Department of Veterans Affairs
Office of Acquisition and Logistics
National Acquisition Center
P.O. Box 76
Hines, IL 60141

RPO WEST JA TRACKER#:
FY26-NCO-20-1881

36C260-24-AP-1682 - Philips
Xper SMA Boise VAMC
[redacted]

Class Justification for an Exception to Fair Opportunity
FAR 16.505(b)(2)(i)(B) – Only one capable source

(1) Identification of the agency and the contracting activity.

This class justification for an exemption to fair opportunity (JEFO) is on behalf of the Equipment Lifecycle Management (ELCM) program within the Veteran's Healthcare Administration (VHA) and will be executed by the Department of Veteran's Affairs (VA) National Acquisition Center (NAC) located in Hines, IL.

(2) Nature and/or description of the action being approved.

This activity proposes to issue sole source delivery orders against Indefinite Delivery, Indefinite Quantity (IDIQ) contract VA797H-17-D-0022 awarded to Philips Healthcare for the purchase of annual service maintenance to existing equipment located at individual VHA medical facilities. Requirements that are executed by VHA local contracting offices can be processed under the authority of the class JEFO. A copy of the class JEFO must go in the award file for all requirements processed under authority of this class JEFO. This class JEFO will apply to all service maintenance agreement orders placed under the subject contract commencing with the date of approval of this class JEFO through December 22, 2026 at the end of the contract period of performance.

(3) A description of the supplies or services required to meet the agency's needs, including the estimated value.

The VHA has ongoing requirements for post-warranty maintenance services for previously acquired and installed Philips Healthcare Radiology and Imaging Systems. Service Maintenance Agreement (SMA) orders are awarded annually, and cover high tech medical equipment (HTME) which includes, but is not limited to, Computed Tomography (CT) scanners, Magnetic Resonance Imaging (MRI) systems, radiographic systems (X-Ray), nuclear medicine, ultrasounds, computed radiography, magnetoencephalography, Positron Emission Tomography (PET)-CT, PET-MR scanners, cyclotrons, angiography, cardiac catheterization, and mammography systems, etc. There are approximately 170 medical facilities across the VHA and facilities house high tech medical equipment. Each SMA will be awarded on its own delivery order or in certain instances when needed, such as, multiple agreements on one delivery order. Past pricing has shown that SMAs range from $50K - $1M. The exact need of the medical facility differs based on its specific radiology service and maintenance requirement purchases but will not exceed 12 months.

(4) An identification of the exception to fair opportunity (see 16.505(b)(2)) and the supporting rationale, including a demonstration that the proposed contractor's unique qualification or the nature of the acquisition requires use of the exception

cited. If the contracting officer uses the logical follow-on exception, the rationale shall describe why the relationship between the initial order and the follow-on is logical (e.g. in terms of scope, period of performance, or value).

Orders will be issued as sole source in accordance with FAR 16.505(b)(2)(i)(B). All orders will be issued under IDIQ VA797H-17-D-0022.

Under the auspices of the VA-DLA Joint Radiology Imaging Systems Program IDIQ initial delivery orders for new radiology and imaging system requirements are competed amongst the IDIQ holders, and all HTME requirements include a warranty with the requirement purchase. After the warranty is exhausted a service maintenance agreement is required to cover the lifecycle of the equipment purchase. Because the requirements are already purchased and have not exhausted their lifecycle, purchasing the service maintenance in support of the equipment after post warranty ensures the equipment is compliant with VHA technology standards and policies. The contractor's Radiology & Imaging Systems are proprietary; therefore, any follow-on maintenance should be performed directly by the original equipment manufacturer (OEM) and not outsourced to a third-party to maintain the integrity of the equipment and to avoid servicers not familiar with the products causing damage to the equipment. If damage is caused by a third-parties in the course of repairs, then the Government could be held liable for additional costs associated with repairs performed by the OEM after damage has occurred. As such, the work can only be completed by one source, which is the OEM of the equipment.

(5) A determination by the Contracting Officer that the anticipated cost to the Government will be fair and reasonable.

All items are currently on Philips Healthcare IDIQ contract VA797H-17-D-0022 and have previously been determined fair and reasonable at time of award. Likewise, pricing is reviewed during the modification process and line items modified to be added are also determined to be fair and reasonable during the modification process.

Market research was conducted by ELCM by performing an analysis of historical pricing, which included services, training and incidental services related to the equipment purchases. Additionally, a business case analysis (BCA) was conducted supporting the benefits associated with VHA local contacting stations awarding the SMA delivery orders to the OEM, which highlighted the seamless coordination with VHA technology standardization after equipment installation and established cybersecurity.

(6) Any other facts supporting the justification.

As notated in the ELCM BCA, issuing this class JEFO would reduce the administrative burden the VHA local contracting offices assume when issuing the SMAs. The National Acquisition Center, VA NAC, issues approximately 1000 equipment delivery orders each year and each piece of equipment has a post-warranty service agreement for approximately five years (yearly maintenance agreements). The issuance of this class JEFO allows the

local contracting offices to save time and this will create a seamless process for the contracting specialist/officer to timely award the SMA without interruption to on-going patient care.

(7) A statement of the actions, if any, the agency may take to remove or overcome any barriers that led to the exception to fair opportunity before any subsequent acquisition for the supplies or services is made.

At this time, there are no actions that can be taken to remove or overcome barriers that lead to the exception to fair opportunity. The Government will continue to conduct market research to ascertain if there are changes in the marketplace that would enable future action to be competed; however, all future requirements will be handled on a case-by-case basis to determine any future acquisition strategy.

(8) The contracting officer's certification that the justification is accurate and complete to the best of the contracting officer's knowledge and belief.

By signing this justification, the Contracting Officer hereby certifies that the justifications are accurate and complete to the best of their knowledge.

(9) Evidence that any supporting data that is the responsibility of the technical or requirements personnel (e.g., verifying the Government's minimum needs or requirements or other rationale for an exception to fair opportunity) and which form a basis for the justification have been certified as complete and accurate by the technical or requirements personnel.

By signing this justification, the NAC/HTM and ELCM agree the justification is accurate and complete to the best of their knowledge.

(10) A written determination by the approving official that one of the circumstances in (b)(2)(i)(A) through (F) of this section applies to the order.

Based on the information contained herein, a determination has been made that this requirement meets the exception at FAR 16.505(b)(2)(i)(B). Only one source can provide the required supplies and services. All awardees were given fair opportunity to be considered for the original order.

CERTIFICATION AND APPROVAL

TECHNICAL/REQUIREMENTS CERTIFICATION:

Pursuant to FAR 16.505(b)(2)(ii)(B)(9), I certify that any supporting data that is my responsibility and which forms a basis for the justification is complete and accurate to the best of my knowledge and belief.

DANIEL CRESPO 260355 Digitally signed by DANIEL CRESPO 260355 Date: 2020.12.17 13:40:22 -06'00'

12/17/2020

Daniel C. Crespo Date
Deputy Program Manager – Equipment Life Cycle Management

CONTRACTING OFFICER CERTIFICATION:

Pursuant to FAR 16.505(b)(2)(ii)(B)(8), I certify that the justification is complete and accurate to the best of my knowledge and belief.

Ann English 217355 Digitally signed by Ann English 217355 Date: 2020.12.17 14:20:48 -06'00'

Ann English Date
Contracting Officer
VA National Acquisition Center – Hines
High Tech Medical Equipment Contract Administration

Monica E. Mende 1720416 Digitally signed by Monica E. Mende 1720416 Date: 2020.12.18 11:05:37 -06'00'

Monica E. Mende Date
Supervisory Contracting Officer
VA National Acquisition Center – Hines
Chief – High-Tech Medical Equipment Contract Administration

HEAD OF CONTRACTING ACTIVITY APPROVAL:

CRAIG ROBINSON 254508 Digitally signed by CRAIG ROBINSON 254508 Date: 2021.01.19 08:37:21 -06'00'

Craig Robinson Date
Associate Executive Director
VA National Acquisition Center – Hines
Head of Contracting Activity (orders > $13.5M up to $68M)
Pursuant to 16.505(b)(2)(ii)(C))