

DEPARTMENT OF VETERANS AFFAIRS

Justification and Approval  
For  
Other Than Full and Open Competition

*Surgical/Medical Implants*

1. **Contracting Activity:** NCO-15, 4101 S. 4<sup>th</sup> Street Trafficway, Leavenworth, KS 66048

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

The contract is for the purchase of Prosthetics Supplies and Accessories for surgery on a patient at the Veterans Administration Medical Center in Kansas City, MO. The physician determined that the device(s) selected were the most appropriate to serve the specific needs of this patient during surgery and beyond surgery due to the complexity of the procedure and unique characteristics. Due to unique operations of the stations surgical department there was no time to allow for full and open competition of this requirement. The items listed in the sole source justification has already been implanted into the patient.

3. **Description of Supplies/Services Required to Meet the Agency's Needs:**

This action is based on an emergency purchase of Prosthetic Supplies and Accessories from the vendor Medtronic USA, Inc. for the Kansas City, MO. VAMC (Prosthetics). This is a procurement conducted under FAR 6.302-5, Authorized or required by statute.

<u>Qty:</u>	<u>Part Number:</u>	<u>Description:</u>	<u>Price:</u>	<u>Extended Price:</u>
6	8351500	Set Screw	\$193.00	\$1,158.00
5	8351520	Small Connector	\$1,480.00	\$7,400.00
1	1556001070	70mm Rod	\$660.00	\$660.00
2	83565409	6.5x40 Screw	\$715.00	\$1,430.00
1	83565459	6.5x40 Screw	\$715.00	\$715.00
3	83565509	6.5x40 Scew	\$715.00	\$2,145.00
1	8115530	30mm x 10 Crslink	\$2,083.00	\$2,083.00
1	8351521	Medium Connector	\$1,510.00	\$1,510.00
4	2991226	10x26 Capstone Interbody	\$6,120.00	\$24,480.00
1	1556001080	Rod 80mm	\$660.00	\$660.00

Total estimated cost for the items needed to fulfill the stations request is \$42,241.00

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
- (X) (5) Authorized or Required by Statute FAR 6.302-5; see also 38 U.S.C. 8123 and 41 U.S.C. 253(c)(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):**

Surgically/medically implanted products are specified by the clinical team to meet the unique and comprehensive needs of each Veteran patient with an identified medical indication. The specific product described above has been determined by the physician to be the best product to treat the Veteran patient's medical condition and functional limitations. Substituting an implant with other than that specifically prescribed is beyond the role, competency and professional functions of the contract specialist, and would be detrimental to the treatment of the Veteran patient. Full and open competition for the above described implant negates the clinician's subject matter expertise as related to the medical treatment for the individual Veteran. In this case the by name Prosthetic Supplies and Accessories are the specific prescription and method of treatment for the veteran patient as determined by a clinician.

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

The Prosthetic Supplies and Accessories needed by the Kansas City VAMC for the patient, in this instance, were chosen by the clinician based upon a medical determination made by a clinician based upon the patients needs.

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

VAAR 806.302-5(B) (1) Allows exception to full and open competition for prosthetics appliance in accordance with 38 U.S.C. 8123 and 41 U.S.C. 253(c)(5). The prices quoted were the vendors standard commercial price for the parts offered to any hospital.

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

Market research was conducted, but a determination was made that substituting a surgical/medical implant with other than that specifically prescribed is beyond the role, competency and professional functions of the contract specialist, and would be detrimental to the treatment of the Veteran patient. Pricing is consistent with the vendors list price for these items and there were no reasonable comparables that could be located by the contract specialist. Pricing is deemed fair and reasonable based upon this.

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

The patients clinician chose the product offered by Medtronic USA, Inc. based upon a clinical evaluation of the patient resulting in a determination as to the most suitable product to be used on the patient.



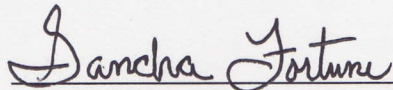
**10. Listing of Sources that Expressed, in Writing, an Interest in the Acquisition:**

No other sources were considered or evaluated based upon a clinical determination of which product was to be used.

**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:**

Based on the physician determination, no action can be taken in this case based upon the medical determination of the most suitable product to be used. Prosthetics and NCO-15 will continue to encourage rotating vendors who might offer the same or similar surgical implants to the clinicians providing care to the patients.

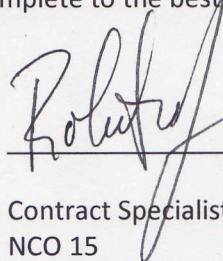
**12. Requirements Certification:** I certify that the requirement outlined in this justification is a Bona Fide Need of the Department of Veterans Affairs and that the supporting data under my cognizance, which are included in the justification, are accurate and complete to the best of my knowledge and belief.

  
Sandra Fortune  
Purchasing Agent/Kansas City VAMC

3/26/13  
DATE

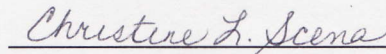
**13. Approvals in accordance with FAR 6.304**

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

  
Contract Specialist  
NCO 15

3/26/2013  
DATE

b. **NCM/PCM (Required \$3K and above):** I certify that the foregoing justification is accurate and complete to the best of my knowledge and belief.

  
Christine L. Scena  
Network Contract Manager  
NCO 15

3-27-2013  
Date