

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, NJ 07724

2. Description of Action: The proposed action is for a firm-fixed-price delivery order issued under the National Aeronautics and Space Administration (NASA) Solutions for Enterprise-Wide Procurement (SEWP) IV Government-Wide Acquisition Contract (GWAC) for renewal of Rand Secure Email and File Level Archiving brand name software maintenance support required by VA Office of Information and Technology (OI&T), Field Operations Region 3 supporting users of the software in Veterans Integrated Service Network (VISN) 6. The period of performance for the proposed delivery order will be from October 1, 2014 through September 30, 2015.

3. Description of the Supplies or Services: VISN 6 has a requirement for maintenance support renewal of the current Rand Secure Email and File Level Archiving software in use with their Exchange email system. This software maintenance support renewal will cover the current systems hosted in the Region 3 Data Center in the Richmond Medical Centers in VISN 6 and will ensure continued operation of the Region 3 email archiving system. The required software maintenance support provides operating environment updates, 24/7 remote monitoring and onsite response, global technical support, rights to new releases of software, and 24/7 access to online support tools. This proposed action is for software maintenance only; no additional software licenses will be procured under this action.

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 acquisition is for brand name Rand Secure Email and File Level Archiving software maintenance support per FAR Subpart 11.105, Items Peculiar to One Manufacturer. Based on market research, described in paragraph eight of this document, the Government has determined that only Rand or an authorized reseller can provide the required software maintenance support. Rand has a considerable amount of proprietary code in their software products in order to protect their intellectual property. Therefore, customers must update their versions and support/maintenance agreements with Rand or an authorized reseller in order to continue to receive new product updates as well as on-going technical support, patches, code updates, and other maintenance. Support plans acquired through Rand, or an authorized reseller, ensure the integrity of the data and are the only plans that can ensure the maintenance support for the existing fielded software is configured properly

and remains operational. Due to its proprietary nature, no other software manufacturer can provide the requisite product updates, technical support, patches, and other maintenance for the fielded Rand software. Failure to renew this support agreement will negatively impact Region 3's ability to maintain the systems that support all email archiving. If the support renewal is not in place VA technical support administrator staff will lose access to Rand support including patches and code updates. Without the Rand software maintenance support renewal, VA users will not have access to this system, which will adversely impact patient care because necessary daily email archiving can't be accomplished if users lack the ability to open, send or respond to messages. A number of patient care monitoring systems depend on this system being fully functional 24 hours a day, 7 days a week. For example, alerts from refrigerators for storing blood, send out automatic email alerts when a door is left open, a message like this will not be retrievable if OI&T cannot maintain full access to Rand software maintenance support to sustain the system. Rand software maintenance and assurance is a Commercial-Off-The-Shelf product that has been configured and modified for OI&T's needs. Alerts generated from Medical Centers' monitoring systems, send numerous messages and escalation messages to medical support staff which could overwhelm the email Exchange system if Rand software maintenance is not renewed. OI&T also uses the Rand system to stage (i.e., move) messages based on an existing user threshold policy. When a user's mailbox capacity reaches its limit, Rand software assurance facilitates freeing up space to allow the alert messages to get through the appropriate personnel.

6. Efforts to Obtain Competition: Market research was conducted, details of which are in the market research section of this document. Limited competition is anticipated for the required brand name Rand software maintenance renewal. In accordance with FAR 5.301 and 16.505(b)(2), this action will be synopsisized after award on the Federal Business Opportunities Page and the justification will be made publicly available. This Justification for an Exception to Fair Opportunity will be posted with the solicitation on the NASA SEWP IV GWAC website.

7. Actions to Increase Competition: In order to remove barriers to competition on future acquisitions for this requirement, the agency will work with the program office to perform additional market research so that other solutions can be considered for future requirements. The Government will continue to conduct market research to ascertain if there are changes in the market place that would enable future actions to be competed.

8. Market Research: The Government's technical personnel conducted market research in August 2014 using NASA SEWP IV GWAC website and meetings with vendors. Market research consisted of OI&T Region 3 technical personnel reviewing support services offered by other manufacturers who make similar products. International Business Machines (IBM), Hewlett Packard and EMC Corporation all reported that they do not support the Rand Secure Archiving brand nor do they support each other's brand name products. Other manufacturers cannot provide the licensed product renewal, product update services, maintenance, support and proprietary code updates. Additionally, VA network systems Subject Matter Experts regularly review industry trade publications and conduct internet research to ascertain if any other brand

name support vendors have a partnership with Rand as the original developer of the Secure Email and File Level Archiving software. Based on the above market research, the Government's technical personnel have determined that only brand name Rand Secure Email and File Level Archiving software maintenance support can meet all of VA's needs.

In August 2014, the Contract Specialist also conducted market research by utilizing the NASA SEWP IV Manufacturer Look-up Tool that identified seven resellers of Rand products that hold current GWACs. Of these seven resellers, three are from Contract Group B (Service Disabled Veteran Owned Small Business (SDVOSB) Value Added Resellers (VARs)) and two are from Contract Group C (Small Business Set-Aside VARs). Based on this market research, it was determined that sufficient competition is anticipated among SDVOSB VARs in Contract Group B. Therefore, the subject RFQ will be competed initially amongst all GWAC holders in Contract Group B only. If no quotes are received, the RFQ shall be re-opened amongst all GWAC holders in Contract Groups B and C.

9. Other Facts: Failure to renew the Rand brand name software maintenance support on existing licenses would void the existing warranty and put the VA production systems at risk because VA support staff will not have access to the necessary software maintenance support resources that ensure there is no data corruption.