

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 to limit competition for software product, maintenance support, and perfective maintenance support to authorized resellers of DSS ROI Plus products under the National Aeronautics and Space Administration (NASA) Solutions for Enterprise-Wide Procurement (SEWP) IV Governmentwide Acquisition Contract (GWAC).
3. Description of Supplies or Services: The Veterans Health Administration (VHA), Office of Informatics and Analytics, as supported by the VA Office of Information and Technology has a requirement for the renewal of 153 DSS ROI Plus software product licenses. These product licenses allow for VA's continued use of the product for 12 months. In addition to the product renewal, VA will also receive services that include maintenance support and perfective maintenance services. DSS ROI Plus enables healthcare facilities to track, process, and manage requests for copies of information contained in VHA Privacy Act System of Records and Health Insurance Portability and Accountability Act (HIPAA) designated record sets, which is lawful under the HIPAA Privacy Rule and the Freedom of Information Act. All DSS ROI Plus software product licenses come with maintenance for downloads, upgrades, bug-fixes, major and minor release upgrades, and troubleshooting. Troubleshooting consists of support Monday through Friday, 8:00am to 7:00pm Eastern Time, via electronic, telephone, and on-site tasking. Emergency maintenance is also provided with the software product 24 hours a day, 7 days a week, 365 days a year. Also as part of this requirement, VA requires perfective maintenance. The period of performance is one 12 month base period with two 12-month option periods. The total estimated price of this proposed action, to include the software product and maintenance, is \$8,149,048.58, inclusive of options.
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) 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." As required by FAR 16.505(a)(4), this brand-name justification is in accordance with FAR 16.505((b)(2)(ii)(A), (B), and (C) and is modified to show the brand name justification.
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. Limited competition is possible, but not anticipated as market research, conducted in November and December 2014, demonstrated that only one NASA SEWP IV GWAC vendor,

Sword & Shield Enterprise Security, Inc. (Sword & Shield), offers the requisite software license product renewal, maintenance support, and perfective maintenance support. However, NASA SEWP IV GWAC vendors have the ability to add products on contract within 24-hours, so, while not anticipated, competition is possible. In 2003, VHA deployed the DSS ROI Manager software system (currently called ROI Plus) to satisfy health information protection mandates under the Privacy Act of 1974, Title 5, United States Code 552a(c) and the HIPAA Privacy Rule. DSS ROI Plus enables health care facilities to track, process, and manage requests for copies of information contained in VHA Privacy Act System of Records and HIPAA designated record sets, which is lawful under the HIPAA Privacy Rule and the Freedom of Information Act.

As previously stated, this action is for VA's continued use of the DSS ROI Plus software product, and also consists of services which includes maintenance support and perfective maintenance services in order to remain compliant with the aforementioned mandate. DSS ROI software is the only software that integrates with Veterans Health Information System Technology Architecture (VistA) and Computerized Patient Records System (CPRS) graphical user interface, providing a single point of data entry for real-time interaction between the system and a patient's medical chart. This software retrieves information from CPRS when requested by Veterans or their families. When this occurs, it results in an ROI disclosure. This ability to interface with CPRS and VistA allows VA to generate an automated accounting of disclosures in accordance with Privacy Act and HIPAA Privacy Rule requirements, which no other brand software allows. As a result of the Market Research it was determined that DSS ROI Plus is the only software available that can provide this single point of data entry for real-time interaction which is a VA functional requirement.

Failure to procure the DSS ROI Plus software as described would have a severe impact on VA's ability to meet the needs of the Veteran. VA would be required to account for all of the disclosures manually, which equates to well over a million disclosures. VA would have to manually compile a report when a party requests an accounting of disclosures or a disclosure summary. This accounting is required to be provided to the Veteran within 60 calendar days.

Additionally as part of this requirement, VA requires software maintenance and perfective maintenance from DSS or an authorized reseller. The required software being maintained contains DSS' proprietary code and any form of maintenance, such as bug fixes or enhancements, cannot be performed by any other firm than DSS, or firm with the authorization from DSS to resell these services. Only DSS or an authorized reseller has access to this proprietary code, and therefore are the only sources that can provide the required maintenance and perfective maintenance.

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 one authorized reseller provides the requisite brand name software renewal, which includes the requisite services including maintenance and perfective maintenance. In accordance with FAR 5.301 and 16.505(b)(2), this action

will be synopsisized on the Federal Business Opportunities Page and the justification will be made publicly available within 14 days of award. Additionally, in accordance with FAR 16.505(a)(4)(iii)(A) this justification will be submitted to NASA SEWP IV GWAC Contract Groups B and C along with the Request for Quotation prior to its release in order to fully notify all interested parties.

7. Actions to Increase Competition: The Government will continue to conduct market research to ascertain if there are changes in the marketplace that would enable future actions to be fully competed.

8. Market Research: Market research was conducted by the Government's technical experts by reviewing similar software from November 1, 2014 through December 10, 2014. Similar software products reviewed include IOD, Inc.'s ROI Services, HealthPort's Release of Information system, and Epic Systems Corporation's Health Information Management software. Based on review of these products, the Government's technical experts determined that none could meet the aforementioned functional requirement listed in Paragraph 5 of this document. Only the DSS ROI software product can meet all of VA's requirements.

Further market research was conducted in December 2014 utilizing the NASA SEWP IV GWAC Manufacturer Lookup Tool and contacting the Original Equipment Manufacturer. Both methods of market research indicate that the only available source for the required software product, maintenance support, and perfective maintenance support under the NASA SEWP IV GWAC is Sword & Shield who is included in Contract Group C (Small Business Set-Aside Value Added Resellers). However, NASA SEWP IV GWAC vendors have the ability to add products to their contract within 24 hours, so, while not anticipated, competition is possible among small business GWAC holders.

9. Other Facts: None.