

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 task order issued under a National Aeronautics and Space Administration (NASA) Solutions for Enterprise-Wide Procurement (SEWP) IV Government Wide Acquisition Contract (GWAC) in support of the VA Office of Information and Technology, Service Delivery and Engineering, Executive Office of Technology Management. This action is for the purchase of brand name EMC maintenance and technical support for hardware and software supporting the storage systems at 171 locations VA wide. The period of performance for this action is 12 months, with two, 12-month option periods to be exercised at the discretion of the Government.
3. Description of the Supplies or Services: The proposed action is to provide maintenance and technical support, including replacement of parts and software updates if needed as part of the maintenance and technical support, to the storage systems at 171 locations VA wide. This hardware and software provides the ability to store virtualized data as part of VA's virtualization infrastructure. In addition, it is used to meet a majority of the network-attached storage and data protection needs. The required hardware and software maintenance and support shall provide online support, access to technical support via telephone and email 24 hours a day, 7 days a week. The support will also provide continued access to product updates including major enhancements, newly released features and bug fixes, on-site response, installation of software releases, as well as hardware replacement parts and onsite repair when deemed necessary. This proposed action will not include the purchase of any hardware or software except for replacement parts and software updates if needed.
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. Based on market research, as described in paragraph 8 of this document, it was determined that limited competition is available for this procurement among EMC's authorized resellers. VA currently utilizes EMC brand hardware and software to support server virtualization operations throughout the VA enterprise. The existing server virtualization storage solution is vital to providing high-availability virtualized servers for their respective facilities including fault-tolerance and in-use migrations. No other hardware and software manufacturer can provide the required maintenance and support services

currently in place without the required source code which is proprietary to EMC. Only EMC maintenance and technical support can be utilized for EMC hardware and software products as EMC is the only supplier of the hardware replacement parts, software updates (to include all version updates and bug fixes) and technical support. Any other source would require access to EMC's proprietary source code and possess the technical knowledge required in order to meet VA's needs. This proprietary source code is needed to access EMC's code structure for ensuring the maintenance and technical support provided meets VA's needs to ensure the hardware and software remain operational at all times. The server virtualization storage solutions currently in place are considered to be a critical piece of virtualization infrastructure throughout VA. Likewise, it is critical that this infrastructure remain operational at all times and maintenance and support services be continuously available. The Government contacted EMC in June 2014 to ascertain if this proprietary source code is for sale and was advised it is not. Replacing the affected hardware and software products would require purchasing new hardware and software, onsite installation and configuration of the hardware and software and retraining all VA information technology support staff. This would also encompass the reconfiguration of the entire consolidated exchange solution which consists of other hardware and software (besides the affected hardware and software) at 171 locations VA wide. The replacement approach would result in costly reinstatement, and recertification fees, delays and downtime to the virtualization storage infrastructure of those sites required to ensure continuity of maintenance and support for VA site virtualization storage solutions.

6. Efforts to Obtain Competition: Market research was conducted, details of which are in the market research section of this document. In accordance with FAR 5.301 and 16.505(b)(2), this action will be synopsisized within 14 days of award on the Federal Business Opportunities Page. In addition, the Justification for an Exception to Fair Opportunity shall be posted to NASA SEWP IV GWAC website along with the solicitation.

7. Actions to Increase Competition: In order to remove or overcome barriers to competition in future acquisitions for this requirement, the Government will continue to perform market research to determine if there are any products and/or source providers available that will enable future requirements to be competed.

8. Market Research: Research for other source/service providers was conducted in June 2014 to determine if the current EMC hardware and software being utilized in VA can be supported by other service providers. Due to the proprietary nature of the source code, it was concluded that there are no other service providers, other than EMC or an EMC authorized reseller, that can provide the maintenance and technical support required without the proprietary source code as outlined in paragraph five of this document. Only EMC or an EMC authorized reseller can provide hardware and software maintenance and technical support of EMC proprietary hardware and software products. VA's technical team contacted EMC, NetAPP, Dell and Hitachi and confirmed they are not able to provide support. Dell is able to provide partial custom support but not to the extent VA requires for all the systems. NetApp, Compellent, and Hitachi can

only provide service for their proprietary hardware and software. They are not qualified to provide maintenance on EMC proprietary hardware and software.

Market research was conducted by utilizing the NASA SEWP IV GWAC website Manufacturer Lookup Tool and it was determined that there are 36 authorized resellers of EMC products. Therefore, competition for the required maintenance and technical support is expected among these resellers.

9. Other Facts: None.