

DEPARTMENT OF VETERANS AFFAIRS

**Justification and Approval (J&A)
For
Other Than Full and Open Competition (>SAT)**

1. Contracting Activity:

- a. Department of Veterans Affairs, VISN 22, Phoenix VA Health Care System.
- b. Title: Olympus Equipment Repair and Coverage
- c. 2237/ACQ Request: 644-19-3-260-0032/ VA258-18-AP-1439
- d. Product or Service Code: J065
- e. NAICS Code: 811219 - Other Electronic and Precision Equipment Repair and Maintenance
- f. Size Standard for NAICS: \$20.5 mil
- g. Estimated contract value: 1 Year - \$393,000

2. Nature and/or Description of the Action Being Processed:

The Phoenix VA surgical service line, GI service line, and Pulmonary Bronchoscopy service line all use Olympus leased equipment for flexible and rigid scopes. The working condition of equipment is crucial to the uptime of the service and safety of the patients. The Agency does not have employees who are trained to service scopes. The Agency also does not own the specialized tools needed to service scopes. Therefore, a service contract is necessary to repair and cover the scopes.

Name of Proposed Contractor: Olympus America INC.
Street Address: 3500 CORPORATE PARKWAY CENTER VALLEY, PA 18034-0610
Phone: 484-896-5838

FAR13.5 Simplified Procedures for Certain Commercial Items:

This procurement is for Olympus leased equipment for flexible and rigid scopes 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:

The estimated value of the proposed action for one year is \$361,500

The Agency requires emergency repair and coverage services for 101 Olympus endoscopes. The repair and coverage for Olympus leased equipment for flexible and rigid scopes are 31 different models among the 101 scopes. Models are as follows:

Model Numbers	
BF-1TH190	GF-UC140P-AL5
BF-P190	GF-UCT180
BF-UC180-F	GF-UE-160-AL5
CF-HQ190DL	GIF-1TH190
CF-HQ190L	GIF-H190
CF-Q160S*	GIF-XP190N
CYF-V2	LF-TP
CYF-VH	PCF-H190DL
ENF-GP	PEF-V
ENF-P4	SIF-Q140
ENF-VH	TJF-160VF
ENF-VQ	TJF-Q180V
ENF-VT2	URF-V

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):

Per FAR 6.302-1 Only One Responsible Source this acquisition is for highly specialized services. The rationale is due to the substantial duplication of cost to the government that is not expected to be recovered through competition.

Additionally, most of the scopes are leased from Olympus and are not owned by the Agency. Olympus will not allow their leased scopes to be serviced by any other vendor apart from Olympus for liability reasons. For example, some parts are proprietary and can only be provided by the OEM, but Olympus will not risk non-OEM parts replacing OEM parts during repairs.

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

Contracting Specialist conducted extensive market research. Contract Specialist (CS) posted sources sought Request for Information to both FBO - 36C25819Q0084 and GSA – RFQ1344880 for 8 days with the following results:

- a. General Services Administration (GSA) VA:
Number CAT/ SIN - 66 603 10 / 603 13 / 65 II A A 57 / A 9 // A-200 / A-9
Selected 137 companies – Received one small business response and 32 no responses.
- b. Federal Business Opportunities (FBO): One response from SDVOSB and one from large business.
- c. CS reviewed the above and the following links:
 - [eCMS](#): VA's contracting systems
 - [GSA VA Portal](#) - [HTME](#) – [SAC](#) – [NAC](#) – [NSSL](#) – [WSNC](#): FSS, GSA, BPA, GWAC, IDIQ and pre-existing contracts.
 - [FPDS](#) - [Gateway](#) - [VIP](#): Open market and FSS research based off similar imaging equipment and NAICS.
 - [UNICOR](#) & [Ability One](#): Mandatory Sources - The NAICS detailed in the header is not listed under firms SAM Assertions for listed NAICS Codes Selected
 - [DSBS](#) – [OSDBU](#) – [USASpending.gov](#): Other market research databases and sources.
- d. See section 8 for further market research details that was conducted.

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

- a. Contracting will use a combination of similar services from the prior contracts, FPDS and the independent government estimate.

8. Description of the Market Research Conducted and the Results:

- a. Due to the proprietary nature, Olympus America, Inc. is the only company that 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,

FPDS, FBO and the VA NAC were used to determine if there were any other sources of providing service maintenance agreements on the enclosed equipment.

- b. CS also reached out to the OEM prime, Olympus to inquire on SB partners. They replied that they do not have any teaming agreements with any SB's for service maintenance for their leased OEM equipment. Olympus representative confirmed that due to VAAR clauses 852.219-10/ 852.219-11 referencing 13 CFR 125.6 -limitations on subcontracting; their SDVOSB/VOSB's primes would simply be a pass-through company and Olympus would essentially be conducting 100% of the services performance as the subcontractor.
- c. Both the market research and sources sought yielded only one SDVOSB third party service repair response. This does not meet reasonable expectation of receiving two or more competitive offers per VAAR 819.501-70(3) Set-Asides for Small Business. The active contacts listed in paragraph 7, were also all sole-source justification efforts. No other prime firms have contractors that are OEM trained or have certified technicians that can also provide timely and appropriate software/hardware repair and coverage service per the OEM leasing prime firm. Olympus confirmed zero certified partners for their OEM services repairs

9. Any Other Facts Supporting the Use of Other than Full and Open Competition:

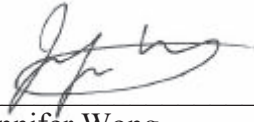
- a. Olympus representative confirmed that due to VAAR clauses 852.219-10/ 852.219-11 referencing 13 CFR 125.6 - limitations on subcontracting; their SDVOSB/VOSB's primes would simply be a pass-through company and Olympus would essentially be conducting 100% of the services performance as the subcontractor. FAR 7.4 Equipment Lease or Purchase applies. Clause 52.207-5 shall be included in the delivery order.

10. 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:

- a. Currently Olympus America is the only vendor authorized to provide this service. If Olympus authorizes other vendors to provide these services, other vendors then can be considered on future preventive maintenance services on this equipment. The contracting office may survey the market and solicit sources as necessary. In order to overcome barriers to competition, more sources supplying equivalent equipment/services must be available. Since Olympus has the proprietary knowledge, parts, and licensed software, overcoming the barriers for competition cannot be utilized at this time. Lastly laws, clauses and regulations such as VAAR clauses 852.219-10, 852.219-11, and 13 CFR 125.6 enables these barriers as well, and the Government has no choice but to comply.

VHAPM Part 806.3 Other Than Full and Open Competition (OFOC) SOP
Request for Sole Source Justification Format >SAT

- 11. 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.



Jennifer Wong
Clinical Engineer, COR
Phoenix VA Health Care System

20197025
Date

12. Approvals in accordance with the VHAPM Part 806.3 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.

James J. Moran
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Digitally signed by James
J. Moran 1137659
Date: 2019.08.15 17:13:40
-07'00'

08-15-2019

Signature
James J. Moran
Branch Chief - CO
Department of Veterans Affairs
NCO 22 - Gilbert, VHA RPO-West

Date

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

Daniel C.
Thiel 123011
Digitally signed by
Daniel C. Thiel 123011
Date: 2019.08.16
08:27:03 -07'00'

Signature
Daniel Thiel
Division Chief - CO
Department of Veterans Affairs
NCO 22 - Gilbert, VHA RPO-West

Date