

JUSTIFICATION
FOR AN EXCEPTION TO FAIR OPPORTUNITY

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

2. **Description of Action:** The proposed action is for a 12-month Firm-Fixed Price task order to provide software maintenance and technical support for CommVault enterprise software part number F9F54. VA intends to issue the solicitation under the National Aeronautics and Space Administration (NASA) Solutions for Enterprise Wide Procurement (SEWP) IV Governmentwide Acquisition Contract (GWAC). This procurement uses Information Technology funds.

3. **Description of Supplies or Services:** The Department of Veterans Affairs (VA), Office of Information and Technology, Field Operations – Research and Development, Computing Center (RDCC) has a brand name requirement to purchase software maintenance and technical support for VA-owned enterprise CommVault backup software. The enterprise CommVault backup software maintenance provides license updates, upgrades, patches, and bug fixes. CommVault technical support provides 24x7x365 web-based and phone support, installation help, registration support, licensing issues, and code support. The VA-owned enterprise CommVault backup software provides primary backups of information created or stored on VA computers and provides redundancy services to ensure information critical to VA engineering research operations and patient care within the RDCC Region 2's virtual IT network environment is not lost. Critical information stored within RDCC Region 2's IT network environment includes critical patient healthcare information, healthcare research data and statistics, and prosthesis engineering research data. The total estimated price for this proposed action is [REDACTED] for a 12-month period of performance.

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. The proposed sources for continued CommVault software maintenance and technical support are CommVault and CommVault authorized resellers, because these companies possess the proprietary technical data necessary to deliver the required services. The Government does not possess the proprietary technical data for enterprise CommVault software maintenance and technical support. Without this proprietary technical data, no source has the ability to provide the enterprise

CommVault Software Maintenance and Technical Support

CommVault software maintenance and technical support. The proprietary technical data allows access to the fundamental elements of the software that is essential for firmware version control and updates. RDCC needs to continue utilizing CommVault software installed within Region 2's virtual storage network because it ensures that critical patient healthcare, healthcare research data and statistics, and prosthesis engineering research data is available, secured, and easily recoverable in case of catastrophic virtual storage network failure. By selecting another enterprise backup software maintenance and technical support service, VA would not be able to ensure compatibility of software or technical support from CommVault trained service professionals. Failure to acquire CommVault software maintenance and technical support increases the risk of data loss, loss of healthcare data research and statistics, Veteran's health information, and could possibly lead to a complete failure of Region 2's virtual storage network infrastructure, which may severely set back VA healthcare technology research advancement. There is no other software that will accept, validate, process, improve, and maintain VA health care data due to compatibility and interoperability issues with VA-owned CommVault software.

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. The solicitation covering this procurement will not be synopsised in the Federal Business Opportunities Page pursuant to FAR 5.202(6).

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 RDCC subject matter experts (SME) performed market research in December 2013, by analyzing and comparing technical specifications between VA-owned CommVault software and other commercially off the shelf software, maintenance, and technical support from manufacturers other than CommVault. The SME's compared software, maintenance, and technical support from Symantec, Hewlett Packard, EMC, International Business Machine, and Oracle. The SMEs final technical analysis found numerous compatibility and interoperability issues between VA-owned CommVault software, maintenance, and technical support offered by alternative manufacturers.

9. Other Facts: None.