


JUSTIFICATION AND APPROVAL
FOR AN EXCEPTION TO FAIR OPPORTUNITY

1. Contracting Activity: Department of Veterans Affairs (VA)
Office of Acquisition Operations
Technology Acquisition Center
260 Industrial Way West
Eatontown, New Jersey 07724
2. Description of Action: This proposed action is for a Firm-Fixed-Price Delivery Order (DO) issued under a National Aeronautics and Space Administration (NASA) Solutions for Enterprise-Wide Procurement (SEWP) IV Government-Wide Acquisition Contract (GWAC) for upgrades to the existing Network Security Operations Center (NSOC) Symantec Clearwell eDiscovery System and associated maintenance, support services, and training. Delivery of the equipment shall be 30 days after receipt of order. The period of performance for the maintenance and support services and training is one year with three one-year option periods for continued maintenance and support services.
3. Description of the Supplies or Services: The proposed action is for upgrades to the existing NSOC Symantec Clearwell eDiscovery System and associated maintenance and support services for the Office of General Counsel (OGC). The upgrades include two 1TB software licenses and two servers capable of searching, decrypting, reviewing, processing, and reporting email and documents. Additionally, Public Key Infrastructure (PKI) decryption will be included so that users can process, search, analyze, and review digitally encrypted emails. The upgraded hardware will be installed at the Austin Information Technology Center Service Delivery and Engineering. This requirement also includes maintenance and support services and training. The existing NSOC Clearwell eDiscovery System (OGC Appliance) is being upgraded in order to support additional users. The Contractor will also provide maintenance and support services for the software that includes telephonic support and upgrades and security patches. This will ensure the system remains operational. Training is required in the base period to ensure that system administrators know how to implement, operate, and maintain the solution. The total estimated value of the proposed action including options is

4. Statutory Authority: The statutory authority permitting an exception to fair opportunity is Section 41 U.S.C. 4106(c) as implemented by the Federal Acquisition Regulation (FAR) Subpart 16.505(b)(2)(i)(B) as modified per FAR 16.505(a)(4)(ii). An exception to fair opportunity is allowed where only one manufacturer is capable of providing the supplies or services required at the level of quality required because the supplies or services ordered are unique or highly specialized.
5. Rationale Supporting Use of Authority Cited Above: Based on market research, as described in paragraph eight of this document, it was determined that limited competition is viable among authorized resellers for this brand name item. This is a brand name justification in support of FAR 11.105, Items Peculiar to One Manufacturer. Symantec Clearwell eDiscovery is the only software that can continue to build upon the

VA's existing Symantec Clearwell eDiscovery Platform. The current system has the ability to accommodate up to 1TB. However, in order to support additional users within OGC, an additional 2TB of data is required. Use of the existing platform and licensing model is critical to fully integrate the additional users into the existing platform. Any other brand name software would be unable to interoperate with the currently fielded software on the Symantec Clearwell eDiscovery System. Additionally, the Symantec Clearwell eDiscovery System is the only solution that has PKI decryption capability, which is critical to OGC's e-discovery process. The PKI decryption capability is required so that users can process, search, analyze, and review digitally encrypted emails. Only an authorized Clearwell reseller can provide the aforementioned maintenance and support services and additional licenses, since the required Clearwell software tools are proprietary. The Government's technical experts confirmed that the proprietary code is not for sale in February 2013. An upgrade will allow additional users to perform preservation, processing (such as decryption and de-duplication), searching, reviewing, analysis, and production of electronically stored information. This will assist attorneys, custodians of relevant information, chief information officers, information security officers, and other Office of Information and Technology personnel in accomplishing their required tasks more efficiently.

6. Efforts to Obtain Competition: Market research was conducted, details of which are in the market research section of this document. This effort did not yield any additional sources that can meet the Government's requirements. It was determined, however, that limited competition is viable among authorized resellers for the brand name requirements. In accordance with FAR 5.301 and 16.505(b)(2), this action will be synopsisized at award on the Federal Business Opportunities Page and the justification will be made publicly available

7. Actions to Increase Competition: The Government will continue to conduct market research to ascertain if there are changes in the market place that would enable future actions to be competed. The program office will continue to monitor the market for availability of other software development tools that are suitable with VA's infrastructure, and will continually conduct testing and evaluation of those tools, when feasible, for consideration during the next competitive procurement and or technology refresh.

8. Market Research: From November 2012 through February 2013, the Government's technical experts conducted market research by reviewing other similar brand name items, specifically from Hewlett Packard/Autonomy, International Business Machines, EMC, and AccessData. Upon review of these other brand name items, it was determined that none are able to interoperate with the existing Symantec Clearwell Systems Software and Architecture. The other brand name items are proprietary and are not compatible with software from other manufacturers. If another brand was used, the different architectures would not be able to communicate with each other. Each brand uses different proprietary software code which makes communication between different brand names impossible. Additionally, none of these other products can offer PKI decryption which is a critical requirement. As a result, the Government's technical experts have determined that only the Symantec Clearwell brand software can meet all of the Government's requirements.

9. Other Facts: Additional market research was conducted by utilizing the Product Verification and Manufacturer Lookup Tools on the NASA SEWP IV website on May 24, 2013. This search resulted in 14 resellers of the required Symantec Clearwell brand products including Alvarez & Associates (Group B Service-Disabled Veteran-Owned Small Business (SDVOSB) Value Added Reseller (VAR)), FedStore (Group B SDVOSB VAR), and ThunderCat (Group B SDVOSB VAR).