

**LIMITED SOURCES JUSTIFICATION**

**ORDER >\$150,000**

**FAR PART 8.405-6**

**Acquisition Plan Action ID: VA242-17-AP-1975**

This acquisition is conducted under the authority of the Multiple Award Schedule Program. The material or service listed in par. 3 below is sole source, therefore, consideration of the number of contractors required by FAR Subpart 8.4 – Federal Supply Schedules, is precluded for the reasons indicated below.

**Restricted to the following source:**

**Olympus America, Inc.**  
Meaghan Hogan, PH: 917.284.2803  
3500 Corporate Parkway  
Center Valley, PA 18034-0610

The requested material or service represents the minimum requirements of the Government.

**(1) AGENCY AND CONTRACTING ACTIVITY:**

Department of Veterans Affairs  
New York Harbor Healthcare System  
Brooklyn Campus  
800 Poly Place  
Brooklyn, NY 11209-7104

**VISN:**

02

**(2) NATURE AND/OR DESCRIPTION OF ACTION BEING APPROVED:** This is a request for approval of a delivery order under VA NAC contract V797P-2065D for equipment lease and full service maintenance, with a purchase option, of various medical surgical equipment, to be used at the Brooklyn VA Medical Center. This procurement will be conducted in accordance with FAR Part 8. The purpose of the equipment lease with purchase option and full service agreement is to reduce service costs and improve equipment turn-around time and reliability. This will be a firm-fixed price delivery order contract from contract V797P-2065D with an anticipated period of performance of September 1, 2017 through August 31, 2018, and two lease and service option years and a purchase option. NOTE: Price for purchase option cannot be determined at this time; in accordance with FAR 7.402(b)(4), a formula will be provided in the purchase option CLINs which shows how the purchase price will be established at the time of purchase.

**(3) (a) A DESCRIPTION OF THE SUPPLIES OR SERVICES REQUIRED TO MEET THE AGENCY'S NEED:**

The Brooklyn VA Medical Center requires that the Contractor shall lease to the Government Olympus trays, scopes and laparoscopic tower with an option to purchase. The purpose of the equipment lease with purchase option and full service agreement is to reduce service costs and improve equipment turn-around time and reliability. This will be a firm-fixed price delivery order contract from contract V797P-2065D with an anticipated period of performance of September 1, 2017 through August 31, 2018, and two lease and service option years and a purchase option. NOTE: Price for purchase option cannot be determined at this time; in accordance with FAR 7.402(b)(4), a formula will be provided in the purchase option CLINs which shows how the purchase price will be established at the time of purchase.

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**(b) ESTIMATED DOLLAR VALUE:** \$458,142.48 (total), consisting of \$271,834.92 NAC items and \$186,307.56 open market items (See FAR 6 sole source justification for open market items).

**(c) REQUIRED DELIVERY DATE:** September 1, 2017

**(4) IDENTIFICATION OF THE JUSTIFICATION RATIONALE (SEE FAR 8.405-6), AND IF APPLICABLE, A DEMONSTRATION OF THE PROPOSED CONTRACTOR'S UNIQUE QUALIFICATIONS TO PROVIDE THE REQUIRED SUPPLY OR SERVICE.**

Specific characteristics of the material or service that limit the availability to a sole source (unique features, function of the item, etc.):

Olympus America, Inc. is the only company that can provide all the necessary OEM parts and perform all the necessary returns and repairs for the Olympus America, Inc. surgical equipment described above due to VHA Handbook 1761.1 – Standardization of Supplies and Equipment Procedures. It is VHA policy to standardize to the maximum extent possible the types and categories of supplies and equipment VHA purchases, consistent with patient care and practitioner needs. Standardization is expected to facilitate best-value product pricing through volume purchasing and facilitate the delivery of high-quality health care. The requesting service has standardized with Olympus America, Inc. since 2012. Purchasing universal alternatives would cause issues with standardization, which could lead to significant patient risk.

A patent, copyright or proprietary data limits competition. The proprietary data is:

Olympus America, Inc. is the only company that can provide all the necessary OEM parts and perform all the necessary returns and repairs for the Olympus America, Inc. surgical equipment described above due to VHA Handbook 1761.1 – Standardization of Supplies and Equipment Procedures. It is VHA policy to standardize to the maximum extent possible the types and categories of supplies and equipment VHA purchases, consistent with patient care and practitioner needs. Standardization is expected to facilitate best-value product pricing through volume purchasing and facilitate the delivery of high-quality health care. The requesting service has standardized with Olympus America, Inc. since 2012. Purchasing universal alternatives would cause issues with standardization, which could lead to significant patient risk.

**(5) DESCRIBE WHY YOU BELIEVE THE ORDER REPRESENTS THE BEST VALUE CONSISTENT WITH FAR 8.4 TO AID THE CONTRACTING OFFICER IN MAKING THIS BEST VALUE DETERMINATION:**

The Contractor has an indefinite delivery contract with the Department of Veterans Affairs on the GSA Federal Supply Schedule and is an incumbent Contractor for this requirement. The anticipated cost is considered fair and reasonable based on the FSS contract having already been determined fair and reasonable. Award to Olympus America, Inc. for standardized items as a National Acquisition Center (NAC) Order represents the Best Value to the Government.

**(6) DESCRIBE THE MARKET RESEARCH CONDUCTED AMONG SCHEDULE HOLDERS AND THE RESULTS OR A STATEMENT OF THE REASON MARKET RESEARCH WAS NOT CONDUCTED:**

Due to the proprietary nature, Olympus America, Inc. is the only company than can access its systems remotely and offer certified parts that meet the original equipment manufacturer's specifications.

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Olympus America, Inc. technicians are the only OEM trained and certified personnel authorized to perform work on this equipment. However, GSA Advantage/e-buy, VetBiz, Ability One and the VA NAC MedSurg Catalog were used to determine if there were any other sources of providing service maintenance agreements on the Philips equipment.

**(7) ANY OTHER FACTS SUPPORTING THE JUSTIFICATION:**

Some items are not available from the NAC contract and are priced on the open market; see FAR 6 Exception to Fair Opportunity for those items. The Contractor shall also provide full maintenance service support for the leased equipment, but that is also priced on the open market and is included in the FAR 6 Exception to Fair Opportunity. FAR 7.4 – Equipment Lease or Purchase applies. Clause 52.207-5 shall be included in the delivery order.

**(8) A STATEMENT OF THE ACTIONS, IF ANY, THE AGENCY MAY TAKE TO REMOVE OR OVERCOME ANY BARRIERS THAT LED TO THE RESTRICTED CONSIDERATION BEFORE ANY SUBSEQUENT ACQUISITION FOR THE SUPPLIES OR SERVICES IS MADE:**

In situations involving medical equipment, it is difficult to remove barriers to competition because the OEM is the only qualified company capable to provide the repair and maintenance of its own medical equipment. This is especially true where proprietary software, specific diagnostics tools, and specialized electronics are used to maintain the equipment in accordance with OEM specifications and VA facilities practice standardization. Unless the manufacturer chooses to license its software and authorize local service providers to maintain the Olympus equipment, the only alternative would be to replace the existing Olympus America, Inc. equipment with a more generic brand. At this time, Brooklyn VAMC is satisfied with the quality and operation of the installed equipment, its maintenance and repair. Brooklyn VAMC currently does not have the sufficient budget to replace the Olympics equipment. Considerations for new equipment will be made when the existing equipment reaches the end of its life cycle span.

**(9) 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. I understand that processing of this limited sources justification restricts consideration of Federal Supply Schedule contractors to fewer than the number required by FAR Subpart 8.4.



Chief of Surgery  
New York Harbor Healthcare System

July 24, 2017 \_\_\_\_\_  
Date

**(10) APPROVALS IN ACCORDANCE WITH THE VHAPM, Volume 6, Chapter VI: OFOC SOP:**

**a. CONTRACTING OFFICER'S CERTIFICATION (required):** I certify that the foregoing justification is accurate and complete to the best of my knowledge and belief.

[REDACTED]

Contracting Officer  
NCO 2 Hudson Valley Healthcare System – FDR Campus

July 24, 2017  
Date

**b. Director of Contracting/DESIGNEE:** I certify that the foregoing justification is accurate and complete to the best of my knowledge and belief.

[REDACTED]

Acting Director of Contracting  
Network Contracting Office (NCO 2)

August 7, 2017  
Date

**No other signatures are required.**