

## DEPARTMENT OF VETERANS AFFAIRS

### Justification and Approval

For

### Other Than Full and Open Competition

1. **Contracting Activity:** Department of Veterans Affairs, SAO West, VISN 18, El Paso Network Contracting Office (258) 5001 N. Piedras St El Paso, TX 79930-4210 proposes to enter into a firm-fixed price contract on the basis of justification for other than full and open competition for the Department of Veterans Affairs, West Texas VA Healthcare System, 300 W Veterans Blvd Big Spring, TX 79720-5566, under purchase request number 519-13-2-984-0022.
2. **Nature and/or Description of the Action Being Processed:** This is a request for other than full and open competition for VRMagic Eyesi Gold Software Package for the Ophthalmology Department. The contract action will be firm-fixed price contract for \$29,920.00. The period of performance for this procurement will be from April 1, 2013 through March 31, 2016. The proposed contractor is VRMagic Inc, 245 First St Cambridge, MA 02142.
  - April 1, 2013 to March 31, 2014 - \$9,973.33
  - April 1, 2014 to March 31, 2015 - \$9,973.33
  - April 1, 2015 to March 31, 2016 - \$9,973.33
  - Total - \$29,920.00
3. **Description of Supplies/Services Required to Meet the Agency's Needs:** The Biomedical Engineering Department requires software updates in order to ensure the modules are functioning at their best ability. The contract also includes a training module of Ophthalmology's choice so that they may expand the ability and use of their surgical simulator to best meet their needs. The Eyesi surgical simulator is designed, manufactured, and sold by VRMagic Inc. The simulator is currently the only surgical simulator designed to aid in the teaching of ophthalmic surgery. The updates include:
  - All Eyesi software updates to existing modules and operating systems for 36 months
  - All Eyesi simulation modules released for the purchased hardware during the 36 months term
4. **Statutory Authority Permitting Other than Full and Open Competition:** 41 USC §253(g), as implemented by FAR 6.302;  
  
(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;

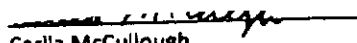
5. **Demonstration that the Contractor's Unique Qualifications or Nature of the Acquisition Requires the Use of the Authority Cited Above (applicability of authority):** These software updates/upgrades are essential to provide continued and uninterrupted support for the Ophthalmology Departments' simulator. If this service is not provided then the surgical simulator would not be available for the staff to receive training and the simulator may not perform to its full function because available upgrades/updates were not available on the system, VRMagic Inc. is the sole source manufacturer and does not distribute their proprietary software upgrade packages. The required updates are to a surgical simulator that the contractor only allows their trained engineers to work on as they have proprietary software upgrades and passwords. VRMagic does not support third party technical services on their equipment. If a different vendor provided service, the hospital could incur additional costs to correct any issues that arise and would cause interruption of existing system/support. The Government is not capable of providing these resources in-house, VRMagic Inc is the sole vendor that can meet the service requirements for a reasonable price. Furthermore, due to proprietary rights and processes, the current contractor is the only source that can provide this support and guarantee non-interruption of services.
6. **Description of Efforts Made to ensure that offers are solicited from as many potential sources as deemed practicable:** Market research was conducted, details of which are in the market research section of this document. Other than full and open competition is anticipated for the required software updates/upgrades. A Sources Sought Notice was posted on Federal Business Opportunities (FBO) on February 5, 2013 with a response date of February 12, 2013. Only one response was received which was from VRMagic Inc, the original equipment manufacturer (OEM). If this action is approved, this justification for Other Than Full and Open Competition will be posted on the Government Point of Entry (GPE), Federal Business Opportunities (FBO) with the Notice of Award after the award of the proposed contract.
7. **Determination by the Contracting Officer that the Anticipated Cost to the Government will be Fair and Reasonable:** Pricing techniques as described in FAR 15.404-1 (b) (2), were used to determine the price to be fair and reasonable. The price to the Government at \$9,973.33 per year is considered fair and reasonable based on historical price analysis. A search was conducted in the FPDS database to see if other VA Contracting Officers had procured similar software updates/upgrades. The result was purchase order VA248-13-P-1568 from VISN 8 for similar software updates/upgrades priced at \$10,140.00 for one (1) year, which is \$166.67 more the quote received for this requirement. Therefore, price is 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:** Market research was conducted and it led to the decision that the software updates/upgrades could not be done using GSA/FSS schedules and no other vendor is able to provide the software updates/upgrades. VRMagic Inc is the original equipment manufacturer (OEM) and has not 3<sup>rd</sup> party suppliers or regional agents under contract. Accordingly all products manufactured by VRMagic Inc can only be ordered through them.
9. **Any Other Facts Supporting the Use of Other than Full and Open Competition:** VRMagic Inc has been providing the required software updates/upgrades since 2007 to other VA medical centers with no problems in performance. Due to the contractor's proprietary rights to provide the

software updates/upgrades, no other vendor can provide this software and the Government is currently unable to seek efficient competition.

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:  
VRMagic Inc is the original equipment manufacturer (OEM) and has not 3<sup>rd</sup> party suppliers or regional agents under contract. Accordingly all products manufactured by VRMagic Inc can only be ordered through them.


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.

  
Carila McCullough  
Facility Chief Logistics Officer  
West Texas VA Healthcare System

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Date

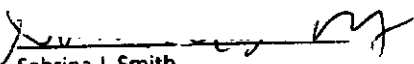
13. Approvals in accordance with FAR 6.304

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

  
Carlos Jaquez  
Contracting Officer  
VISN 18, NCO/SAO-West

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Date

b. NCM/PCM Approval (Required S3K and above): 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 for other than full and open competition.

  
Sabrina J. Smith  
Network Contract Manager  
VISN 18, NCO/SAO-West

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Date