

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 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) WebSphere Application Server annual software maintenance and support services.

3. Description of the Supplies or Services: VA, Office of Information and Technology (OI&T), Service Delivery and Engineering (SDE), Enterprise Operations (EO), has a requirement for renewal of brand name IBM Websphere Application Server annual software maintenance and support services which include software support, as well as IBM professional support services. These services are in support of the Vitria Interface Engine (VIE) Migration Project. The proposed action will provide VA with support to include telephonic and electronic assistance during normal business hours, as well as ongoing access to product patches/updates, releases and versions to ensure the deployed software remains operational. Additionally, VA requires professional services provided from the Original Software Developer (OSD) to support ongoing expansion of the existing IBM WebSphere Enterprise Service Bus (ESB) Service Oriented Architecture (SOA) system. The services required by VA include providing installation, configuration, subject matter expertise on product training, and associated professional services in support of the IBM messaging components of the maintenance being procured. The period of performance for this effort is 24-months, consisting of one 12-month base period for the purchase of IBM WebSphere software annual maintenance including two 6-month optional tasks for additional SOA support services, and one 12-month option period for the continuation of annual maintenance including one 6-month optional tasks for additional SOA support services.

4. Authority Cited: 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 Above: Based on market research, as described in section 8 of this document, it was determined that limited competition is viable among authorized resellers for these brand name items and services. The IBM WebSphere ESB SOA system is currently used in the VA enterprise and supports VA's mission to implement shared health care capabilities across the enterprise in co-located data centers. Since the currently fielded IBM WebSphere ESB SOA system is comprised of IBM brand name software, continued software maintenance is required. IBM is the Original Software Developer (OSD) of the Websphere software, and is therefore the only source that can provide the required maintenance of these licenses. The IBM Websphere software is a proprietary product and as such, software updates, patches, software support and maintenance must be provided by IBM in order to seek assistance from IBM to resolve technical problems. Further, IBM, or an authorized reseller, are the only entities that can work on the existing IBM proprietary products, as access to the proprietary code is required to manipulate the proprietary code, and ensure that the all services provided are properly configured; therefore any maintenance or technical support for this platform must be performed by these sources. Maintenance provided by any other brand device would not allow for access to IBM Websphere software as well as software updates patches, software support, and maintenance included in the required premium level technical support. Without the procurement of the required maintenance, VA would not be able to repair any electronic messaging infrastructure (eMI) production level outages within ESB or maligned previous outdated code pushes, thereby hindering VA's ability to effectively provide service to the Veteran.

In addition, as part of this solution, VA requires IBM Software Support Services in order to successfully maintain this solution and provide support for the overarching ESB SOA system. Each VA application environment that will be deployed in the SOA/ESB is unique, and therefore, the Government requires individuals who are certified in IBM WebSphere and SOA architecture for the installation, design, testing and maintenance services. Further, these services must be provided by a source that has access to the proprietary source code as stated above, as manipulation of source code may be required and must be properly configured, so as to not void any technical support agreements. These individuals must have specific IBM WebSphere and SOA access to factory/developer resources for bug fixes, and ability to use IBM proprietary tools and methodologies to resolve issues and ensure a high-performing solution is implemented and maintained. Only support provided through IBM, or a authorized reseller, will have the access to these proprietary tools and software bug fixes.

6. Efforts to Obtain Competition: Market research was conducted, details of which are in section 8 of this justification. This effort did not yield any additional sources that can meet the Government's requirements. It was determined that limited competition is viable among authorized resellers for the required brand

name IBM Websphere Application Server annual software maintenance and support services. In accordance with FAR 5.301 and 16.505(b)(2)(ii)(D), notice of award for this action will be synopsisized and this justification will be made publicly available on the Federal Business Opportunities Page within 14 days of award. In accordance with FAR 16.505(a)(4)(iii)(A), this justification will be posted with the request for quotation on the NASA SEWP V GWAC to notify 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 work with the program office to perform additional market research so that other solutions can be considered.

8. Market Research: In June 2016 the Government's technical experts conducted market research by reviewing other known software providers that provide similar maintenance and technical support. Specifically, the technical experts reviewed offerings from like products such as Oracle, Microsoft BizTalk, and Open ESB. Based on technical reviews of these products, the Government's technical experts determined that none of these vendors can provide the necessary maintenance and professional support, as the services require access to the proprietary code and processes that only the OSD or its authorized reseller can access. Further, none of the software licenses can meet the interoperability requirements of the IBM WebSphere licenses.

Additional market research was conducted in August 2016 by utilizing the NASA SEWP Market Research tool and it was determined that there are multiple resellers of the brand name IBM Websphere services, and therefore limited competition is anticipated among authorized resellers for the required maintenance and support.

9. Other Facts: None.