

## JUSTIFICATION FOR 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 one 12-month firm-fixed-price task order to provide maintenance subscription services for two VA-owned Network Appliance (NetApp) storage arrays. The solicitation will be issued using the National Aeronautics and Space Administration (NASA) Solutions for Enterprise Wide Procurement (SEWP) IV Government Wide Acquisition Contract (GWAC). The type of funds used for this procurement are Information Technology.
3. Description of Supplies or Services: The Department of Veterans Affairs (VA), Office of Information and Technology, Health Data Repository (HDR), has a continued need for NetApp SupportEdge Standard maintenance subscription services for two VA-owned NetApp storage arrays, which are located in the HDR development/test server environment. The NetApp storage array maintenance provides 24x7x365 software updates and disk replacement services for defective/inoperable NetApp storage array devices. Additionally, NetApp includes technical support with the purchase of a NetApp SupportEdge Standard hardware maintenance plan. The included support provides unlimited installation support (phone, web, web chat, and email), how-to, and product defect phone-support. The NetApp storage arrays located within HDR's server environment provide clinical and analytic applications that help determine the treatment plans for Veterans. The total estimated price for the proposed action is [REDACTED]
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 NetApp SupportEdge Standard maintenance subscription services are NetApp and its authorized resellers. The Government does not possess the proprietary technical data for NetApp SupportEdge Standard maintenance subscription services. Without this proprietary technical data, no source has the ability to provide the NetApp SupportEdge Standard maintenance subscription services other than NetApp and its resellers. This proprietary technical data allows access to the fundamental elements of the hardware that is essential for firmware version control and updates. HDR utilizes NetApp storage array devices to meet most of the network-attached storage needs. In the HDR environment, VA employees use and access geographically dispersed NetApp storage systems. The NetApp storage arrays located within HDR's server environment provide clinical and analytic applications that help determine the treatment plans for Veterans. The NetApp SupportEdge Standard maintenance services provide stability and insurance that in the

## Netapp SupportEdge Standard Maintenance Subscription Services

event a NetApp device is defective, a replacement part compatible with existing NetApp storage systems can be diagnosed by the manufacturer, or its resellers, and sent to designated VA facilities to prevent loss of VA data and ensure services are continuously available. By selecting a product other than NetApp, VA would not be able to insure compatibility of equipment or technical support from trained NetApp service technicians. Loss of corporate VA data, or possibly a complete failure of a hospital's storage infrastructure, is at risk if NetApp SupportEdge Standard maintenance subscription services are not selected. There is no other hardware maintenance application that will accept, validate process, improve, and maintain NetApp storage array devices. There is no other hardware maintenance available from any vendor other than NetApp, or its authorized resellers, that will interface and communicate with the NetApp storage array devices located throughout HDR's Information Technology environment.

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. 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 not be synopsisized at award on the Federal Business Opportunities page because the total price is less than the Simplified Acquisition Threshold, but this Justification will be posted on the NASA SEWP GWAC website with the solicitation, to notify all interested parties.

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: HDR subject matter experts (SME) did preliminary inquiries in July 2014, by analyzing and comparing technical specifications between VA-owned NetApp storage array hardware and commercial off the shelf hardware maintenance services from manufacturers other than NetApp. The SME's compared hardware maintenance services from IBM, Hitachi, Hewlett Packard, EMC, Fujitsu, and SUN Microsystems. The SME's technical analysis found numerous compatibility and interoperability issues between VA-owned NetApp storage array hardware and storage array hardware maintenance services offered by alternative manufacturers. NetApp and its authorized resellers are the only sources for the required NetApp SupportEdge Standard maintenance subscription services.

9. Other Facts: None.