

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 delivery order to be issued under the National Aeronautics and Space Administration (NASA) Solutions for Enterprise-Wide Procurement (SEWP) V Government Wide Acquisition Contract (GWAC).
3. Description of Supplies or Services: VA, Office of Information and Technology, Service Delivery and Engineering, Enterprise Operations (EO) has a requirement for Network Executive (NetEx) software maintenance. The required software maintenance is currently covered under the Data Center Acquisitions Transformation Twenty-One Total Technology task order which expires on September 30, 2015. The software maintenance will consist of software upgrades and 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 for EO to be able to operate successfully. The maintenance is required to ensure the software remains operational. The period of performance is 12 months with one 12-month option. The total estimated price of the proposed action is inclusive of the option.
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) 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 viable among authorized resellers for the brand name NetEx software maintenance and update support as described in section 3 of this justification. The current EO infrastructure is based on existing NetEx software and VA requires support compatible with the existing infrastructure protocols and functionality for continued operational availability. VA requires software upgrades and updates to include major releases, point releases, service releases of applicable software on a quarterly basis, or within 48 hours in cases where a high risk vulnerability fix becomes available. The software updates are required for NetEx software. Only NetEx or an authorized reseller can provide the necessary software updates, because of the proprietary source code required to develop and implement software updates. No other source is capable of providing the required software maintenance

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that meets VA's unique functional requirements. In addition, EO currently owns the NetEx, software licenses. Acquisition of a different product would require multiple support costs if the NetEx, software licenses were abandoned in favor of a different product and EO would need to purchase new initial software licenses. No other license is compatible with or interoperable with the existing NetEx, proprietary database structures, protocols, and software application programming interfaces. The brand name NetEx software maintenance is the only software maintenance 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 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. In accordance with FAR 5.301 and 16.505(b)(2)(ii)(D), this action will be synopsisized and the justification will be made publicly available on the Federal Business Opportunities Page within 14 days of award of the order. In accordance with FAR 16.505(a)(4)(iii)(A)(2), this justification will be provided with the solicitation to all contract awardees on the NASA SEWP V GWAC.
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: NetEx is a commercially available off-the-shelf software license package currently in use in VA. Market research was conducted in January 2015, July 2015, and August 2015, the Government's technical experts reviewed similar software products to ascertain if these items could meet VA's requirements. Specifically, the Government's technical experts conducted web-based research. As a result of the market research the technical experts confirmed that only NetEx or an authorized reseller can provide the necessary software maintenance and upgrades for NetEx software, because of the proprietary source code required. No other source is capable of developing and issuing software updates and fixes for NetEx software necessary to support existing EO requirements. The other products researched, such as those offered by Software Diversified Services, MyAirbridge.com, and filemail.com, were unable to meet the functional requirements based on the existing infrastructure; NetEx is already installed and integrated in EO. Additionally, none of these other software products could meet VA's interoperability and compatibility needs. Acquisition of a different product's maintenance would require massive revision and redevelopment to EO's infrastructure to enable it to support a new product which would require brand name maintenance from that manufacturer. No other maintenance can be performed on the existing NetEx software. The NetEx software maintenance is the only software maintenance that meets the

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Government's requirements. Based on the above, only NetEx software licenses and maintenance meets all of the Government's requirements.

9. Other Facts: None.