

## **DEPARTMENT OF VETERANS AFFAIRS**

### **Justification and Approval For Other Than Full and Open Competition**

#### **1. Contracting Activity:**

Department of Veterans Affairs, VISN 20, Puget Sound VA Medical Center, 1660 S. Columbian Way; Seattle WA 98108.

#### **2. Nature of the Action Being Processed:**

This procurement is being processed under purchase request number 663-13-3-113-0076. The contracting officer has determined the circumstances of the contract action deem only one source reasonably available due to urgency. A delay in award of a contract would result in serious injury, financial or other, to the Government. A verbal authorization was granted and IFCAP Obligation number 663-A30205 was issued for vendor to begin requested work on June 17, 2013.

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

Biomedical Department required Original Equipment manufacturer (OEM) to troubleshoot, diagnose and repair the Seattle VA's Elekta Synergy System. We have a service contract, VA260-13-C-0028, for the install of parts, which will only install factory parts purchased through them. The aforementioned contract excludes glassware. The Elekta Synergy System is inoperable without the replacement of the required part and patients cannot be treated with total body irradiation. Purchase Order 663-A30205 had been issued in the amount of \$44331.53 to allow for the contractor to begin work.

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

The statutory authority for restricting competition under SAP, or Single Sourcing, for acquisitions under \$150,000 or Simplified Acquisition Threshold (SAT) is **41 U.S.C. 253(c), as implemented by FAR 13.106-1(b)(1)**. The contracting officer has determined that the circumstances of the contract action deem only source reasonably available due to urgency. This justification is where in accordance with FAR 6.001(a), acquisitions conducted under FAR 13 for SAP are exempt from the requirements of FAR Part 6, but still require a justification using the format of FAR 6.303-2, IAW the VHA SOP for Other Than Full And Open Competition dated 3-22-2011.

**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 Total Body Irradiator is broken and this part is the required fix. Elekta has the repair contract, however due to the potentially high cost of glassware (some items cost over \$200,000 each) and the inability to predict which items would need to be replaced and when, it was determined that the cost of a fixed-price service contract inclusive of glassware would be unreasonably expensive. Elekta's repair technician installed a part on 6/12/2013, and upon the installation of that part, discovered that this part was also broken. There was no way to know that the second part was broken because the first part hid the issue on the troubleshooting. Verbal authorization has been given for the vendor to install the part and the Radiation Oncology department should be fully functioning today. Any other vendor would have voided the service contract which specifies the use of brand-name glassware. There is a patient who was scheduled for treatment on 6/12/2013 and has been delayed for 5 days already. Any additional delays in patient care are unacceptable.

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

This procurement was purchased under extreme urgency and even oral solicitations would have caused an unreasonable delay to the repair of this critical medical equipment.

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

The anticipated cost to the Government is \$44,331.53. The cost is fair and reasonable based on FAR 13.106-3(a)(2)(iv) and a comparison with similar items in a related industry, a magnetron was purchased by the Department of the Navy on 8/22/11 for \$65,940.00, which the contracting officer has determined is a similar item, and is 50% more. Also, in accordance with FAR 13.106-3(a)(2)(iii), published price lists, the service agreement we have with Elekta entitles us to a 15% discount off standard pricing.

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

Market research was not conducted as need was of an urgent nature and an OEM certified technician was required.

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

Service of this equipment by any other vendor would have increased installation cost, as well as voided the maintenance and repair contract in place with Elekta.

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

ELEKTA INC

**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:**

The Contracting officer recommends modification of the current service and repair contract to include the published price list and applicable discount, or the end user can consider purchasing an enhanced service and repair contract which covers all glassware.

**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.



Jeanette Thielen  
Chief Biomedical Engineer  
Puget Sound Health Care System

6-14-13  
Date

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

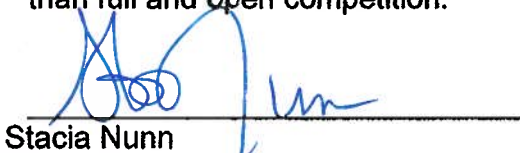
- a. **Contracting Officer's Certification:** (required) I certify that the foregoing justification is accurate and complete to the best of my knowledge and belief.



Bethany Ireton  
NCO 20 Contracting Officer  
Supply Team B

6/17/2013  
Date

- b. **NCO 20 Contracts Manager:** I certify the justification meets requirements for other than full and open competition.



Stacia Nunn  
NCO 20 Team Manager  
Supply Team B

6/17/2013  
Date