

DEPARTMENT OF VETERANS AFFAIRS

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

Acquisition Plan Action ID: VA263-18-AP-1988

1. **Contracting Activity:** Department of Veterans Affairs, Network 23 Contracting Office, St. Cloud, MN 56303.

Organization Activity: Minneapolis VA Health Care System, One Veterans Dr, Minneapolis, MN 55417-2309

2237: 618-18-1-040-0040

2. **Nature and/or Description of the Action Being Processed:** A firm-fixed price purchase order for an upgrade to the existing Zeiss Lumera 700 Microscope that is already in place at the Minneapolis VA Health Care System, and additional Zeiss Lumera 700 Microscope also for use at the Minneapolis VA Health Care System within the Optometry Department and Surgery Service.

This is a BRAND NAME only procurement.

FAR13.5 Simplified Procedures for Certain Commercial Items: This procurement is for an upgrade to the existing Zeiss Lumera 700 Microscope, and an additional Zeiss Lumera 700 Microscope 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:** A field upgrade to the existing Zeiss Lumera microscope as the current solution software is nearing end of life, and an additional Zeiss Lumera 700 that matches the existing scope, and allows for interoperability between the scopes.

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;

FAR13.5 Simplified Procedures for Certain Commercial Items: The authority for applying the Simplified Procedures for Commercial Items of FAR 13.5 is 41 U.S.C. 1901 and is implemented by for restricting competition on this procurement via FAR 13.106-1(b)(2).

5. **Demonstration that the Contractor's Unique Qualifications or Nature of the Acquisition Requires the Use of the Authority Cited Above (applicability of authority):** The current Zeiss Lumera 700 microscope, currently has a software solution that is nearing the end of lifecycle, and field upgrade to the existing microscope to update the current software solution. In addition, an additional Zeiss Lumera 700 microscope is needed due to ensure interoperability between the two scopes.

Carl Zeiss and their approved subcontractors are the only ones that can provide the field upgrade needed to upgrade the current microscope as it is proprietary software. In addition, Zeiss and their approved subcontractors are the only ones capable of providing the exact same Zeiss microscope. A second system is needed due to the rapidly expanding program and needs to be the same make and model to ensure interoperability between the two microscopes, and to ensure patient safety and consistency when utilized in surgery.

6. **Description of Efforts Made to ensure that offers are solicited from as many potential sources as deemed practicable:** This justification will be posted on FBO.gov, along with the solicitation in accordance with FAR 6.305.
7. **Determination by the CO that the Anticipated Cost to the Government will be Fair and Reasonable:** The anticipated price should be fair and reasonable when compared to previous purchases for the same item.
8. **Description of the Market Research Conducted and the Results, or a Statement of the Reasons Market Research Was Not Conducted:** Market Research has been conducted, and the government has a reasonable expectation that quotes can be obtained from at least two Service Disabled Veteran Owned Small Business (SDVOSB). This procurement will be set aside for SDVOSBs in accordance with VAAR 819.7005.
9. **Any Other Facts Supporting the Use of Other than Full and Open Competition:** The government is not willing to accept Grey Market items, and in accordance with the VHA Procurement Manual the appropriate Grey Market Language will be include in the solicitation.
10. **Listing of Sources that Expressed, in Writing, an Interest in the Acquisition:** None.
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 the future, should another Microscope be needed, the government will conduct market research, and if additional sources are found any future procurements will be through a competitive solicitation. The anticipated useful life of the upgrade microscope and the additional microscope is 10 years.