

**LIMITED SOURCES JUSTIFICATION**

**ORDER >\$150,000**

**FAR PART 8.405-6**

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

- 1. Contracting Activity:** Department of Veterans Affairs, VISN 02, New York Harbor Healthcare System, Brooklyn Campus, 800 Poly Place, Brooklyn, NY 11209-7104. 630-18-1-4475-0001.
- 2. Description of Action:** This acquisition is conducted under the authority of the Multiple-Award Schedule Program ([41 U.S.C. 251](#) and [40 U.S.C. 501](#)). 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.

Order against:  FSS Contract Number: V797D-30172

Name of Proposed Contractor: Pentax of America, Inc.  
3 PARAGON DRIVE  
MONTVALE, NJ 07645

**3. Description of Supplies or Services:**

The estimated value of the proposed action is \$397,267.80 (total), consisting of \$111,307.32 NAC items and \$285,960.48 open market items (See FAR 6 sole source justification for open market items).

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 EG-3870UTK	Ultrasound Video Endoscope	2	Each
Model EG-3670URK	Ultrasound Video Endoscope	2	Each
Model ED-3490TK	Duodenoscope	2	Each
Model NDS42HD	LCD Monitor, National Display 42"	1	Each
Model EG-1690K	Gastroscope	1	Each
Model EG-3490K	Video Gastroscope	1	Each

**(4) IDENTIFY THE AUTHORITY AND SUPPORTING RATIONALE (see 8.405-6(a)(1)(i)(A), (B), and (C) or 8.405-6(b)), AND IF APPLICABLE, A DEMONSTRATION OF THE PROPOSED CONTRACTOR'S UNIQUE QUALIFICATIONS TO PROVIDE THE REQUIRED SUPPLY OR SERVICE. (CHECK ALL THAT APPLY AND COMPLETE)**

An urgent and compelling need exists, and following the ordering procedures would result in unacceptable delays.

Only one source is capable of providing the supplies or services required at the level of quality required because the supplies or services are unique or highly specialized;

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.

In the interest of economy and efficiency, the new work is a logical follow-on to an original Federal Supply Schedule order provided that the original order was placed in accordance with the applicable Federal Supply Schedule ordering procedures. The original order must not have been previously issued under sole source or limited source procedures.

Items peculiar to one manufacturer:

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

These are "direct replacements" parts/components for existing equipment.

The material/service must be compatible in all aspects (form, fit and function) with existing systems presently installed/performing. Describe the equipment/function you have now and how the new item/service must coordinate, connect, or interface with the existing system.

**(5) DESCRIBE WHY YOU BELIEVE THE ORDER REPRESENTS THE BEST VALUE CONSISTENT WITH FAR 8.404(d) 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 Pentax of 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, 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.

**(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 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.

**(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.

[Redacted Signature]

Chief of Surgery  
New York Harbor Healthcare System

December 14, 2017  
Date

**(10) APPROVALS IN ACCORDANCE WITH THE [VHAPM Part 806.3 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 Signature]

Contracting Officer  
NCO 2 Hudson Valley Healthcare System – FDR Campus

January 9, 2018  
Date

**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.

[Redacted Signature]

Services II, Branch Chief  
Network Contracting Office (NCO 2)

**No other signatures are required.**