

**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 delivery order issued under the National Aeronautics and Space Administration (NASA) Solutions for Enterprise-Wide Procurement (SEWP) IV Government-Wide Acquisition Contract (GWAC) to satisfy immediate backup storage requirements at the Austin Information Technology Center (AIRC). The proposed action will provide media storage tapes used for litigation backups. All items shall be delivered within 30 days of receipt and processing of the delivery order.
3. Description of Supplies or Services: The Office of Information and Technology, Enterprise Operations AIRC requires 5,800 International Business Machines (IBM) Tape Cartridge 3592 - Extended Data. The tape cartridges will provide backup capability for litigation tapes on the new AIRC tape system. The tapes will be utilized to store backed up data in the event there is a system failure, ensuring there is no loss of data. The total estimated value of this proposed action is \$687,479.80.
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: Based on market research, as described in paragraph 8 of this document, it was determined that limited competition is available among authorized resellers for the brand name items. This is a brand name justification in support of FAR 11.105, Items Peculiar to One Manufacturer. AIRC's previous backup environment was declared End of Life and a new IBM TS3500/L23 tape system was installed in March 2013. AIRC technicians are currently in the process of migrating all data from the previous system onto IBM 3592 media tapes. AIRC Storage administrators estimate that approximately 5,800 tapes will be needed in fiscal year 2014 to meet the backup needs of AIRC. Only IBM tapes are compatible with the new tape storage system at AIRC. Therefore, AIRC requires the same brand (IBM) in order to ensure VA meets all storage demands with no technical infrastructure issues. In addition, to obtain a fully operable, integrated storage solution, VA AIRC must have the capability to transfer data from one storage device to another. If multiple storage devices were selected, the solution would experience malfunctions due to interoperability issues. The new IBM TS3500/L23 tape system can read tapes from other manufacturers, but is unable to write data to those tapes as they have no encryption capability. The IBM

TS3500/L23 requires tapes to have encryption capability in order to be able to write data to them.

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 required brand name items. In accordance with FAR 5.301 and 16.505(b)(2), this action will be synopsisized at award on the Federal Business Opportunities (FBO) 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, the agency will work with the program office to perform additional market research to ascertain if there are changes in the market place that would enable future acquisitions to be competed.

8. Market Research: The Government's technical experts conducted market research in July 2013 by reviewing similar tapes available for purchase. Quantum, Sony and Maxwell offer similar media tapes; however, they are linear tape opening (LTO) tapes and are not compatible with the current IBM tape system. LTO tapes loaded into the current IBM TS3500/L23 system generate an error message indicating they are not compatible and would not eject properly from the storage system.

A Request for Information was issued on NASA SEWP IV GWAC in August 2013 which asked interested vendors to note their interest, provide a quote and provide indication if they can provide the brand name IBM 3592 media tapes or equivalent items. Responses were received from Four Points Technology, Sword & Shield, Countertrade Products, iGov.com, CDW\*G, IronBow Technologies, i3 Federal, ThunderCat Technology, Alvarez & Associates, and Unicom Government, Inc. All ten responses provided IBM 3592 media tapes and none provided an equivalent, alternative media tape. The only media tapes compatible with the current IBM TS3500/L23 system are IBM 3592 media tapes.

9. Other Facts: N/A

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.

Jason Wescott

Date: 9/11/13

IT Specialist

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 several potential vendors on NASA SEWP, price competition is anticipated. Finally, the quote will be compared to the Independent Government Cost Estimate.

Summer Spalliero

Date: 9/12/13

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.

Summer Spalliero

Date: 9/12/13

Procuring Contracting Officer

Signature: 

13. Legal Sufficiency Certification: I have reviewed this justification and find it adequate to support other than full and open competition and deem it legally sufficient.

Josyl Barchue

Date: 9/12/13

Legal Counsel

Signature: 

## Approval

In my role as Contracting Activity Competition Advocate, based on the foregoing justification, I hereby approve the acquisition of IBM Tape Cartridges on an other than fair opportunity basis pursuant to the statutory authority cited in paragraph 4 above, subject to availability of funds, and provided that the property and services herein described have otherwise been authorized for acquisition.

Date: 9/20/13

Signature:



Iris B. Cooper  
Head of the Contracting Activity