

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: This 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) for the lease of brand name CommVault Simpana software and licensing, to include associated maintenance, training and engineering services for the expansion of existing CommVault Simpana data backup infrastructure.
3. Description of the Supplies or Services: VA currently utilizes a CommVault Simpana architecture to backup and/or archive data at approximately 260 facilities across Office of Information and Technology (OI&T), Service Delivery and Engineering, Field Operations (FO) Regions 1 through 6. VA intends to expand this environment for backup of approximately 3,001 terabytes (TBs) of additional data located at these same facilities. This will be accomplished by augmenting the existing CommVault Simpana licensing capacity and installing additional servers, storage systems, and network switches. The Contractor shall provide leasing of CommVault Simpana Data Protection Advanced (DPA) Licensing, and associated software configurations, to include associated maintenance support, engineering services and training for the CommVault Simpana Backup Infrastructure. Specifically, the proposed action is for the delivery and installation of 3,001 TBs of CommVault Simpana Data Protection Advanced (DPA) capacity-based software and licensing including associated maintenance, as well as, CommVault Simpana training for 65 employees, and advanced CommVault Simpana training for 14 employees. The action also includes engineering services to upgrade six CommVault Simpana CommCells to the current general availability (GA) release version, migrate two CommVault Simpana CommServers in each of the six FO Regions to new hardware in new locations, and install and configure new media agents, storage policies, de-duplication policies, and auxiliary copies at four facilities in each of six FO Regions. Only CommVault or its authorized resellers can perform the required services because access to CommVault proprietary data is needed to perform the required services. This software is required to bring VA into compliance with VA Security Directive 6500, National Institute of Standards and Technology (NIST) special publications 800-34 and 800-53, and VA Continuous Readiness in Information Security Program (CRISP). Specifically, the software will enable the VA to implement standardized backups protected by 256-bit AES encryption using Federal Information Processing Standard (FIPS) 140-2 validated cryptographic libraries. The lease period of performance is a 12-month base period with four 12-month option periods. VA anticipates requiring the aforementioned software and support for a minimum of 5 years. This is based on historical data and current usage of the software.

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) Subpart 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: This is a brand name justification in support of FAR 11.105, Items Peculiar to One Manufacturer. CommVault Simpana architecture is currently utilized as the sole software architecture to backup and/or archive data at approximately 260 facilities in FO Regions 1 through 6. The VA intends to expand this environment to cover approximately 3.5 petabytes of additional data located at these same facilities using a combination of new and existing hardware. The CommVault Simpana environment is only compatible with CommVault Simpana software licensing. The existing hardware infrastructure can only support a single backup software platform. The addition of another product would cause performance issues and void the current CommVault maintenance and warranty agreements that are in place and could cause a system failure to include loss of data. Therefore, the existing infrastructure would need to be replaced in its entirety at approximately 260 facilities if any other brand name software was procured. Additionally, only CommVault or its authorized resellers who are certified on CommVault Simpana software can perform the required engineering and training services because access to CommVault's proprietary data is needed to perform the required services and train VA System administrators on the CommVault Simpana software suite and overall function of the CommVault Backup solution.

CommVault Simpana brand name software is the only software that can continue to build upon VA's existing CommVault Simpana-based data backup environment. Any other brand name software is unable to integrate with the currently fielded software and CommVault Simpana-based backup environment infrastructure. Additionally, no other brand name software will be interoperable or compatible with the currently fielded CommVault Simpana-based backup environment and CommVault Simpana brand name software. Specifically, the current system and software communicates through a source code that is based on CommVault Simpana proprietary data. No other software can provide the required communication capabilities without this source code. Existing VA CommVault Simpana brand name software inventory includes 24,129TB of Archive licensing; 240 million eDiscovery object licenses; 1,559TB of Data Protection Enterprise (DPE) licensing; and 256TB of Data Protection Advanced (DPA) licensing.

Only CommVault Simpana brand name software can meet VA's data encryption requirements using the existing CommVault Simpana backup environment. This procurement will ultimately provide OI&T with a consolidated backup infrastructure that permits the Department to implement defined retention times, recovery times, backup frequencies, offsite requirements, and encryption methodologies. Data protected and/or archived by another vendor's software will not integrate with the existing infrastructure, which is based on CommVault Simpana brand name software.

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 the required CommVault brand name products. In accordance with FAR 5.301 and 16.505(b)(2), the award notice for this action will be synopsisized on the Federal Business Opportunities Page (FBO) and this justification will be made publicly available within 14 days of award.

7. Actions to Increase Competition: By implementing a consolidated backup infrastructure with coterminous licensing and hardware maintenance agreement expiration dates, the Government will be better positioned to replace its backup infrastructure in the future. 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: The Government's technical experts conducted market research by reviewing other similar software. This market research was conducted in July 2016. The other similar software reviewed included Veritas NetBackup, Veeam Backup & Replication, EMC Avamar/Networker and Data Domain. It was determined these solutions are not compatible with the existing backup environment based upon CommVault products.

Based on reviews of these products, the Government's technical experts determined that none of these products can meet the Government's interoperability and compatibility requirements to operate with the CommVault products within the existing VA data backup environment. The above solutions would not provide the required seamless interoperability and compatibility. Additionally, none of these other products can offer integration into the existing proprietary CommVault Simpana backup architecture. Review of these products was based on actual VA experience using the competing backup software. Additionally, VA storage commodity Subject Matter Experts regularly review industry trade publications and conduct internet research to ascertain if any other brand name software is available to meet the Government's needs. Based on all of these market research efforts, the Government's technical experts have determined that only CommVault Simpana brand name software can meet all of VA's needs.

Additional market research was conducted via a request for information posted to the National Aeronautics and Space Administration (NASA) Solutions for Enterprise-Wide Procurement (SEWP) Governmentwide Acquisition Contract (GWAC) on July 8, 2016 and responses were received from thirteen potential offerors. Of which, four Service-Disabled Veteran-Owned Small Businesses were found capable of meeting the overall data backup requirements including the required brand name CommVault software, training, and engineering services.

9. Other Facts: None.

10. Technical and Requirements Certification: I certify that the supporting data under my cognizance, which are included in this justification, are accurate and complete to the best of my knowledge and belief.

James R. Rogers

Date: _____

8/23/2016

X James R. Rogers

James R. Rogers

Enterprise Storage Engineer

Signed by: James R. Rogers 194509

Enterprise Storage Engineer

11. Fair and Reasonable Cost Determination: I hereby determine that the anticipated price to the Government for this contract action will be fair and reasonable based upon anticipated competition and discounts among NASA SEWP V GWAC holders who are authorized resellers of the required brand name CommVault software, licenses, and services described herein. Additionally, NASA SEWP has already determined that the catalog prices on its GWACs are fair and reasonable. Finally, price analysis shall be conducted by comparing the successful quote to the Independent Government Cost Estimate.

Debra G. Clayton

Date: 8/23/16

Procuring Contracting Officer

Signature: [Signature]

12. Procuring Contracting Officer Certification: I certify that this justification is accurate and complete to the best of my knowledge and belief.

Debra G. Clayton

Date: 8/23/16

Procuring Contracting Officer

Signature: [Signature]

13. Legal Sufficiency Certification: I have reviewed this justification and find it adequate to support an exception to fair opportunity and deem it legally sufficient.

Mary Courtney

Date: 8/26/2016

Legal Counsel

Signature: By: [Signature]

Approval

In my role as Advocate for Competition, based on the foregoing justification, I hereby approve the acquisition of CommVault software, licenses, and services, pursuant to the authority cited in paragraph 4 above, subject to availability of funds, and provided that the property and services herein described have otherwise been authorized for acquisition.

Date: 8-29-16

Signature: _____


Ronald J. Bakay
Advocate for Competition
Technology Acquisition Center
Office of Acquisition Operations