

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, NJ 07724

2. Description of Action: The proposed action is for the annual renewal of maintenance and software support for SAP BusinessObjects' portfolio of software products, including SAP BusinessObjects Xcelsius and Crystal Reports, that support the Office of Resolution Management (ORM) Complaints Automated Tracking System (CATS). This order will be issued under a National Aeronautics and Space Administration (NASA) Solutions for Enterprise-Wide Procurement (SEWP) IV Government Wide Acquisition Contract (GWAC). The period of performance shall be 12 months with two 12 month option years.

3. Description of the Supplies or Services: The contractor shall provide maintenance and software support for the SAP BusinessObjects' portfolio of software products that supports ORM CATS application. CATS uses SAP Business Objects Xcelsius and Crystal Reports design tool for its reporting capability. This maintenance and software support shall include telephone technical support, access to new service packs, patches, minor/major releases and product support via SAP's Online Service Market Place Portal. This proposed action is only for services to existing software and does not include purchasing any additional software. The proposed estimated dollar value is \$██████████, including option years.

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), entitled "Only one awardee 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: This is a brand name justification in support of FAR 11.105, Items Peculiar to One Manufacturer. Based on market research as described in paragraph eight of this document, it is determined that limited competition is available for this brand name service. SAP software is integrated into the ORM CATS application. Renewal of the maintenance and software support ensures that the current software remains operational. Only SAP or an authorized reseller of SAP services are the only know sources with access to proprietary SAP software code and with the requisite knowledge and skill set capable of providing the level of support required to ensure that the CATS application remains functional. Any other source would need access to the aforementioned proprietary SAP software code to provide the software maintenance support for SAP software licenses.

6. Efforts to Obtain Competition: Market research was conducted, details of which are in the market research section of this document. Limited competition is anticipated for the aforementioned brand name services. 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: In order to remove or overcome barriers to competition in future acquisitions for this requirement, the agency will work with the program office to perform additional market research so that other solutions can be considered.

8. Market Research: The Government's technical experts performed market research in May 2013 by conducting a search on commercial internet sites to identify other brand's that can provide the maintenance and support to meet the VA's aforementioned requirements. The research and technical experts confirmed that since the software contains proprietary information, SAP is the only manufacturer that can provide maintenance and software support through authorized resellers and distributors.

9. Other Facts: Additional market research was conducted and identified three sources on NASA SEWP capable of providing the required services.

10. Technical and Requirements Certification: I certify that the supporting data under my cognizance, which are included in this justification, are accurate and complete to the best of my knowledge and belief.

Glenn Thomas

Date: _____

IMTD Manager

Signature: _____

11. Fair and Reasonable Cost Determination: I hereby determine that the anticipated price to the Government for this contract action will be fair and reasonable. Contracts awarded on NASA SEWP IV GWAC have already been determined to be fair and reasonable. As there are three potential vendors on NASA SEWP IV GWAC, price competition is anticipated. Finally, the successful quote will be compared to the Independent Government Cost Estimate.

Carol G. Newcomb

Date: _____

Procuring Contracting Officer

Signature: _____

12. Procuring Contracting Officer Certification: I certify that this justification is accurate and complete to the best of my knowledge and belief. As this contract action does not exceed \$650,000, the certification below required by FAR 16.505(b)(2)(ii)(C)(1) serves as approval.

Carol G. Newcomb

Date: _____

Procuring Contracting Officer

Signature: _____