

Attachment 2: Request for Sole Source Memo Format

DEPARTMENT OF VETERANS AFFAIRS

Justification and Approval

For

Other Than Full and Open Competition

1. **Contracting Activity:**

VISN 3,  
Department of Veterans Affairs,  
James J. Peters VA Medical Center  
130 West Kingsbridge Road,  
Bronx, NY 10468

**Requesting Agency:**

Department of Veterans Affairs  
James J. Peters VA Medical Center  
Attn: Urology Department, Lisahia Horton,  
130 West Kingsbridge Road,  
Bronx, NY 10468

Reference PR: 526-13-1-4562-0002

2. **Nature and/or Description of the Action Being Processed:** The GreenLight Laser System is used (on BPH Patients) in a saline solution for the localization of tumors in the rectum, liver, kidney, prostate and/or pancreas. This request is a one-time, New Contract action and is a Firm Fixed-Price contract type.

3. **Description of Supplies/Services Required to Meet the Agency's Needs:** The GreenLight Laser System technology is state-of-the-art system to be used in the Operating Room and is compatible with the da Vinci Robot. This Operating Room system allows the user to drop in a probe to better perform a biopsy on the identified areas and excise or treat them. Estimated dollar value is [REDACTED] and the Required Delivery date is open-ended, but item usually ships 1-4 weeks from date of order. The requested items for this requirement are as follows:

Item Number	Description	QTY
a. 0010-0210	GreenLight XPS Laser System	1 each
b. 0010-7030	Glasses, Eye Protection 532nm	7 pair
c. 0010-0008	Glasses, Laser, Physician – 532-1064	3 pair
d. 0010-0721	Insert, Video Camera (1.25in Diam)	1 each
e. 0010-0722	Insert, Video Camera (.95in Diam)	1 each
f. 3131	Product Manuals	2 each
g.	Service and Operational Manuals	2 each

More information can be found at <http://www.amsgreenlight.com/>.

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**4. Statutory Authority Permitting Other than Full and Open Competition:**

*41 USC §253(c) (1), as implemented by FAR 6.302-1.*

- (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):**

Request that this requirement be restricted to the following source:

AMS Solution for Life  
10700 Bren Road West,  
Minnetonka, MN 55343

POC: John McMillian [REDACTED]

The GreenLight XPS Laser System will interface with the daVinci Robot already installed and used by Operating Room personnel. If we were to compete this highly-specialized equipment, we would also need to replace the existing interfacing support, namely the daVinci Robot, at a much higher cost and lengthier procurement time. Accordingly, AMS Solution for Life is the only firm capable of providing the supplies and services described in Section III above without the Veteran's Health Administration experiencing substantial duplication cost that could not be expected to be recovered through competition and unacceptable delays in fulfilling its requirements.

It is essential to use the brand-name "GreenLight" because its patented technology is state-of-the-art and will improve patient quality AND is compatible with already existing Operating Room infrastructure (daVinci Robot). The laser system is a minimally invasive treatment option, with fewer side effects that could significantly decrease rates of infection, patient's length of stay, quicker returns to normal activities and less than 24 hours of catheterization (in most cases). GreenLight is a brand produced by AMS, the recommended sole source manufacturer, and is the only laser system for this end use that is compatible with the daVinci Robot.

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

A Sources Sought Notice was posted to FBO on 3/05/2013 with a response date of 3/14/2013. The solicitation number was VA243-13-I-0727. The Notice announced the customer's requirements and solicited for information pertaining to any interested vendors that could meet the requirements. Two responses were made. One response by T1S Federal was unsatisfactory in that it did not answer the required questions of the Notice, nor did it accurately identify the requirement. The other response was from AMS, in which they provided a Sole Source Letter. IAW 10 USC 2304(c)(1), only one responsible

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source was identified. No other actions will be taken to facilitate competition for this acquisition due to sole-source legitimacy.

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

The anticipated cost will be considered fair and reasonable because similar requirements posted to FBO reveal very similar costs.

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

This item is a commercial item and is NAISC 334510 – Electromedical and Electrotherapeutic Apparatus Manufacturing (Laser systems and equipment, medical, manufacturing). The Small Business Size Standard for NAISC 334510 is 500 employees.

This item is manufactured exclusively by American Medical Systems, INC, a part of Endo Health Solutions. According to the System for Award Management (SAM), American Medical Systems, INC has 1,210 employees, on average.

The best possible Schedule in the FSS for this item would be Schedule 65IIA, SIN A-9 (Medical Equipment and Supplies – Scopes, Medical). Forty-six contractors are listed on this schedule with 4 VOSB, 3 of which are SDVOSB. However, AMS, as a sole-source, is not listed on the FSS, which means that this requirement cannot be fulfilled as an FSS eBuy.

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

None

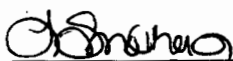
**10. Listing of Sources that Expressed, in Writing, an Interest in the Acquisition:**

See Section VI 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:**

No actions are planned. This requirement is a one-time request, but even if it weren't, AMS created a sole-source limitation by creating a patented technology that is compatible with a limited-use item. This is keen market competition created by the manufacturer/vendor for their benefit.

**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.



Lisa Smothers  
Inventory Management Supervisor  
CP Urology

4-22-13

Date

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13. **Approvals in accordance with FAR 6.304** This part if filled out by Contracting Staff as part of the Justification

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

  
William B. Mills

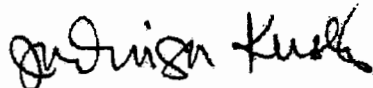
William B. Mills  
Contract Specialist  
10N3/NCO

4/22/2013

Date

- b. **NCM/PCM (Required \$3K and above):** I certify the justification meets requirements for other than full and open competition.

for



Yolanda C. Borges  
Network Contract Manager, NCO 3

17-May-2013

Date

Title Ms. Jadwiga Kustra, DNCM  
Facility NCO 3

- c. **SAO (If over 500K):** I certify the justification meets requirements for other than full and open competition.

Name  
Director  
Service Area Office, East

Date

- d. **VHA HCA Review and Approval:** 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 (if over \$10million) or approve (\$500K to 10 million) for other than full and open competition.

Name  
Chief Procurement and Logistics Officer  
VHA Head of Contracting Activity (HCA)

Date