

**DEPARTMENT OF VETERANS AFFAIRS**

**Justification and Approval (J&A)**

**For**

**Other Than Full and Open Competition (>\$150K)**

**Acquisition Plan Action ID: VA242-17-AP-4547**

- 1. Contracting Activity:** Department of Veterans Affairs, VISN 02, New York Harbor Healthcare System (NYHHCS) Brooklyn Campus located at 800 Poly Place, Brooklyn, NY 11209-7104. Biomedical Engineering Services of the NYHHCS, Brooklyn Campus, has submitted Purchase Request Number 630-17-2-4422-0048. This is a Justification for Other Than Full and Open Competition.
- 2. Nature and/or Description of the Action Being Processed:** This is a request for approval of leasing with a purchase option and full maintenance service of open market items in conjunction with NAC FSS items, on 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 8.405; however, this justification for other than full and open competition is for those applicable open market items. 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 18, 2017 through September 17, 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. Description of Supplies/Services Required to Meet the Agency's Needs:** The Brooklyn VA Medical Center requires that the Contractor shall lease to the Government Olympus bronchoscopes and related equipment with an option to purchase. The contract effort will be a NAC delivery order, as some of the required items are available on NAC Contract V797P-2065D. These open-market items are not available from the NAC contract. 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 18, 2017 through September 17, 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. Open Market items for this NAC delivery order are as follows:

Model BF-1TH190	EEIII HD Therapeutic Bronch W	2	Each
Model CV-190	Evis Exera III Video Processor	1	Each
Model BF-UC180F-A	Ultrasound Bronchoscope	2	Each
Full Service of the Bronch Video, Electronics and EUS/EBUS		5	Each
Model OEV-262H	High Definition LED LCD Monitor	1	Each
Model EU-ME2	Ultrasound Processor	1	Each
Full Service of the Ultrasound Processor and Electronics		1	Each

The total value of the open market items under this justification is \$318,895.56.

**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):**

**Only One Responsible Source (FAR 6.302-1)** – 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. Accordingly, Olympus America, Inc. is the only firm capable of providing the supplies and services described in Section III above without the Veteran's Health Administration experiencing unacceptable delays in fulfilling its requirements.

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

Past procurement history indicates that this procurement was supported by successive delivery orders under BPA VA243-BP-0151, which also cited the role that standardization played in creating this BPA with Olympus America, Inc. A search of GSA eLibrary for Olympus America, Inc. in Schedule 65 II A resulted in one GSA contract identified as V797P-2065D. A search in the VA MedSurg Catalog for Olympus America, Inc. produced one result with Olympus America, Inc. A product search of the Ability One website with description for "Olympus" resulted in no results. A VetBiz search under NAICS code 339112 with keyword "Olympus" produced one match, but a look in the Service Disabled Veteran Owned Small Business' (SDVOSB) website, revealed that this requirement cannot be supported by an SDVOSB firm.

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

The anticipated cost to the government is considered fair and reasonable based upon analysis of pricing information provided by the offeror. The open market items are priced similarly to the items priced under NAC Contract V797P-2065D, and reflect a 17% discount from the open market list price. The Contracting Officer shall seek additional discounts from Olympus before

awarding the delivery order, but is unlikely to obtain any more discounts above the 17% discount priced by Olympus on the open market.

8. **Description of the Market Research Conducted and the Results, or a Statement of the Reasons Market Research Was Not Conducted:** Due to the proprietary nature, Olympus America, Inc. is the only company that can access its systems remotely and offer certified parts that meet the original equipment manufacturer's specifications. 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.
9. **Any Other Facts Supporting the Use of Other than Full and Open Competition:** The open market items listed herein shall be leased in conjunction with other items supported by NAC Contract V797P-2065D. FAR 7.4 – Equipment Lease or Purchase applies. Clause 52.207-5 shall be included in the delivery order.
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:** 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.
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.



Chief of Surgery  
New York Harbor Healthcare System

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

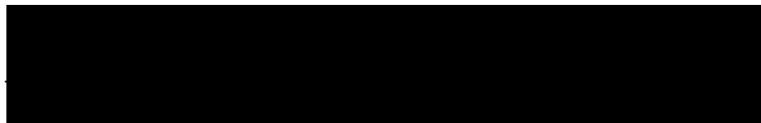
Chapter VI: Other Than Full and Open Competition (OFOC) SOP  
Attachment 3: Request for Sole Source Justification Format >\$150K

- 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.



Contracting Officer  
NCO 2 Hudson Valley Healthcare System – FDR Campus

- b. **Director of Contracting /Designee (Required over\$150K but not exceeding \$700K)**: I certify the justification meets requirements for other than full and open competition.



Division 1 Chief  
Network Contracting Office (NCO 2)

**No other signatures are required.**