

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, New Jersey 07724
  
2. Description of Action: The proposed action is for a firm-fixed-price task order, issued under the National Aeronautics and Space Administration (NASA) Solutions for Enterprise-Wide Procurement (SEWP) IV, Governmentwide Acquisition Contract (GWAC), to acquire brand name Pegasystems (Pega), Incorporated maintenance services for VA's Business Process Management (BPM) software suite. The type of funds used for this procurement will be Franchise Funds.
  
3. Description of the Supplies or Services: VA Financial Services Center (FSC) requires brand name Pega maintenance services for VA's BPM software suite. The software premium maintenance consists of Pega Rules Process Commander, Healthcare Claims Repair Framework, Healthcare Claims Workstation and Framework, Customer Process Manager for Healthcare Framework, Automated Unit Test, Test Management Framework, and Project Management Framework to process over four million transactions. The Pega BPM software suite is a configurable software package that can be used for a variety of applications thereby eliminating the need for additional commercially available off-the shelf package procurements. FSC already purchased the Pega BPM software suite under a prior procurement. It is advantageous to VA to maintain Pega BPM maintenance for perpetual licenses to reduce performance and technical risk.  
  
The period of performance for this procurement is 12 months from date of award with two 12-month option periods. The total estimated price for this action is \$526,172.27, including the option periods.
  
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) Paragraph 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 extensive market research as described in paragraph eight of this document, it was determined that limited competition is viable among all the NASA SEWP resellers for this brand name requirement. Pega's maintenance services are the only software maintenance services that meet VA's requirement to maintain VA's BPM Pega software suite. Pegasystems provides VA with daily customer service for problem resolution, software

updates, upgrades, and access to the Pega developer network. This support would not be available if Pega's maintenance support is allowed to lapse. A break in service could delay commercial payments processed by FSC for VA, which are nearly 100,000 payments per month. As a result of this delay, commercial vendors would not receive payment jeopardizing benefits and healthcare provided to Veterans. In addition, this can also impact non-VA healthcare referral and authorization, enrollment and eligibility, and hospital notification services provided by FSC to the Veterans Health Administration. Interruption of these services can result in increased over/under payments made to non-VA care providers and delay the processing of claims to non-VA care providers which puts Veterans healthcare at risk. Only Pega or its authorized resellers can provide premium maintenance services for Pega's perpetual licenses currently utilized by VA. Pega owns the proprietary rights to the perpetual license, software updates, customer support, and technical updates and only Pega or its authorized resellers can provide the required maintenance services.

6. Efforts to Obtain Competition: Market research was conducted, the details of which are in the market research section of this document. The 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 software maintenance service. In accordance with FAR 5.301 and 16.505(b)(2), this action will be synopsisized at award on the Federal Business Opportunities Page (FedBizOpps). This justification will be posted on NASA SEWP IV GWAC website with the solicitation to 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 market place that would enable future actions to be competed.

8. Market Research: VA's technical experts conducted market research for Pega's software maintenance for VA's BPM software suite in January 2015 to ascertain if other products would satisfy VA's requirements. Market research was conducted via the NASA SEWP IV GWAC website, General Services Administration Advantage, FedBizOpps, and independent website search using the Google search engine. VA technical experts reviewed software maintenance services offered by other manufacturers who produce similar products and offer similar maintenance support services such as Microsoft and Diagnostic Related Group Grouper; however, they currently do not meet all of VA's functional and interoperability requirements. Specifically, no product other than Pega's maintenance services provides VA with daily customer service for problem resolution, software updates, upgrades, and access to the Pega developer network for VA's BPM software suite.

In addition, VA issued a Request for Information (RFI) in December 2014 on NASA SEWP IV and received quotes from three vendors: FedStore Corporation (Group B: Service-Disabled Veteran-Owned Small Business (SDVOSB), Affigent, LLC (Group C: Small Business (SB) Set-Aside Value Added Resellers (VAR)) and immixGroup (Group D: VAR – Large Business). All three vendors' responses included Pega maintenance services as no other maintenance services could provide the required support. Based on all of the market research efforts listed above, VA's technical experts determined that only Pega or its authorized resellers have access to the proprietary tools and

information necessary to provide support for Pega's product line of software. Several NASA SEWP IV contract holders can meet VA's need for Pega maintenance services to support VA's BPM software suite.

A revalidation of the market research was conducted by the contract specialist on January 20, 2015 utilizing NASA SEWP IV GWAC's Product Verification and Manufacturer Lookup tool. NASA SEWP IV GWAC holders are categorized into four groups, A through D. Group A is comprised of VARs and Computer System Original Equipment Manufacturers; Group B is comprised of SDVOSBs; Group C is comprised of SB VARs; and Group D is comprised of VARs. It was determined that there are five resellers of Pega software maintenance and support products, including one in Group B, two in Group C, and two in Group D

9. Other Facts: None

10. Technical and Requirements Certification: I certify that the supporting data under my cognizance, which are included in this justification, are accurate and complete to the best of my knowledge and belief.

Jon Hawkins

Date: \_\_\_\_\_

Mgmt. & Program Analyst Signature: Jon Hawkins 706700

Digitally signed by Jon Hawkins 706700  
DN: dc=gov, dc=va, o=Internal, ou=people,  
0.9.2342.19200300.100.1.1=jon.hawkins@va.gov,  
cn=Jon Hawkins 706700  
Date: 2015.03.04 13:05:11 -06'00'

11. Fair and Reasonable Cost Determination: I hereby determine that the anticipated price to the Government for this contract action will be fair and reasonable because NASA SEWP IV GWAC prices have previously been determined fair and reasonable. In addition, price competition is expected among authorized resellers for this action.

Jan Oberdick

Date: 3-4-2015

Procuring Contracting Officer

Signature:



12. Procuring Contracting Officer Certification: I certify that this justification is accurate and complete to the best of my knowledge and belief. As this contract action does not exceed \$650,000, the certification below required by FAR 16.505(b)(2)(ii)(C)(1) serves as approval.

Jan Oberdick

Date: 3-4-2015

Procuring Contracting Officer

Signature:

