

DEPARTMENT OF VETERANS AFFAIRS

Justification and Approval (J&A)
For
Other Than Full and Open Competition (>\$150K)

Acquisition Plan Action ID: VA249-17-AP-6555

1. **Contracting Activity:** Department of Veterans Affairs, VISN 09, Lexington Medical Center Network Contracting Office 09. 596-18-1-077-0038
2. **Nature and/or Description of the Action Being Processed:** This procurement is for a sole source award to Olympus America Inc. to accomplish full service repair and maintenance on 14 special purpose Olympus endoscopes 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:** The Lexington VA Medical Center requires a full service repair contract for 14 Olympus special purpose endoscopes. The service procurement is for a base and two option years. The independent government cost estimate for the base and two option years is \$290,372.25. The base year period of performance is October 1, 2017 to September 30, 2018. Option year one period of performance is October 1, 2018 to September 30, 2019 and Option year two period of performance is October 1, 2019 to September 30, 2020 if exercised.
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;
5. **Demonstration that the Contractor's Unique Qualifications or Nature of the Acquisition Requires the Use of the Authority Cited Above (applicability of authority):** Olympus America Inc. is the Original Equipment Manufacturer (OEM). Olympus America Inc. does not have any authorized third party firms for endoscope repair and maintenance services, nor does Olympus sell original equipment manufacturer parts, tools, or jigs from to any third party. In addition, use of non-Olympus parts may invalidate the limited warranty, and will invalidate the reprocessing (cleaning and disinfection) instructions provided in the device's instructions for use. (Reference August 17, 2017 letter submitted by the Olympus America Inc., Chief Contracting Officer). Respondents to a source sought notice open to all businesses did not provide any documentation they were authorized by Olympus America Inc. to accomplish repairs and maintenance on Olympus endoscopes. To promote competition, the Lexington VAMC could purchase new endoscopes, with the same capabilities, from companies which have authorized third party service repair vendors. However, the initial investment in Olympus endoscopes is already a sunk cost. Purchasing new endoscopes to promote competition for service and repair contracts is not prudent. Accordingly, Olympus America Inc., the OEM for the endoscopes requiring full service repair, is the only firm capable of providing the services described in Section 3 above without the Veteran's Health Administration experiencing substantial duplication of cost that could not be 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: Sources Sought Notice VA249-17-Q-1012 was posted on August 13, 2017 to obtain information regarding the availability and capability of all qualified sources, small and other than small businesses, to provide Full Service, Maintenance and Repair Service for Olympus endoscopes. This includes providing loaner endoscopes if required.

- Full repair coverage with no cap for all contracted equipment
- Accidental damage coverage no additional charge
- Within 48-hour turn-around-time on repairs
- Next day shipping free of charge
- 24x7 technical support
- On-site training
- Access to loaner equipment free of charge
- All repairs and maintenance completed by Olympus-trained, qualified, personnel

Responses were due by August 16, 2017, 12:00 P.M. CT.

Three potential quoters responded:

1. iMed Biomedical, Inc. Verified SDVOSB Company. A review of the Capabilities Statement sent did not provide any specific capabilities in repairing endoscopes at all or any certifications or qualifications for accomplishing repairs and maintenance on Olympus endoscopes models listed. Their VetBiz website provided no information to support any capability to repair endoscopes.

2. Olympus America Inc. A review of the Capabilities Statement sent provides all the services listed in the Description of Services to include priority access to available loaner endoscopes.

- Comprehensive service program that provides full repair coverage with no cap for all contracted equipment, including electronics
- Pre-paid, two-way shipping included
- Repairs take priority during the receiving and inspection process
- Unrestricted access to technical support 24 hours a day, 7 days a week
- 24/7 online repair tracking through an easy-to-use customer website:
olympusamerica.com/service portal
- Unlimited educational courses through Olympus University at no additional charge
- In addition, on Aug 17, 2017, Olympus America Inc. provided a letter confirming the company does not have any authorized third party firms for endoscope repair and maintenance services, nor does Olympus sell original equipment manufacturer parts, tools, or jigs from to any third party. In addition, the letter states, use of non-Olympus parts may invalidate the limited warranty, and will invalidate the reprocessing (cleaning and disinfection) instructions provided in the device's instructions for use.

3. Mountain States Biomedical Services Inc. Verified SDVOSB Company responded after 12:00P.M. CT. The company did not provide a Capabilities Statement with their response or any information in the email to support their capability to accomplish endoscope repairs. Their VetBiz website provided no information to support any capability to repair endoscopes.

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

Reasonable: The anticipated cost will be considered fair and reasonable and based on the independent government cost estimate. Olympus America Inc. Full Maintenance Repair Service option provides for fixed price per scope per year pricing and allows the government to lock in future years pricing for up to two years after the base year contract.

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

Research Was Not Conducted: AbilityOne was reviewed for potential sources of endoscope full service repair and none were found. The VA Vendor Information Page was searched for potential SDVSOB and

VOSB businesses potential sources of endoscope full service repair. Five verified SDVOSBs were found with NAICS 811219 listed as possible sources. Two SDVOSBs responded to Sources Sought Notice VA249-17-Q-1012. Neither provided information to support their capability to accomplish the services described.

9. **Any Other Facts Supporting the Use of Other than Full and Open Competition:** None

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

- a. iMed Biomedical, Inc.
- b. Olympus America Inc.
- c. Mountain States Biomedical Services 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:** No actions are planned to remove or overcome barriers to competition for full service repair of the Olympus endoscopes identified. The basis for using option provisions is to support the requesting services anticipated need to provide complete services for a base year and two, one-year pre-priced option year renewals in lieu of providing three separate contracts. This type of option provision allows the contractor to offer different prices for the base year and each successive option year.

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.

	8-30-2017
_____ Jennifer L. Cooper Biomedical Engineer Lexington VAMC	_____ Date

13. **Approvals in accordance with the [VHAPM, Volume 6, Chapter VI: OFOC SOP](#).**

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

	8/30/2017
_____ Craig S. Ziegemeier Contracting Officer, NCO-09	_____ Date

- b. **Branch Chief (Required over\$150K but not exceeding \$300K):** I certify the justification meets requirements for other than full and open competition.

	_____ Date
_____ Charles W. Worsham Branch Chief – Services West NCO-09	