

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 the procurement of maintenance support services for Open Text brand name software licenses and to procure 15 additional Open Text software licenses. The Open Text software, maintenance support, and additional software licenses are for VA, Office of Information Technology (OIT) and the Office of Resolution Management (ORM). This proposed action will be firm-fixed-price (FFP) Delivery Order (DO) under the National Aeronautics and Space Administration (NASA) Solutions for Enterprise-Wide Procurements (SEWP) IV Government Wide Acquisition Contract (GWAC). The period of performance for the maintenance support is 12 months from award, with two 12 month option periods.

3. Description of the Supplies or Services: This requirement is for the renewal of maintenance support for ORM's existing Open Text Brand Name software, 15 additional Open Text software licenses, and maintenance support for the 15 additional software licenses. The additional licenses are required for the test, preproduction and development server environments. Operating these server environments without a license is a violation of the existing purchased license agreement. The support shall provide VA ORM technical support coverage for eight hours per day, five days per week, access to service packs, patches, minor / major releases of licensed products, online and telephone maintenance support from the Original Equipment Manufacturer (OEM). The renewal of this maintenance support and the additional licenses will enable content, document, and process management within the Complaints Automated Tracking System (CATS), a mission-critical application which supports the Equal Employment Opportunity (EEO) discrimination complaints filed by current and former VA employees and/or applicants for VA employment.

4. Statutory Authority: The statutory authority permitting an exception to fair opportunity is Section 41 U.S.C. 4106(c)(2) 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 extensive market research, as described in paragraph 8 of this document, limited competition is available among authorized resellers for this brand name item. The brand name Open Text software is used to assist current and former VA employees and applicants for VA employment in filing EEO discrimination complaints online. Open Text

software is exclusive and the only software available that ORM's existing CATS can continually build upon. Specifically, the current system and software communicates through a source code that is based on Open text proprietary data. Other software cannot provide this type of capability without a total redesign of the CATS source code. This redesign would result in application reprogramming costs that would exceed the licensing costs of the currently deployed Open Text product. Additionally, reprogramming would require retraining contract application support personnel and retraining of employees. There would be a requirement for multiple contracts and licensing to support the transition to a new product. This could take up to two years to support the reprogramming effort. The impact would affect the critical production systems that support ORM's mission of complaints processing and early resolution of complaints. Additionally, if the software maintenance is not procured, developers will not have access to software upgrades and maintenance support for technical issues. Replacing the current system is estimated to cost VA \$5 million based on historical data and duplication in efforts to maintain the current system while developing its replacement.

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 synopsisized at award on the Federal Business Opportunities Page (FBO) and the justification will be made publicly available.

7. Actions to Increase Competition: Although the Government is limiting competition as a result of specifying a brand name item, there are several authorized resellers of the Open Text software products on the NASA SEWP IV GWAC. Limited competition for this requirement among these vendors is anticipated. Finally, in order to remove or overcome barriers to competition in future acquisitions for this requirement, the agency will work with ORM to perform additional market research so that other solutions can be considered.

8. Market Research: VA Technical experts reviewed Microsoft BPM Suite, Oracle Business Process Management Suite 11g version 11.1.1.6 released December 2012 and IBM Business Process Manager Version 8 released December 2012 which are unable to readily integrate with currently fielded software code, and other named software is not interoperable or compatible with the currently fielded solution. Market research was conducted in August and September 2013 confirming that the software contains proprietary information and, thus, only Open Text and its authorized resellers can provide the software maintenance support and additional licenses for the VA owned Open Text products.

9. Other Facts: None