

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: The proposed action is for a firm-fixed-price (FFP) Delivery Order (DO) issued under the National Aeronautics and Space Administration (NASA) Solutions for Enterprise-Wide Procurement (SEWP) IV Government Wide Acquisition Contract (GWAC) for the purchase of brand name, NEC, Private Branch Exchange (PBX) equipment, components, software licenses, and telecommunications peripheral equipment in order to upgrade existing brand name, NEC, telecommunications systems. This acquisition is in direct support of VA, Office of Information and Technology (OIT), PBX Critical Sustainment Initiative. This Initiative has been identified as a critical risk to the Veterans Health Administration (VHA) daily operations. The period of performance (PoP) for this action is 12 months for software licenses and technical support, inclusive of software and hardware delivery 60 days after delivery order award.
3. Description of Supplies or Services: The proposed action is for brand name, NEC equipment, components, software licenses, and telecommunications peripheral equipment in order to upgrade existing brand name, NEC telecommunications systems. Specifically, these PBX, brand name, NEC telecommunications systems that require the aforementioned upgrades are located at 29 VA facilities that support Veterans Affairs Medical Centers (VAMC) within Region 3. The 29 systems address the PBX Critical Sustainment needs at VA facilities in: Orlando, Florida; Tampa, Florida; Bay Pines, Florida; and Cleveland, Ohio. This purchase will upgrade seven systems in Orlando, six systems in Tampa, two systems in Bay Pines and 14 systems in Cleveland. The locations chosen were based on critical need. The locations chosen serve the greatest number of Veterans within Veterans Integrated Service Network (VISN) 8 and 10. The 29 facilities have experienced a surge in the volume of patients. In addition, the continued demand placed on the infrastructure with the growth of key programs, such as Telehealth, has increased the burden on the existing infrastructure. The existing infrastructure cannot support the increased demands without the required upgrades. The aforementioned upgrades would enable these 29 locations to be equipped to handle the increased patient load and increased demands and prevent the network infrastructure from failing and continue to remain operational. The brand name, NEC software and hardware upgrades will provide improved integration into the existing communications platform, add enhancements to improve overall quality through the delivery of software fixes, provide a new upgrade application tool, a new System Health Check capability to provide diagnostics for in service systems and enhanced system troubleshooting/recovery capabilities for existing system functionalities. This upgrade is needed to ensure the existing infrastructure remains up to date and operational. The Contractor shall provide installation and manufacturer's technical support for the aforementioned brand name, NEC telecommunications systems. This will include



access to remote technical assistance for issues associated with the operation and maintenance of Siemens solutions. The 12-month software assurance will allow for remedying hardware and software defects as well as enhancing and optimizing software; it includes all new fixes, patches, corrections, releases, updates, versions, and upgrades to the software. The total estimated value of the proposed action is \$[REDACTED]

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 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 brand name, NEC equipment, components, software licenses, and telecommunications peripheral equipment. This is a brand name justification in support of FAR 11.105, Items Peculiar to One Manufacturer. NEC is the only brand name item which will allow for upgrading the existing NEC telecommunications systems at the 29 identified locations. The locations were chosen based on critical need. The existing telecommunications systems consists of NEC brand name equipment. All locations designated to receive upgrades have their telecommunications network built with systems being interconnected to one another. This is accomplished by use of NEC proprietary Common Channel Interoffice Signaling (CCIS) feature. This capability allows two or more NEC NEAX telecommunications systems to be networked together providing feature transparency, ability to share system resources, and to centralize many important telecommunications functions such as attendant consoles, call accounting /billing systems, voice processing systems, management systems and trunk facilities. In addition, both networks use NEC proprietary Global Navigator (GNAV) to manage their NEC Call Center Worx system (CCWX). GNAV allows for call activity tracking, reports, and real-time data routing of calls from high volume locations to low volume locations, to an agent at a remote location. No other PBX telecommunications system can provide seamless and full communication capability without the NEC CCIS. The absence of which would result in device inoperability. Without device interoperability, the devices would not perform their intended functions, which would cause voice network delays and issues, leading to work stoppages and an erosion of patient care, jeopardizing VA's overall mission to serve Veterans. In order to maintain compatibility and reliability, the telecommunications hardware/services must be fully compatible with the existing infrastructure. The brand name, NEC telecommunication systems equipment and services are the only products that ensure full interoperability and compatibility with the current telecommunication infrastructure and thus are the only commercial products available to meet the Government's requirement. Telecommunication voice and data services are considered mission critical to VAMCs. In the event the NEC PBX telecommunications systems were to become inoperable, it would pose a significant risk to the facilities that support the VAMCs, rendering them unable to communicate and fully perform their business and mission.



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 this brand name item. In accordance with FAR 5.301 and 16.505(b)(2), this action will be synopsized at award on the Federal Business Opportunities Page (FBO) 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 marketplace that would enable future actions to be fully competed. The 29 locations represent all VA facilities that support VAMCs within Region 3. Given no other PBX telecommunications system can provide seamless and full communication capability without the NEC proprietary source data, the requirements cannot be modified in order to allow for competition.

8. Market Research: Market research was conducted during the third quarter of Fiscal Year (FY) 2013 by researching other items and services similar to the aforementioned NEC brand name equipment, components, software licenses, and telecommunications peripheral equipment. Avaya and Siemens were the only brand names with similar capabilities. However, neither could satisfy VA requirements to integrate in the existing NEC telecommunication systems. Avaya and Siemens brand name equipment, components, software licenses, and telecommunications peripheral equipment are not able to integrate with the currently fielded NEC brand name telecommunications systems and infrastructure. Siemens and Avaya brand name telecommunications items and services are not able to integrate with the currently fielded brand name, NEC telecommunication systems and infrastructure. Specifically, the current telecommunication systems communicates through a source code that is based on NEC proprietary data. No other PBX can provide seamless and full communication capability without the NEC proprietary source code. The absence of this proprietary source code which would result in device interoperability. Without device interoperability, the devices would not perform their intended functions, which would cause voice network delays and issues, leading to work stoppages and an erosion of patient care jeopardizing VA's overall mission to serve Veterans. The project technical team reviewed NEC system specifications on the NEC website to assess the availability of products to expand the capacity of the existing system. The team determined that in order to ensure interoperability with the existing system and to ensure that system performance would not be negatively impacted, it is necessary to use NEC brand name equipment, components, software licenses, and telecommunications peripheral equipment to ensure daily operations are not interrupted. Based on this finding, the team utilized the NASA SEWP manufacturer lookup tool to determine availability using this contract vehicle. Additional market research was conducted in fourth quarter of FY 2013 utilizing the NASA SEWP IV Manufacturer Lookup tool. Utilizing the Product Verification Tool via NASA SEWP IV, it was discovered that there are 33 resellers of the aforementioned, brand name NEC equipment, components, and software upgrades: five from Group A, Value Added Resellers (VAR) and Computer Systems Original Equipment Manufacturers (OEM); six from Group B, Service Disabled Veteran-Owned Small

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Businesses (SDVOSB); 10 from Group C, Small Businesses; ten from Group D, VAR; two from Group E, Non-Competed 8(a) Set Asides. Although there are sufficient numbers of Group B contract holders who can meet the Government's requirement, recent Request for Quotations (RFQ) with similar requirements issued to only Group B contract holders have resulted in not receiving sufficient number of responses from firms capable of providing the necessary products. As a result, the lack of responses requires the Government to solicit to Group B and C contract holders. In order to promote competition and ensure this requirement is awarded prior to the end of FY2013, this procurement will be competed amongst NASA SEWP IV Group B and C contract holders.

9. Other Facts: None.