

## 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, Texas 78744
2. Description of Action: The proposed action is for a one-year, firm-fixed-price delivery order to provide software maintenance subscription services for a VA-owned BMC Track Information Technology (IT) software license. 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 IT funds.
3. Description of Supplies or Services: The VA Office of Information and Technology, Field Operations – Research and Development Computing Center (RDCC) has a brand name requirement to purchase annual maintenance subscription services for one VA-owned BMC Track IT software license. The software maintenance subscription services provide license updates, upgrades, patches, bug fixes, web-based and phone support, installation help, registration support, and key code support. The perpetual BMC Track IT software license allows RDCC help desk personnel to assign specific computer/IT application issues to appropriate IT staff and provides helpdesk personnel real-time tracking status of computer/IT application issues and their resolutions. The total estimated price for this proposed action is [REDACTED] for the period September 30, 2014, through September 29, 2015.
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 BMC Track IT software maintenance subscription services is BMC and BMC 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 BMC Track IT software maintenance subscription services. Without this proprietary technical data, no source has the ability to provide the BMC Track IT software maintenance subscription services. The proprietary technical data allows access to the fundamental elements of the software that is essential for version control and updates. RDCC has used this software for numerous years in support of the helpdesk at RDCC facilities in assigning computer issues to appropriate technical staff and tracking status of issues and their resolutions. There is no other software that will accept, validate, process, improve, and maintain

BMC Track IT Software Maintenance Subscription Services

helpdesk data due to compatibility and interoperability issues with VA-owned BMC Track IT software.

6. Effort 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 synopsized 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: RDCC subject matter experts (SME) performed market research in December 2013, by analyzing and comparing technical specifications between VA-owned BMC Track IT software and other commercial off the shelf software, maintenance, and technical support from manufacturers other than BMC, including Microsoft and Samanage. The SMEs' final technical analysis found numerous compatibility and interoperability issues between each manufacturer and the VA-owned BMC Track IT software. In addition, each manufacturer provides software maintenance subscription services for its own respective software. Based on the market research, BMC is the only brand capable of providing BMC Track IT software maintenance subscription services. The contract specialist conducted market research in April 2014, by ~~the~~ using the Product Verification Tool on the National Aeronautics and Space Administration (NASA) Solutions for Enterprise-Wide Procurement (SEWP) IV Governmentwide Acquisition Contract (GWAC) website. The Product Verification tool revealed three service-disabled Veteran-owned small business (SDVOSB) "authorized resellers" of BMC software. In addition, the same NASA SEWP IV GWAC Product Verification Tool search revealed additional BMC software resellers. The additional BMC software resellers are as follows: three SDVOSBs, one Veteran-owned small business, three woman-owned small businesses, and four small businesses.

9. Other Facts: None.