

JUSTIFICATION
FOR AN EXCEPTION TO FAIR OPPORTUNITY

1. Contracting Activity: Department of Veterans Affairs (VA)
Office of Acquisition Operations
Technology Acquisition Center
23 Christopher Way
Eatontown, New Jersey 07724

2. Description of Action: The proposed action is for a Firm-Fixed-Price Delivery Order (DO) issued under the National Aeronautics and Space Administration (NASA) Solutions for Enterprise-Wide Procurements (SEWP) IV Government Wide Acquisition Contract (GWAC) to acquire software maintenance support for 165 brand name eGain Chat and Co-Browse licenses for the Department of Veterans Affairs (VA), Office of Information and Technology (OIT) supporting Veterans Benefits Administration (VBA) and Veterans Health Administration (VHA) call centers. The period of performance for the software support is 12 months with four 12 month option periods.

3. Description of the Supplies or Services: The proposed action is for the continued software maintenance support for 165 brand name eGain Chat and Co-Browse licenses. The Contractor shall provide support for resolution of issues; software maintenance services, which includes periodic updates, enhancements, corrections to the software and technical support, which is inclusive of online technical support. Technical support will also provide enhanced self-help and search capabilities (24 hours by seven days) and voice support; all of which are customarily provided by the Contractor to ensure that the software will perform according to its specifications, documentation, or demonstrated claims. The total estimated price of the proposed action is [REDACTED] (inclusive of options).

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. Resellers of the brand name eGain Chat and Co-Browse software maintenance support that can meet VA's requirements will be considered. In 2013, VA procured the original eGain Chat and Co-Browse software. Only eGain or its resellers can provide eGain Chat and Co-Browse software maintenance support. Without the renewal of the eGain Chat and Co-Browse software maintenance support, VA will not be able to receive critical software updates, enhancements, software corrections and technical support; posing an immediate risk to VA. Specifically, the current Chat and Co-Browse solution is built using the eGain software and a switch to a new software would require replacement of the entire solution previously developed. If a non-authorized reseller of the eGain

eGain Chat and Co-Browse Software Maintenance Support

software is used, the quality of support and maintenance provided cannot be guaranteed. Continued use of the eGain software is critical to preventing a disruption of the availability of a Chat and Co-Browse solution, thus allowing end-users to provide the best quality service to Veterans and their beneficiaries. Switching to a non-authorized reseller could result in technical issues that the new provider would not be able to resolve as they do not have access to eGain source code.

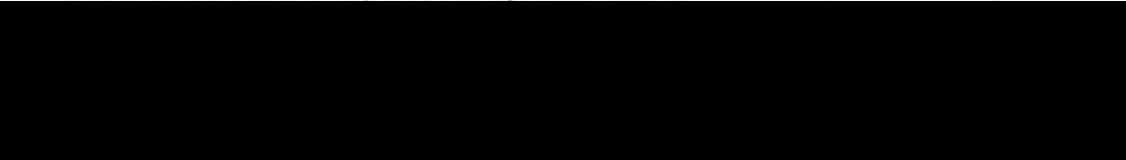
6. Efforts to Obtain Competition: Market research was conducted, details of which are in the market research section of this document. It was determined however that limited competition is viable among authorized resellers for this brand name item. In accordance with FAR 5.301 and 16.505(b)(2), this 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 three authorized resellers of the eGain Chat and Co-Browse maintenance on the NASA SEWP IV. Limited competition for this requirement among these vendors is anticipated.

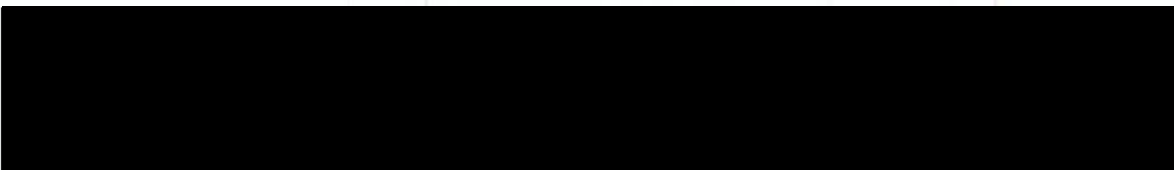
8. Market Research: In March 2014, market research was conducted for the acquisition of eGain Chat and Co-Browse software maintenance support for a period of 12 months, the research was conducted to ascertain the ability of any other source, other than eGain resellers, that can provide the aforementioned services. The Government technical expert reviewed product catalogs, researched NASA SEWP Manufacturer Look-Up tool, and contacted the Original Equipment Manufacturer (OEM). The research confirmed that the software currently used contains proprietary information and only eGain and its resellers can provide the required software maintenance support. Furthermore, the NASA SEWP search yielded three authorized resellers of eGain Chat and Co-browse software maintenance support. Of the three resellers, one is a Value Added Reseller (VAR) & Computer System OEM under Group A, one is a Service Disabled Veteran-Owned Small Business (SDVOSB) under Group B, and one is a VAR under Group D. Additionally, the OEM indicated that they can establish a relationship with any vendor on NASA SEWP.

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.



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 based on the fact that contracts awarded on NASA SEWP IV GWAC have already been determined to be fair and reasonable. Finally, the successful quote will be compared to the Independent Government Cost Estimate.



12. Procuring Contracting Officer Certification: I certify that this justification is accurate and complete to the best of my knowledge and belief.

