

**U.S. DEPARTMENT OF VETERANS AFFAIRS  
VETERANS HEALTH ADMINISTRATION**

**Justification and Approval (J&A)  
For  
Other Than Full and Open Competition**

**1. Contracting Activity:**

Department of Veterans Affairs, Network Contracting Office (NCO) 15, Consolidated Mail  
Outpatient Pharmacy (CMOP) Acquisitions, 3450 S. 4<sup>th</sup> Street Trafficway, Leavenworth, KS 66048

**2. Nature and/or Description of the Action Being Processed:**

This procurement is for scanner maintenance of Opex Scanners 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.

Period of performance is 10-1-2017 to 9-30-2022.

Contractor shall provide maintenance of the following scanners, of which such equipment and maintenance is proprietary to the Original Equipment Manufacturer (OEM), Opex Corporation:

Opex Scanner

Model AS 7200i, with Model 72 Rapid Extraction Desk

Location: Dublin MbM, 2103 Veterans Boulevard, Dublin, GA 31021

Opex Scanner

Model AS 7200i, with Model 72 Rapid Extraction Desk

Location: Cheyenne MbM, 5353 Yellowstone Road, Cheyenne, WY 82009

NAICS Code is 333318 (Other Commercial and Service Industry Machinery Manufacturing)  
Product Service Code is J075 (Maintenance and Repair of Offices Supplies and Devices)

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

This is a new requirement to provide continued maintenance on Scanner equipment contract that was previously handled by the OEM/Incumbent Contractor under VA741-12-F-0182 to provide two (2) scanners to Meds by Mail.

Services include demand call and preventative maintenance to cover scanners cited above. Demand call is defined as a request for maintenance which shall be unlimited in number during the contracted period of time. The maintenance contract includes all labor and replacement parts, excluding consumable items necessitated by normal wear and tear from normal use of the Opex machines. Preventative maintenance is conducted six (6) times a year to check on the operation of the equipment and make any adjustments to the machines if required.

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

The authority for applying the Simplified Procedures for Commercial Items of Federal Acquisition Regulation (FAR) Subpart 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).

Additionally, per FAR 13.106 (b)(1), one source is being solicited as on the basis of being one source available due to exclusive licensing agreement as further detailed in Item 5 below.

**5. Demonstration that the Contractor's Unique Qualifications or Nature of the Acquisition Requires the Use of the Authority Cited Above:**

Opex Corporation, 305 Commerce Drive, Moorestown, NJ 08057-4215, is the Original Equipment Manufacturer (OEM) and holds proprietary rights to such equipment and maintenance thereof.

Per written documentation from Opex Corporation, maintenance of this equipment is proprietary to Opex Corporation. Since this Contractor owns the proprietary maintenance rights of this application, it is impossible for any other company to provide support for this application.

Opex Corporation owns the proprietary rights to maintain these scanners, thus being impossible for any other company to provide support for application as Opex Corporation has sole rights and does not allow for authorized resellers or dealers of such products/services.

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

As this is the only source able to provide such support for this requirement and as the Contractor has proprietary rights, it was not practicable for the Contracting Officer to solicit offers from other sources at this time.

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

This procurement is for one (1) base and up to four (4) option years. The Contracting Officer will review proposed pricing of Contractor to ensure price fair and reasonableness in accordance with FAR 13.106-3 (a)(2), including comparison to the government cost estimate and historical contract pricing. The estimated value of the proposed action is \$158,236.57.

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

Rule of Two Analysis to Determine SDVOSB or VOSB Available

A review of Service Disabled Veteran Owned Small Businesses (SDVOSB) and Veteran Owned Small Businesses (VOSB) under NAICS 333318 was conducted at Vet Biz at <https://www.vip.vetbiz.gov/>. While there were approximately 50 such businesses listed, these businesses could not provide acceptable offers, as this service is proprietary to Opex Corporation and does not allow for authorized dealers. If this were not to become proprietary over the long term, a robust competitive set-aside to SDVOSB or VOSB would be contemplated by the Government based on market research results.

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

Not Applicable

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

Not Applicable

**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 present, there is no anticipated need for competition beyond this contract as long it is verified by the Government that Contractor has proprietary rights. However, if these proprietary rights expire and/or the Government has identified alternate scanner equipment/related maintenance needs due to programmatic or budgetary changes, the Government will conduct robust market research with the intent to identify potential sources and ensure a competitive solicitation going forward with emphasis on setting aside (in order of priority) to Service Disabled Veteran Owned Small Businesses, Veteran Owned Small Businesses, and other Small Businesses. Full and Open Competition would be considered only if set-aside options cited above are not practicable.

**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.

Kevin S.  
Jessup 240569

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Kevin S. Jessup  
Contracting Officer Representative (COR)  
VA Meds by Mail

\_\_\_\_\_  
Date

**13. Approvals:**

**Contracting Officer:**

I certify that the foregoing justification is accurate and complete to the best of my knowledge and belief.

Douglas H. Reed  
1114517

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Douglas H. Reed  
Contracting Officer, NCO 15/CMOP Acquisitions

\_\_\_\_\_  
Date

**Branch Chief (as authority delegated by Director of Contracting):**

I certify the justification meets requirements for other than full and open competition.

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Linda S. Bayer  
Supervisory Contract Specialist, NCO 15/CMOP Acquisitions

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Date