

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

**1. Contracting Activity:** Network 23 Contracting Office (NCO 23) – Iowa City, 1303 5<sup>th</sup> St, Suite 300, Coralville, IA. 52241. 636-14-1-4045-0003

**2. Nature and/or Description of the Action Being Processed:** This will be a fixed price contract. This is a new PO for annual maintenance/service for a BD Immunocytometry FACSCalibur flow cytometry units for both Tissue Typing and Pathology & Lab

**3. Description of Supplies/Services Required to Meet the Agency's Needs:** Service Contract for BD Immunocytometry FACSCalibur Flow Cytometry units per Statement of Work to cover preventive maintenance and emergency repair of equipment. Estimated Cost: \$25,869. Anticipated period of performance: 10/1/13 – 9/30/14.

**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):**

Any other company would not have access to the software keys for this equipment, as they are proprietary. Additionally, they will not sell Original Equipment Manufacturer parts to a third party service company. We cannot allow reverse engineered or refurbished parts to be used in medical equipment. Third party service providers would also not be able to obtain certification of training from the manufacturer, as it is not available. Only certified manufacturer trained personnel are allowed to work on this equipment.

**6. Description of Efforts Made to ensure that offers are solicited from as many potential sources as deemed practicable:** When new equipment is purchased it will be done using a competitive process.

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

The Contracting Officer will make a fair and reasonable determination by using one of the following methods:

1. Comparison of proposed prices received in response to the solicitation.

2. Comparison of previously proposed prices and previous Government and commercial contract prices with current proposed prices for like items.
3. Use of parametric estimating methods/application of rough yardsticks to highlight significant inconsistencies that warrant additional pricing inquiry.
4. Comparison with competitive published price lists, published market prices of commodities, similar indexes, and discount or rebate arrangements.
5. Comparison of proposed prices with independent Government cost estimates.
6. Comparison of proposed prices with prices obtained through market research for the same or similar items.
7. Analysis of pricing information provided by the offeror.

**8. Description of the Market Research Conducted and the Results, or a Statement of the Reasons**

**Market Research Was Not Conducted:** Spoke with representative from BD Immunocytometry. He stated that software troubleshooting keys and OEM parts are proprietary to their company and not available to third party organizations. He also stated that training courses are not available to 3<sup>rd</sup> party service organizations.

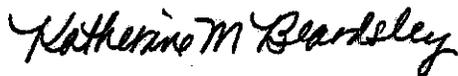
**9. Any Other Facts Supporting the Use of Other than Full and Open Competition:** This equipment is highly sensitive and specialized. A malfunction of this equipment could cause patient misdiagnoses and resulting improper treatment. The manufacturer holds parts and service information as proprietary, so there would be no third party service available for full coverage of the equipment, unless reverse engineered or refurbished parts were used, which is unacceptable. Only Original Equipment Manufacturer (OEM) parts may be used. If service were to be performed by a third party, all liability would be on the Iowa City VAMC for any possible equipment malfunctions.

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

Applied Biosystems Corp.  
850 Lincoln Center Dr.  
Foster City, CA 94404  
800-327-3002

**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:** None, there are no other vendors that can provide the service for the equipment. When replacement equipment is procured, that process will be done competitively.

**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.



Katherine M. Beardsley  
Supervisory Biomedical Engineer  
Iowa City VA Healthcare System

6/3/13

Date

1. **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.

  
Contracting Officer  
NCO 23 – Iowa City

6-18-13  
Date

**FCM(Required \$3K and above):** I certify the justification meets requirements for other than full and open competition and I approve for other than full and open competition.

\_\_\_\_\_  
Russell Grabill  
Facility Contract Manager  
NCO 23 – Iowa City

\_\_\_\_\_  
Date

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

N/A

\_\_\_\_\_  
Name  
Director  
Service Area Office, East

\_\_\_\_\_  
Date

- c. **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.

N/A

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

\_\_\_\_\_  
Date

- d. **VA Deputy Senior Procurement Executive Approval (over \$10 million but not exceeding \$50 million):** I have reviewed the foregoing justification and find it to be complete and accurate to the best of my knowledge and belief and approve for other than full and open competition.

N/A

\_\_\_\_\_  
C. FORD HEARD  
Deputy Senior Procurement Executive (DSPE)  
Office of Acquisition and Logistics  
Department of Veterans Affairs

\_\_\_\_\_  
Date

- e. **VHA Senior Procurement Executive Approval (over \$50 million)**: I have reviewed the foregoing justification and find it to be complete and accurate to the best of my knowledge and belief and approve for other than full and open competition

N/A

\_\_\_\_\_  
Jan R. Frye

\_\_\_\_\_  
Date

Deputy Assistant Secretary for Acquisition and Logistics  
Senior Procurement Executive (SPE)  
Department of Veterans Affairs