

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: This proposed action is for a firm-fixed price Task Order (TO) to be issued under the National Aeronautics and Space Administration (NASA) Solutions for Enterprise-Wide Procurement (SEWP) V Government-Wide Acquisition Contract (GWAC) for International Business Machines (IBM) hardware maintenance coverage.
3. Description of Supplies or Services: VA, Office of Information and Technology, Service Delivery and Engineering, Enterprise Operations (EO) has a requirement for the renewal of brand name IBM hardware maintenance coverage. The IBM hardware maintenance coverage will consist of hardware maintenance to repair or replace systems equipment components that restores full operation and accessibility to the original redundant component configuration. Hardware maintenance coverage shall be provided 24 hours a day x 7 days a week x 365/366 days per year and initial response to all requests for maintenance shall be responded to within one hour of the initial notification from VA, and response to all requests for on-site maintenance shall be completed by sending a qualified technician/engineer to the affected site within four hours of the initial notification from VA. The hardware maintenance is necessary for EO to be able to operate successfully and to ensure the hardware remains operational. The period of performance is 12 months and the total estimated price of the proposed action is [REDACTED]
4. Statutory Authority: The statutory authority permitting this exception to fair opportunity is Section 41 U.S.C 4106(c)(2) as implemented by Federal Acquisition Regulation (FAR) Section 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: Based on extensive market research, as described in section 8 of this document, it was determined that limited competition is available among authorized resellers for the EMC hardware maintenance coverage. The current EO infrastructure is based on existing IBM hardware and VA requires support compatible with the existing infrastructure protocols and functionality for continued operational availability. VA requires hardware maintenance coverage to include major releases, point releases, service releases of applicable hardware on a quarterly basis, or within 48 hours in cases where a high risk vulnerability fix becomes available. The hardware updates are required for IBM "Blade Server", IBM "Server: x3550 Series", IBM "Storage Array: DS3200," IBM "Server: x3650 M3" IBM "Server: x3650 Series," IBM "Server: x3690

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X5," IBM "Server: x3850 Series," IBM "Server: x3650 M3," IBM "Server: x3650 M2." Only IBM or an authorized reseller of IBM products/services can provide the necessary hardware coverage, because of the propriety source code required to develop and implement hardware updates. Specifically, without access to this code, no source can ensure the hardware is properly updated and configured to work within the currently fielded IBM infrastructure. No other source is capable of providing the required hardware maintenance coverage that meets VA's unique functional requirements. In addition, a prior implementation of IBM hardware already exists in EO. In order to replace the current IBM infrastructure, EO would need to re-purchase new hardware to replace the initial hardware previously purchased at an estimated cost of \$1.8B. No other maintenance is compatible with the existing IBM hardware. The brand name IBM hardware maintenance is the only hardware maintenance coverage that meets the Government's requirements.

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, other than authorized resellers, that can meet the Government's requirements. It was determined, however, that limited competition is available among authorized resellers for IBM hardware maintenance coverage. In accordance with FAR 5.301 and 16.505(b)(2)(ii)(D), this action will be synopsized and the justification will be made publicly available within 14 days of award on the Federal Business Opportunities Page. Additionally, in accordance with FAR 16.505(a)(4)(iii)(A)(2) the justification and supporting documentation shall be provided along with the solicitation to all contract awardees.
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 in January 2015 by a panel of Government technical experts. When conducting market research the Government's technical experts reviewed similar hardware products such as Dell, HP, EMC and associate maintenance coverage to ascertain if these items could meet VA's requirements. Specifically, the Government's technical experts conducted web-based research on web sites. As a result of the market research the technical experts confirmed that as the source code required to issue the updates is proprietary that no other vendor other than IBM or an authorized reseller of IBM products/services has the capability of developing and issuing hardware maintenance coverage for IBM hardware necessary to support existing EO requirements. All of the products researched were unable to meet the functional and compatibility requirements as stated in section 5. The functional requirements and integration with existing installed hardware result in no other product other than IBM hardware maintenance coverage being able to meet these requirements. Based on the above, only IBM hardware maintenance coverage meets all of the Government's requirements. In July 2015, additional market research was conducted on the NASA SEWP V GWAC which found that numerous resellers of the product were available.

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9. Other Facts: None.