

**DEPARTMENT OF VETERANS AFFAIRS**

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

**For**

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

**Acquisition Plan Action ID: VA242-17-AP-7865**

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 630-18-1-4475-0001. 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 V797D-30172 for equipment lease and full service maintenance, with a purchase option, of various scopes and associated equipment, to be used at the Brooklyn VA Medical Center. This procurement will be conducted in accordance with FAR Part 8; 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 V797D-30172 with an anticipated period of performance of January 15, 2018 through December 31, 2018, 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 Pentax scopes and associated 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 V797D-30172. These open-market items are not available from the NAC contract; see FAR 8 Limited Sources Justification. 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 V797D-30172 with an anticipated period of performance of January 15, 2018 through December 31, 2018, 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 EC-2990LI    | HD Video Colonoscope, High Definition    | 1 | Each     |
| Model EC-3490TLI   | HD Video Colonoscope - RetroView™        | 2 | Each     |
| Model EC38-I10L    | HD Video Colonoscope (i10/K10 series)    | 8 | Each     |
| Model EG29-I10     | HD Video Gastroscope (i10/K10 series)    | 5 | Each     |
| Model EPK-I5010    | Video Processor                          | 3 | Each     |
| Model NDS26LED     | National Display 26" Radiance HD LED Mon | 3 | Each     |
| VIDEO/MON CABLE PK | Scope Processor/Monitor Integration Pkg  | 3 | Packages |

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

|  |    |       |
|--|----|-------|
| Monthly Maintenance on all of the equipment<br>(open market and FSS items) | 12 | Month |
|--|----|-------|

The total value of the open market items under this justification is \$285,960.48.

**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)** – Pentax of America, Inc. is the only company that can provide all the necessary OEM parts and perform all the necessary returns and repairs for the Pentax scopes and associated 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 Pentax of America, Inc. since 2015. Purchasing universal alternatives would cause issues with standardization, which could lead to significant patient risk. Accordingly, Pentax of 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 the former Pentax VA FSS contract V797P-4389A, which also cited the role that standardization played in creating this BPA with Pentax of America, Inc. A search of GSA eLibrary for Pentax of America, Inc. in Schedule 65 II A resulted in one GSA contract identified as V797D-30172. A search in the VA MedSurg Catalog for Pentax of America, Inc. produced one result with Pentax of America, Inc. A product search of the Ability One website with description for "Pentax" resulted in no results. A VetBiz search under NAICS code 339112 with keyword "Pentax" produced two matches, but a look in the two firms' 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 V797D-30172, and reflect a 22% 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 22% 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, Pentax of America, Inc. is the only company that can access its systems remotely and offer certified parts that meet the original equipment manufacturer's specifications. Pentax of 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 Pentax 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 V797D-30172; see FAR 8 Limited Sources Justification for details. 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 Pentax equipment, the only alternative would be to replace the existing Pentax of 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 Pentax 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

December 14, 2017

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.



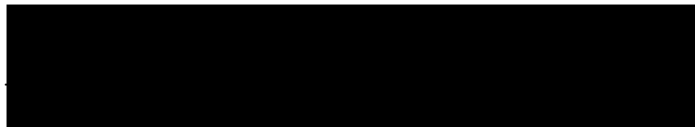
January 9, 2018

Date

Contracting Officer

NCO 2 Hudson Valley Healthcare System – FDR Campus

- b. **One Level Above the Contracting Officer (Required over\$150K but not exceeding \$700K):** I certify the justification meets requirements for other than full and open competition.



Services II, Branch Chief

Network Contracting Office (NCO 2)

**No other signatures are required.**