

## DEPARTMENT OF VETERANS AFFAIRS

### Justification and Approval (J&A) For Other Than Full and Open Competition (>SAT)

Acquisition Plan Action ID: 36C246-19-AP

1. **Contracting Activity:** Department of Veterans Affairs, VISN 06, Durham VA Medical Center NCO 06/RPO East PR# 558-20-1-044-0011.
2. **Nature and/or Description of the Action Being Processed:** This is a new requirement for consumables for the Vitros 3600.

**FAR13.5 Simplified Procedures for Certain Commercial Items:** This procurement is for consumables for the Vitros 3600 system in accordance with FAR 13.5 Simplified Procedures for Certain Commercial Items and specifically FAR 13.501 Special Documentation Requirements, where acquisitions conducted under Simplified Acquisition Procedures are exempt from the requirements of FAR Part 6, but still require a justification using the format of FAR 6.303-2.

3. **Description of Supplies/Services Required to Meet the Agency's Needs:** This procurement is for the following consumables for the Vitros 3600:
  - 25 EA: Eci A-HBC 100 wells US
  - 25 EA: Eci A-HBS IGM 52 wells
  - 44 EA: Eci A-HBS QUANT 100 wells US
  - 105 EA: Eci A-HCV 100 wells US
  - 34 EA: Eci HBSAG 100 wells US
  - 24 EA: HAV Total
  - 10 EA: HAV Igm

Total cost for the entire procurement including options will be \$759,784.20. The period of performance will be from October 1, 2019, to September 30, 2024.

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

- ( 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;

**FAR13.5 Simplified Procedures for Certain Commercial Items:** The authority for applying the Simplified Procedures for Commercial Items of FAR 13.5 is 41 U.S.C. 1901 and is implemented by for restricting competition on this procurement via FAR 13.106-1(b)(2).

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 Vitros 3600 is a proprietary system of Johnson & Johnson. This is a highly specialized system that P&LMS and Microbiology section uses to perform Hepatitis A and B testing and Hepatitis C screenings for Durham, Greenville, and Morehead CBOC's and Hepatitis C screening for the Asheville VA. The Vitros system is also the only system that does not require the implementation of a water system. Which will help the VA conserve water and protect the environment and employees from any waste.

Any change in the system at this point would require retraining for both the medical staff and the bioengineer section which would cost the Government in unacceptable delays to direct patient care. The Government would also incur substantial duplication cost's due to changing the entire system that is currently in use at Durham, Greenville, Morehead, and Asheville. Both the delays and cost of changing systems are not expected to be recovered through competition.

6. **Description of Efforts Made to ensure that offers are solicited from as many potential sources as deemed practicable:** A sources sought was issued on August 2<sup>nd</sup>, 2019 and closed August 9<sup>th</sup>, 2019. The sources sought detailed the products that are being requested, along with the location of place of performance, period of performance, and the system that the consumables were being used for. The only 2 sources that responded to the sources sought was the manufacturer and AM Scientific Supply. AM Scientific Supply indicated on August 9th that they were looking into if they could provide products in sources sought. As of August 26<sup>th</sup>, 2019 they have not sent a follow up indicating they will be able to provide the product requested in the sources sought.

Other searches that were conducted to facilitate competition were searches to the procurement history on FPDS. The CS had gone back 4 years and all procurements have been made through the manufacturer's FSS schedule. GSA eLibrary was searched using key Vitros under SIN 66 III and only the manufacturer populated in the search. GSA Advantage was also searched and only the manufacturer was found to be able to provide products requested. NAC MedSurg and FBO were also searched and no vendors were found to be able to provide the products the Government is requesting.

7. **Determination by the CO that the Anticipated Cost to the Government will be Fair and Reasonable:** The CS anticipates the cost will be fair and reasonable because item is on FSS and according to FAR 8.404 (d) "GSA has already determined the prices of supplies... 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:** Per VA's Veterans First Contracting Program the CS has exhausted all avenues in trying to find Veteran Owned businesses by searching VIP and sending out correspondence to all SDVOSBs and VOSBs under the NAICS code 325413. All respondents that sent correspondence back indicated that they were a no-bid.

As described in Section 6 above, market research, in accordance with FAR Part 10, was conducted by a synopsis of the proposed acquisition, advising industry of the pending acquisition and soliciting inquiries from interested parties. It has been determined that only one responsible source to be able to meet the Governments need and past procurement history is in line with this determination.



9. **Any Other Facts Supporting the Use of Other than Full and Open Competition:** Product is specific to a highly specialized system. This system is the proprietary technology of Johnson & Johnson.
10. **Listing of Sources that Expressed, in Writing, an Interest in the Acquisition:** Ortho Clinical Diagnostics – DBA Johnson & Johnson and AM Scientific Supply.
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:** At this time no actions are planned to overcome any barriers to competition as the Vitros 3600 is specialized technology that meets the needs of the Veterans Affairs Medical Centers.
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.

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LARISA 234965  
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Kerrie Larisa  
Supervisory Technologist P&LMS  
Durham VAMC

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Date

13. **Approvals in accordance with the VHAPM Part 806.3 OFOC SOP:**

- a. **Contract Specialist & Contracting Officer:** I certify that the foregoing justification is accurate and complete to the best of my knowledge and belief.

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Isaac Hernandez  
NCO/PCO 06 Contract Specialist  
Fayetteville VAMC

JAMES W.  
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James Brown  
NCO/PCO 06 Contracting Officer  
Fayetteville VAMC

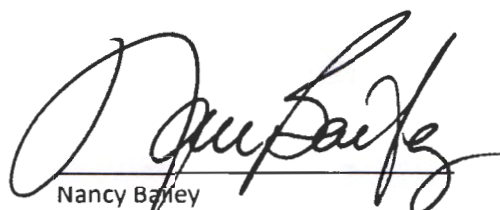
- b. **One Level Above the Contracting Officer (Required over SAT but not exceeding \$700K):** I certify the justification meets requirements for other than full and open competition.

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Keeshia Newman  
NCO 06/RPO East Branch Chief - Supervisor  
Hampton VAMC

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Date

- c. **VHA SAO 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 \$68 million) or approve (\$700K to \$68 million) for other than full and open competition.



Nancy Bailey  
VHA Head of Contracting Activity (HCA)

9-17-19  
Date