

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 issued under the National Aeronautics and Space Administration (NASA) Solutions for Enterprise-Wide Procurement (SEWP) V Government wide Acquisition Contract (GWAC).
3. Description of the Supplies or Services: VA, Office of Information and Technology, Service Delivery and Engineering, Region 4 has a requirement for brand name NetApp storage disk shelves, licenses, installation, and warranty support. This hardware will augment existing systems that store virtual servers and provide more storage to meet requests for present and future data growth capacity demands to provide better performance, ease of management, and disaster recovery. Delivery and Installation shall be completed 90-days from date of award. Warranty services shall be co-termed to align with the current infrastructure.
4. Statutory Authority: The statutory authority permitting an exception to fair opportunity is Section 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: Based on market research, as described in section 8 of this document, the Government anticipates limited competition is available among authorized resellers for the aforementioned name brand hardware, software and associated services. This is a brand name justification in accordance with FAR 11.105, Items Peculiar to One Manufacturer. NetApp is the Original Equipment Manufacturer (OEM) of the required storage systems and no other manufacturer's storage equipment disk shelves are compatible, functional, or interchangeable with the existing Region 4 NetApp storage hardware infrastructure. If storage shelves from a manufacturer other than NetApp are procured, VA would not be able to ensure compatibility of equipment or technical support from OEM trained and certified NetApp service technicians, which creates the risk of data loss. This could include the loss of patient records or even a complete failure of the current NetApp storage infrastructure. The NetApp warranty service provides stability and insurance by ensuring that VA does not experience loss of data. Only NetApp can provide the warranty services required for the NetApp storage systems. In the event that a NetApp device is defective, a compatible replacement part or unit can be sent to ensure there is no loss of data. Additionally, only NetApp can provide the required hardware support as only NetApp

has access to the proprietary microcode utilized by NetApp hardware's core software. Access to the microcode is required for updates as well as bug fixes to the NetApp hardware. Updates and patches to the hardware's core software are required to maintain compatibility with other NetApp software. If any other source were to provide hardware maintenance on the NetApp products, they would not be able to access the hardware microcode to provide updates and patches, and as such, the NetApp hardware would not remain compatible with the NetApp software. Utilizing any source other than NetApp or a NetApp authorized reseller for hardware support would result in NetApp's cancellation of support for both VA's current hardware and software support contracts.

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. Although the Government is limiting competition by specifying a brand name, there are multiple resellers of NetApp brand name products and services that hold current NASA SEWP V GWACs.

7. Actions to Increase Competition: In order to remove or overcome barriers to competition in future acquisitions for the requirements described herein, the Government will continue to conduct market research to ascertain if there are changes in the market place that would enable future actions to be competed.

8. Market Research: Market research was conducted by Government technical experts in May 2016, which included internet searches and reviewing technical data for the aforementioned hardware and support. The technical experts reviewed possible alternative solutions from EMC Corporation, Dell, Inc., and Hewlett Packard to assess the compatibility of these systems with the existing NetApp infrastructure at Philadelphia, PA, Pittsburgh, PA, Boston, MA, Connecticut and East Orange, NJ. The alternative solutions were determined to not be compatible or interoperable with the existing NetApp storage solutions at these facilities. However, the solutions could potentially meet VA's requirements for the remaining facilities in Region 4, which is why this requirement only includes the sites requiring the brand name NetApp hardware, licenses and support services. To support their market research, the Region 4 Technical experts also reached out to Affigent and NetApp and confirmed that the research is correct and any additional shelf add-ons can only be NetApp brand name products in order to function with the current NetApp storage arrays.

In June 2016, the Contract Specialist conducted additional market research utilizing the NASA SEWP V GWAC Provider Look-up Tool and identified multiple authorized resellers of NetAPP products and services, including the required disk shelves and support services, that hold a current GWAC.

9. Other Facts: None.