonable:** As the Contracting Officer, I hereby determine that the anticipated cost will be fair and reasonable based on reviewing historical contract pricing under previous contract VA248-12-C-0136 and comparison of similar supplies under existing Federal Supply Schedules.
8. **Description of the Market Research Conducted and the Results, or a Statement of the Reasons Market Research Was Not Conducted:** In accordance with FAR Part 10, market research has been conducted for this acquisition. Techniques included (1) reviewing the results of recent market research undertaken to meet identical requirements accomplished under Contract No. VA248-12-C-0136; (2) applying personal knowledge in procuring similar supplies; (3) reviewing VAFSS schedule 65VII which provides for in vitro diagnostics, reagents, test kits and test sets. The schedule includes eight vendors, none of which could provide reagents compatible with the equipment presently used in the JAHVAH histology laboratory. All research indicated that the testing supplies could not be provided by any other source than the original manufacturer of the VA owned Ventana Medical Systems, Inc. instrumentation.
9. **Any Other Facts Supporting the Use of Other than Full and Open Competition:** None.
10. **Listing of Sources that Expressed, in Writing, an Interest in the Acquisition:** See paragraph 6 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:** Efforts are currently underway to establish a competitive VISN wide requirements type contract to accomplish the diagnostic testing on a cost per test basis. Once that contract is awarded, future requirements will be competed amongst those awardees. The planned award date of October 2012 has been delayed and it is now anticipated that the contract will be awarded in January 2013.

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.

Nancy Hartline for Onaly Baker      11-27-2012  
Onaly Baker      Date  
Histology Supervisor  
James A. Haley VA Hospital

**Approvals in accordance with FAR 6.304**

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

Michael Wilson      12-5-12  
Michael Wilson      Date  
Contracting Officer

**Product Line Supervisor (PLS):** I certify that the foregoing justification is accurate and complete to the best of my knowledge and belief.

Ronald Music      12-10-12  
Ronald Music      Date  
Contracting Officer  
Acting Team Lead/PLS