

## 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 include brand name EMC Corporation (EMC) and Hewlett Packard Company (HP) software upgrades and updates in a task order issued against the National Aeronautics and Space Administration (NASA) Solutions for Enterprise-Wide Procurement (SEWP) IV Governmentwide Acquisition Contract (GWAC).
  
3. Description of the Supplies or Services: VA Office of Information and Technology (OI&T), Service Delivery and Engineering, Field Operations (FO), Region 5 (R5) has a requirement to provide hardware maintenance support for VA-owned LAN equipment. R5's LAN equipment consists of Network Attached Storage (NAS) and Storage Area Network devices, blade chassis, blade servers, standalone servers, and tape libraries from three different Original Equipment Manufacturers (OEMs) including EMC, HP, and International Business Machines Corporation (IBM). The task order will also include non-brand name items associated with repair or replacement of system equipment components to restore full operation and accessibility in response to any failures.

Additionally, R5 requires EMC and HP maintenance support for various VA-owned EMC and HP software licenses. The software maintenance will consist of software upgrades, updates to include major releases, point releases, service releases and security releases of applicable software on a quarterly basis, and/or within 48 hours in cases in which a high risk vulnerability fix becomes available. These software licenses and updates are necessary to operate the R5 LAN hardware. R5 does not own IBM software related to its IBM hardware; therefore, there is no IBM software maintenance required for this effort. While market research, discussed in section 8 of this document, demonstrated that the required hardware maintenance can and will be defined on a requirements-based specification so as not to restrict competition on a brand name basis, the EMC and HP software upgrades and updates can only be procured on a limited competition basis through the respective OEMs or their authorized resellers.

The EMC software products requiring continued maintenance are the NX4, Class B and C, software; NX4, Class D, software; NS480 software; and, Networker software for tape libraries. These software products enable the EMC NAS devices to continue functioning at required performance levels and interoperate between the various NAS devices. The NX4 NAS devices de-duplicate, replicate, and correct data over the Wide Area Network (WAN) to the centralized disaster recovery NS480 NAS devices located at three VA Data Centers that support Veterans Benefits Administration (VBA); and store data backed up to tape drives for disaster recovery and restoration of data. Maintenance and update support for this software is required to make certain that VA receives vital security vulnerability patches and software updates to ensure that critical VA data is transmitted, processed, and if necessary, restored. Software upgrades and updates are necessary for continual technology refresh and version control for VA

regression testing to guarantee a stable environment throughout the VBA domain WAN that R5 supports.

R5 also requires maintenance support of VA-owned HP software licenses including Insight Control (IC) and Insight Control Environment (ICE) for HP blades and servers; and Integrated Lights Out (iLO) Advanced for servers. The IC licenses are advanced feature tools which allow systems administrators to remotely access servers to perform provisioning using rapid deployment, monitor system health and performance, and optimize power and energy efficiency of VA-owned HP LAN hardware. The ICE for blades and ICE for servers licenses provide system administrators a visual management console to administer the various IC features. ICE licenses include iLO Advanced features. The iLO Advanced license features provide systems administrators access to servers virtually from anywhere, and allow a systems administrator to reboot a system remotely, thereby ensuring minimal downtime of network hardware supporting VBA systems.

The period of performance will consist of a 12-month base period and four six-month option periods. The total estimated cost of the proposed acquisition is [REDACTED] inclusive of all options, of which the brand name portion for the EMC and HP software maintenance and update requirements 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 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."

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 described in section 8 of this justification, it's been determined that limited competition is available for the brand name software maintenance and update support described in section 3 of this justification. The current R5 LAN infrastructure is based on existing EMC and HP software and VA requires support compatible with existing infrastructure protocols and functionality for continued LAN operational availability.

VA requires software and firmware upgrades, and updates to include major releases, point releases, service releases, and security releases of applicable software on a quarterly basis, or within 48-hours in cases where a high risk vulnerability fix becomes available. The software and firmware updates and fixes are required for the EMC NX4 Class B and C software, NX4 Class D software, NS480 software, and Networker software for tape libraries that is used in the EMC brand-name NAS devices. Only EMC or an authorized reseller can provide the necessary software and firmware updates, because of the proprietary source code required to develop and implement software and firmware updates. No other source is capable of providing the required software and firmware updates for EMC equipment.

VA also requires these software upgrades, and updates to include major releases, point releases, service releases, and security releases of applicable software on a quarterly basis, or within 48-hours in cases where a high risk vulnerability fix is available for HP brand-name servers used by R5. The IC and ICE for HP blades and servers, and iLO Advanced for HP servers is proprietary software for which no other vendor has the necessary source code or capability to perform software fixes or provide updates for systems administration of HP products. The proprietary source code is not available to third-party vendors; therefore, no other vendor is capable of providing the required software and firmware updates for HP equipment.

6. Efforts to Obtain Competition: Market research was conducted, details of which are in section 8 of this justification. Although the Government is limiting competition to OEMs and their resellers for the EMC NX4, Class B and C, software, NX4, Class D, software, NS480 software, and Networker software for tape libraries, and the HP IC, ICE, iLO Advanced software maintenance and update requirements, there are multiple resellers capable of supplying and integrating both the requirements-based hardware maintenance support services, as well as the requisite software maintenance support services via the NASA SEWP IV GWAC. In accordance with FAR 5.301 and 16.505(b)(2)(D), this action will be synopsisized on the Federal Business Opportunities (FBO) page within 14 days after award, and the justification will be made publicly available.

7. Actions to Increase Competition: In order to remove or overcome barriers to competition in future acquisitions for this requirement, R5 Office will continue to perform additional market research to ascertain whether there are changes in the marketplace that would enable future actions to be competed.

8. Market Research: The Government's technical experts conducted market research in December 2014 by reviewing other brand name software products including NetApp's SANtricity and Hitachi's Information Technology (IT) Operations Analyzer. This market research is an ongoing process that started in 2008 and is continuously being conducted, as recently as December 2014. As a result of that market research the technical experts confirmed that as the source code required to issue the updates is proprietary, EMC is the only source capable of providing the required maintenance and upgrades of the NX4 Class B and C software, NX4 Class D software, NS480 software, and Networker software for tape libraries, and HP is the only source capable of providing the required maintenance and upgrades of the IC, ICE, iLO Advanced software. No other firm has the capability of developing and issuing software and firmware upgrades, updates, and fixes for EMC and HP software necessary to support VA's existing LAN equipment. Additional market research was conducted in February 2015, wherein the contract specialist issued a Request for Information to NASA SEWP IV contract holders to ascertain the extent of competition. Responses were received by four sources that were determined to be capable of meeting VA's needs. Therefore, VA anticipates limited competition for this action.

9. Other Facts: None.