

JUSTIFICATION AND APPROVAL
FOR AN EXCEPTION TO FAIR OPPORTUNITY

1. Contracting Activity: Department of Veterans Affairs (VA)
Office of Acquisition Operations
Technology Acquisition Center
260 Industrial Way West
Eatontown, New Jersey 07724
2. Description of Action: The proposed action is for a firm-fixed-price (FFP) Task Order (TO), issued under the National Aeronautics and Space Administration (NASA) Solutions for Enterprise-Wide Procurement (SEWP) IV Government Wide Acquisition Contract (GWAC) for Hewlett-Packard (HP) maintenance support for HP testing software currently owned by VA. The period of performance of this TO will consist of a one-year base period with two one-year option periods.
3. Description of Supplies or Services: The VA Office of Information and Technology (OIT) Bay Pines Test Center requires the renewal of maintenance support for HP testing software licenses. The HP testing software is utilized in a controlled testing environment and increases the confidence for successful product releases by facilitating test issue tracking, functional/performance/load test automation, and test case scripting automation. Continued software maintenance is required to provide phone-in assistance, web and email support coverage, as well as downloadable software updates and upgrades. This maintenance support will ensure that the currently fielded HP testing software remains operational. The total estimated value of the proposed action, inclusive of option periods, is \$.
4. Statutory Authority: The statutory authority permitting this exception to fair opportunity is Section 41 U.S.C. 253j(b) as implemented by 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: Based on extensive market research, as described in the market research section of this document, it was determined that limited competition is available for this service. This is a renewal to continue annual maintenance and support of VA owned licenses. The HP testing software suite is the primary software utilized for independent testing of software within OIT. Without maintenance, critical software updates cannot be applied and there will be no support for software issues that arise during testing. This will result directly in delay of product release, increased risk of software errors being released to production use, and potential for patient safety issues during Veteran patient care. The selection of an alternative software product will result in substantial duplication of costs which would not be recovered through competition. Re-investment in this platform maintains access to intellectual capital of subject matter experts staffed within Testing Service; shifting to an alternate software solution will result in retraining for 50+ staff and contract resources. Furthermore, only HP resellers can provide the specific maintenance support services

by having direct access to the HP source code, which the VA does not own. Direct access to this source code provides HP resellers the ability to update the HP testing software. Any source must have access to this proprietary source code in order to provide the aforementioned maintenance support. Based on the above information, the Government's technical experts concluded that only HP resellers have access to this source code and can meet all of VA's requirements.

6. Efforts to Obtain Competition: Market research was conducted, details of which are in the market research section of this document. Although the Government is limiting competition as a result of specifying a brand name, there are several authorized resellers of this service on the NASA SEWP contract. Competition for this requirement among these vendors is anticipated. Additionally, this Justification and Approval and the Request for Quotation (RFQ) will be submitted to all four NASA SEWP IV GWAC contract groups in order to fully notify all interested parties. All SEWP IV orders are placed under existing indefinite delivery, indefinite quantity contracts, and thus are not required to be synopsisized pursuant to FAR subpart 16.505(a)(1); however, notice of the delivery order award and this justification shall be made publically available on FedBizOpps.gov within 14 days after award in accordance with FAR 16.505(b)(2)(ii)(D).

7. Actions to Increase Competition: In order to remove or overcome barriers to competition in the future, the program office will continue to perform market research on the software application this requirement supports to determine if other solutions can be considered for future procurements.

8. Market Research: In January 2012, market research was conducted on NASA SEWP. It was determined that NASA SEWP offers maintenance support for other testing software, with International Business Machines Corporation (IBM)'s Rational suite being the closest comparison to HP. Maintenance support for these alternate software packages would not provide the code updates unique to HP, nor would the phone and online support be compatible with the HP software functionality. A Request for Information was issued in January 2012 to all NASA SEWP IV GWAC contract holders. One response was received from MicroTech (a Service-Disabled Veteran-Owned Small Business). A search was performed on the NASA SEWP Product Verification Tool which yielded five vendors who offer this service. After contacting these vendors, the following companies expressed interest in this procurement: CounterTrade Products (8a and Woman Owned Small Business), Merlin International (Veteran-Owned Small Business) and FedStore Corporation (Service-Disabled Veteran-Owned Small Business). Therefore, limited competition is expected for this proposed action. In accordance with NASA SEWP recommendations, all four contract groups will be notified for this brand name requirement. However, since at least two vendors from Group B (Service-Disabled Veteran-Owned Small Business) and Group C (Small Businesses) are capable of meeting this requirement, award will be reserved for a vendor from one of these two groups.

9. Other Facts: None