

JUSTIFICATION  
FOR AN EXCEPTION TO FAIR OPPORTUNITY

**1. Contracting Activity:** Department of Veterans Affairs  
Office of Acquisition Operations  
Technology Acquisition Center – Austin  
1701 Directors Blvd, Suite 600  
Austin, TX 78744

**2. Description of Action:**

The proposed action is for one 12-month base and two 12-month option periods. A firm-fixed-price (FFP) delivery order will be awarded to provide data recovery support services. The solicitation will be issued to National Aeronautics and Space Administration (NASA) Solutions for Enterprise Wide Procurement (SEWP) IV Governmentwide Acquisition Contract (GWAC) Group B. The type of funds used for this procurement are Information Technology funds.

**3. Description of Supplies:**

The Department of Veterans Affairs (VA), Virtual VA (VVA) Operations Office has a brand name requirement to purchase four Symantec NetBackup term software licenses and technical support. The Symantec term software licenses include: NetBackup Enterprise Server, NetBackup Replication Director, NetBackup Search, OpsCenter Analytics, NetBackup SAP Agent, NetBackup Enterprise Client, NetBackup Application and Database Pack, and a NetBackup Library Based Tape Drive. Symantec technical support is composed of: unlimited installation support (phone, web, web chat, and email), how-to publications, and product defect phone support services. This brand name requirement can be met through the purchase of Symantec NetBackup term software licenses and technical support. The Symantec term software licenses and technical support services provide VVA Operations and Maintenance team timely disaster recovery application support of VVA enterprise storage infrastructure. VVA enterprise storage infrastructure is an electronic document repository program created in 2009, which serves as the main repository of VA claims, Veteran benefit applications, and Veteran benefit records. In addition, VVA enterprise storage infrastructure provides the VVA program continuous secured access to Veteran application services and electronic Veteran benefit and claims records. The total estimated value for the proposed action is [REDACTED], inclusive of options.

**4. Authority Cited:**

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. Reason for Authority Cited:**

This is a brand name justification in support of FAR 11.105, Items Peculiar to One Manufacturer. The proposed sources for continued Symantec NetBackup term software licenses and technical support services are Symantec and its resellers. VA must ensure the software is completely compatible with the software that exists at other VA locations. The VVA Operations and Maintenance team depends on the deployed software, which supports the interoperability and compatibility of devices, to operate and perform its mission critical services. The subject matter experts (SME) from the VVA Operations and Management team made preliminary inquiries in December 16, 2013, by analyzing and comparing technical specifications between the VVA enterprise storage infrastructure and software from other than Symantec. The SME's compared disaster recovery software services from IBM, Hewlett Packard, and EMC. The SMEs' technical analysis found numerous compatibility-interoperable issues between both VVA enterprise storage infrastructure and alternative disaster recovery software services offered from manufactures other than Symantec. The Government does not possess the proprietary technical data for Symantec NetBackup term software licenses and technical support. Without this proprietary technical data, no source has the ability to provide the Symantec NetBackup term software licenses and technical support other than Symantec and its resellers. This proprietary technical data allows access to the fundamental elements of the software that is essential for software version control and updates. This proprietary technical data is not currently available for purchase. Failure to acquire Symantec could lead to possible corruption of scheduled backups and recovery of Veteran benefit records and application data stored on the VVA enterprise storage infrastructure. This would create integrity issues with current data storage and could possibly impact patient care in a negative way. There is no other disaster recovery software that will accept, validate, process, maintain, backup, and restore the data on the VVA enterprise storage infrastructure.

**6. Efforts to Obtain Competition:**

There is only one responsible source for this item. Efforts made to locate additional sources are described under the "Reason for Authority Cited" and "Market Research" paragraphs of this document. Limited competition is expected among NASA SEWP resellers and the requirement will be solicited providing fair opportunity to all vendors in NASA SEWP IV GWAC in Group B. Procurement data does not include any unnecessary requirements that may inhibit competition.

**7. Actions to Increase Competition:**

The Government will continue to conduct market research to learn if there are changes in the market place that would enable future actions to be competed.

**8. Market Research:**

The contract specialist conducted market research by using the Product Verification Tool search on the NASA SEWP IV GWAC website on December 16, 2013, to learn if any service-disabled Veteran-owned small businesses (SDVOSBs) could provide the Symantec NetBackup software and technical support services. The research revealed four SDVOSBs. The SDVOSBs that were identified in the Product Verification search confirmed their

## Symantec NetBackup Term Software Licenses and Technical Support

capabilities to provide the Symantec NetBackup term software licenses and technical support. Based on the above information, the Government's technical experts have determined that only Symantec Net Backup term software licenses and technical support can meet all of the VA's needs. Based upon this market research, limited competition is expected among NASA SEWP resellers and the requirement will be solicited providing fair opportunity to NASA SEWP IV GWAC Group B.

### **9. Other Facts:**

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 a redacted justification will be made publicly available.