

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 brand name firm-fixed-price task order to be issued under the Transformation Twenty-One Total Technology (T4NG) Multiple Award Indefinite Delivery Indefinite Quantity Contract (ID/IQ).
3. Description of the Supplies or Services: VA, Office of Information and Technology (OI&T), Service Delivery, and Engineering, Field Office has a requirement to upgrade and augment the existing brand name NEC Corporation (NEC) Univerge Communication system, Private Branch Exchange (PBX) at the Birmingham VA OI&T Field Office. This procurement includes upgraded equipment including replacement of the current NEC PBX SV8500 with a NEC PBX SV9500, software licenses, Software Assurance (SWA) coverage, and services by NEC certified technicians for the upgraded NEC system to include maintenance on PBX, voicemail, phones and other equipment within the Voice System. Upgrade of the aforementioned system equipment will ensure the telecommunications systems are in good working order, meet VA's Continuous Readiness in Information Security Program standards and day-to-day business operations. The required SWA coverage will provide maintenance, patches, and equipment upkeep of the deployed equipment. The Period of Performance will be for a 12-month base period with four 12-month option periods. The estimated value of this action inclusive of options is
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 Above: Based on market research, as described in section 8 of this justification, the Government determined that limited competition is viable among authorized resellers of the required NEC Univerge Communication systems equipment upgrades, software licenses, and SWA subscriptions. NEC is the only brand name which will allow for upgrading the previously deployed NEC Communication systems at this site. The equipment upgrades, software licenses, and SWA coverage will provide VA with the ability to support the fielded telecommunications systems, crucial for communications. This PBX contains proprietary code/information that is only available to NEC or its authorized resellers. The required equipment upgrades and SWA coverage cannot be provided by another source other than NEC or its authorized resellers. No other PBX telecommunications system can provide seamless and full communication capability; the absence of which

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would result in system interoperability issues which would not allow the systems to perform as intended. SWA coverage consists of software patches, which must be specifically coded to work with the deployed voice systems. No vendor other than NEC or its authorized resellers can provide the required software updates/patches/repairs without introducing undue risk to the Government due to the lack of NEC code. Additionally, in order to provide maintenance services for NEC equipment, any prospective contractor must have technicians who are NEC certified. Non-authorized technicians would not be capable of meeting all of VA's requirements, to include performing more complex troubleshooting or restoring the equipment in the instance of system failure. In order to provide effective maintenance services, the NEC certified technicians would need direct access to the NEC Technical Support Center to obtain system information, licensing information, software and hardware support, warranty information, diagnostic support, and updates on NEC system modifications, improvements, revisions and new software level releases. Any work performed by an unauthorized vendor would void all warranties. Therefore, no provider, other than NEC or its authorized reseller can provide the required equipment, software licenses, SWA, and services.

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 this brand name item. In accordance with FAR 5.301 and 16.505(b)(2)(ii)(D), this action will be synopsisized within 14 days of award on the Federal Business Opportunities Page and the justification will be made publicly available. Additionally in accordance with FAR 16.505(a)(4)(iii)(A)(1) the contracting Officer will post the justification and supporting documentation on the agency Web site used to solicit offers for orders under

7. Actions to Increase Competition: The Government will continue to conduct market research to ascertain if there are changes in the marketplace that would enable future actions to be competed.

8. Market Research: The Government technical experts conducted market research from May through June 2016 by researching other items and services similar to the aforementioned NEC brand name telecommunications systems, software licenses, and manufacturer's technical support. Avaya Incorporated (Avaya), Cisco Systems (Cisco), and Siemens AG (Siemens) were the only brand names with similar capabilities; however, none of those vendors could satisfy VA's requirements to interoperate with the existing NEC telecommunications systems. Avaya, Cisco, and Siemens equipment, components, software licenses, and telecommunications peripheral equipment are unable to integrate with the currently fielded NEC telecommunications systems and infrastructure. Specifically, the current telecommunications systems communicate through a source code that is based on NEC proprietary data. No other PBX can provide seamless and full communication capability without the NEC proprietary source

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code. The absence of this proprietary source code would result in device interoperability issues. Without device interoperability, the devices would not perform their intended functions, which would cause voice network delays, issues leading to work stoppages and an interruption in communications, jeopardizing VA's overall mission to serve Veterans. The team determined that in order to ensure interoperability with the existing system and to ensure that system performance would not be negatively impacted, it is necessary to use NEC brand name equipment, components, software licenses, and telecommunications peripheral equipment to ensure daily operations are not interrupted. Further market research was conducted in June 2016 using other PBX communications contracts for VA and NEC's web site.

Market Research was conducted in September 2016 by releasing a Request for Information on the T4NG Multiple Award ID/IQ Contract which received four responses. The VA technical expert reviewed the responses and determined that there are several authorized resellers of the required NEC Corporation telecommunications system and SWA coverage.

9. Other Facts: None

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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.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

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 on adequate price competition and comparison of the successful TEP to the Independent Government Cost Estimate.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

12. Procuring Contracting Officer Certification: I certify that this justification is accurate and complete to the best of my knowledge and belief. As this contract action does not exceed \$700,000.00, the certification below required by FAR 16.505(b)(2)(ii)(C)(1) serves as approval.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_