

## 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 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) for brand name Network Appliance (NetApp) FAS8040A High Availability Systems, installation/configuration/implementation services, hardware/software maintenance support services disk retention entitlement, and training.
3. Description of the Supplies or Services: VA Office of Information and Technology, Service Delivery and Engineering, Enterprise Operations (EO), Quantico Information Technology Center (QITC) and Culpeper Disaster Recovery (DR) site require a technical refresh with capability expansion of the QITC and DR Site data centers storage. The proposed action is for the procurement of two brand name NetApp FAS8040A High Availability Systems with dual controllers, operating and related system software, chassis and storage hard drives and disk shelves, hardware/software maintenance, disk retention entitlement, and on-line training, and installation/configuration/implementation services at both facilities. Hardware/software maintenance is required to ensure the hardware is operational and the software is upgraded to the latest software versions and consists of 4-hour parts replacement on the two NetApp systems (controller and chassis and hard drives), software support and phone technical support and upgraded entitlements and patches. This storage procurement will allow QITC to provide requested support to the National Cemetery Administration (NCA), replace an existing file storage server and add storage systems to increase performance and capacity of the two data centers to meet the Government's needs, as well as implement requirements for data storage and backup of NCA field sites. This will enable NCA field sites to upload data, store data on a centralized share system, and enable the data centers to facilitate data back-up. Additionally, this procurement will provide better security for mission critical NCA program data. The period of performance includes delivery and installation of required hardware/software within 90 days after award. Training credits shall be available for 12-month period from date of award. Hardware/software maintenance and disk retention entitlement is required for a 36-month period from date of Government Acceptance of the successfully installed systems. [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) 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 the market research described in section 8 of this justification, it has been determined that limited competition is available for the aforementioned NetApp High Availability Systems, installation, hardware/software maintenance and training. VA currently utilizes NetApp High Availability Systems in its QITC and Culpeper DR storage infrastructure. VA requires storage hardware that is interoperable and interchangeable with the existing NetApp storage infrastructure. VA is not replacing its entire storage infrastructure but rather replacing decentralized non-redundant systems with centralized systems that will serve to provide redundancy. The storage hardware will be interoperable and compatible with existing NetApp storage in use at QITC and Culpeper DR site. No other storage array solutions are interoperable or interchangeable with the existing NetApp storage infrastructure and provide required redundancy due to the proprietary code and hardware architecture/connections of NetApps. Components from NetApp storage devices in use cannot be physically moved and connected with other Original Equipment Manufacturers' (OEM) storage products. As a result, the useful life of certain components cannot be extended nor used to provide redundancy in cases of primary equipment failure. If the new storage system is not interoperable or interchangeable with VA's current storage infrastructure, VA will be unable to provide NCA with sufficient and necessary data storage and backup capabilities for NCA mission critical data and programs and ensure proper security for stored data. Furthermore, NetApp's native Data Mirroring protocol only communicates with other NetApp equipment to replicate data between the data centers. While other manufacturers may have similar protocols, this specific protocol is not available from the other OEM as it is proprietary to NetApp. If OEM hardware was procured to include the use of a similar protocol, it could not be used with the existing NetApp infrastructure at the data centers. Therefore, efficient replication would not be possible using current recovery point objectives.

Additionally, VA requires maintenance support to include hardware and software maintenance support. Only NetApp or an authorized reseller can provide the necessary maintenance support because of the propriety nature of the technology required to provide technical support and upgraded entitlements and patches for the NetApps storage systems. Because of the proprietary nature of NetApps storage systems other manufacturers will not have access to the source code required to provide the maintenance support. Therefore, only the NetApp hardware and related software maintenance support will meet VA's needs. NetApp certified installers are required as only a NetApps certified installer can provide the installation, configuration and implementation services required for the proprietary hardware and software. Similarly, brand name training is required to be provided by NetApp directly, which can be sold to the VA through a reseller. Due to VA's large, complex NetApp environment, NetApp training is required. NetApp and its partners are the only entities authorized to provide NetApp training and certification through on-line courses. The NetApp specific training is required for VA employees to maintain and improve VA's NetApp storage environments consistent with their specific VA IT job roles and competencies. Generic, off the shelf training courses would unnecessarily expose these VA employees/students to materials not germane to their jobs. Based on market research, as described in Section 8 of this document, it was determined that limited competition is viable among authorized resellers.

6. Efforts to Obtain Competition: Market research was conducted, details of which are in Section 8 of this Justification. Limited competition among NetApp resellers is anticipated for the required maintenance and support services. In accordance with FAR 5.301 and 16.505(b)(2)(ii)(D), the resultant award notice will be synopsisized 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)(1) this Justification will be submitted to all applicable NASA SEWP V GWAC holders along with the Request for Quotation in order to fully notify all interested parties.

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

8. Market Research: Market research was conducted by VA technical experts in November 2015, and from February to April 2016. The market research was conducted by a review of industry websites, discussions with third party contractors, including Dell, and analysis of similar storage product offerings. Market research included a review to confirm if other similar products could be used, including similar products available from other OEMs including Dell, Hewlett Packard and EMC Corporation. This effort did not yield any additional sources that could meet the Government's technical requirements. The review demonstrated other OEMs cannot provide a storage system that will be interoperable and interchangeable with the existing data centers' infrastructure and meet the Government's needs due to NetApp's proprietary code and hardware architecture. Furthermore, based on the market research conducted by the Government's technical experts, it has been determined that no other maintenance support providers have access to the proprietary data required to provide the necessary hardware and software maintenance support and disk retention entitlement. It was also determined that only NetApp certified installers can provide the installation, configuration and implementation services as only a NetApp certified installers have access to the proprietary hardware and software required to complete the installation and configuration of the storage systems. It was also determined that NetApps training can only be provided by a NetApp or its authorized training partners.

On June 20, 2016, additional market research was conducted by utilizing the NASA SEWP V GWAC Provider Lookup Tool which confirmed that there are 77 federal registered partners for NetApp on the NASA SEWP V GWAC, including 18 Service Disabled Veteran-Owned Small Businesses. Based on the analysis of the responses there is reasonable expectation that limited competition among NetApp resellers exists on the NASA SEWP V GWAC for the NetApp Field Storage.

9. Other Facts: None.