

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 delivery order citing brand name product description requirements to be issued under the National Aeronautics and Space Administration (NASA) Solutions for Enterprise-Wide Procurement (SEWP) V Governmentwide Acquisition Contract (GWAC).
3. Description of the Supplies or Services: VA, Office of Information and Technology, Service Delivery and Engineering, Veterans Affairs Central Office (VACO) Information Technology Services and Support (ITSS), has a requirement to provide VA's Cooperative Studies Program, Clinical Research Pharmacy Coordinating Center (CRPCC) with brand name Hewlett Packard (HP) Data Protector software licenses, training, implementation services, maintenance, and support for its existing VA HP backup appliances, backup application servers, and tape library devices. HP Data Protector is used as an automated backup and recovery software providing for online backup of data for operating systems (OS). This required HP software shall provide for additional granular functionality to CRPCC's existing HP data backup capabilities for its VA Microsoft Windows OS and additional file-level backup capabilities for its VA VMware vSphere virtual platform architecture. The training and implementation services shall include a five day on-site training course; HP provided manuals; and other documentation needed by VA personnel for completing software installation, configuration, and implementation. The required software maintenance shall include any upgrades, patches, fixes, updates, or security resolutions developed by HP and made available to its licensees. The required software support shall provide for the analysis, troubleshooting, and resolution of any software product-related problems or questions encountered by Government users. The total estimated cost of the proposed action is REDACTED for a 12-month period of performance.
4. Statutory Authority: The statutory authority permitting this exception to fair opportunity is 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."
5. Rationale Supporting Use of Authority Cited Above: Based on market research as described in paragraph 8 of this justification, it was determined that limited competition is available among authorized resellers of the required HP Data Protector software licenses, training, implementation services, maintenance, and support services on the NASA SEWP V GWAC. HP Data Protector Software is currently being used as CRPCC's automated backup and recovery software solution providing for on-line

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backup of data. The proposed action is for the procurement of additional software licenses and services to enable capacity for continued growth on existing VA HP backup appliances, backup application servers, and tape library devices presently used by CRPCC. Since the current VA CRPCC automated backup and recovery infrastructure consists solely of HP products, any software used to expand upon the infrastructure must be compatible and interoperable with the currently owned HP products. Due to proprietary software code owned by HP for its brand name HP family of products, there is no other product that offers the required functionality similar to the HP Data Protector Software that can also integrate into the current VA CRPCC HP automated backup and recovery infrastructure.

Additionally, the required software maintenance, support, training, and implementation services must be provided by HP or an authorized reseller. Specifically, without access to HP proprietary source code no other source is able to provide software upgrades, patches, fixes, updates or security resolutions and no third party source exists that provides analysis, troubleshooting, resolution of any software product-related problems, training, and implementation services other than HP, or an authorized HP reseller.

6. Efforts to Obtain Competition: Market research was conducted, details of which are in paragraph 8 of this justification. 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 of the required HP Data Protector Software licenses, training, implementation services, maintenance, and support services who are NASA SEWP V GWAC holders. In accordance with Federal Acquisition Regulations 5.301 and 16.505(b)(2)(ii)(D), the award resulting from this action shall not be announced and the justification made publically available on the Federal Business Opportunities since the estimated value of this action is below the simplified acquisition threshold. In accordance with FAR 16.505(a)(4)(iii)(A)(2) this justification will be posted on the NASA SEWP V website with the solicitation to all appropriate GWAC holders.

7. Actions to Increase Competition: In order to remove or overcome barriers to competition in future acquisitions for this requirement, the Government's technical experts will continue to perform market research to determine if there are emerging software products available that will enable future requirements to be competed.

8. Market Research: Market research was conducted by VACO ITSS technical experts from April 2015 through May 2015 by searching the automated backup and recovery product websites of CommVault, Symantec Net Backup, Tivoli Storage Manager, and EMC Avamar. Based on reviews of these companies' products and services offered, the Government's technical experts determined that no other products can meet the Government's requirement for the required software and services without the aforementioned proprietary source code. Each software developer of automated backup and recovery products offers proprietary software and associated services that will only operate with its respective hardware and software. The market research revealed that only HP or its authorized resellers would be capable of meeting VA's requirements. Only HP certified software is compatible and can be integrated into

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existing proprietary HP systems. Additionally, no third party vendors were identified that provide analysis, troubleshooting, resolution of any software product-related problems, training, and implementation services for brand name HP products.

Additional market research was conducted in July 2015 by utilizing the NASA SEWP V Quick Request for Information Tool. It was determined that there were numerous NASA SEWP V GWAC holders that are authorized resellers that can provide the required HP Data Protector software licenses, training, implementation services, maintenance, and support. If the required HP software and associated services are not already on a GWAC holders' contract, each GWAC holder has a dynamic catalog whereby line items can be added based on customer requests; therefore, as long as the required item or service is within scope of the NASA SEWP GWAC, items and services can be added to a GWAC holder's catalog on a daily basis.

9. Other Facts: None.