

## 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 (FFP) delivery order issued under a National Aeronautics and Space Administration (NASA) Solutions for Enterprise-Wide Procurement (SEWP) V Government Wide Acquisition Contract (GWAC) for maintenance for existing brand name Commvault software in support of an integrated Centralized File Storage system (CFS) solution.
3. Description of the Supplies or Services: VA, Office of Information and Technology (OI&T), Service Delivery and Engineering (SDE), Executive Office of Technology Management (ECTM) has a requirement to provide maintenance for 12,000 Terabytes of existing Commvault Data Archive Enterprise software that comprises an integrated storage solution, known as CFS. The current CFS solution is installed at 12 VA locations (Pittsburgh Test Lab; Cleveland VAMC (supporting SDE Enterprise Systems Engineering); Cleveland VAMC (supporting SDE Field Operations Region 3); Federal Preservation Office (FPO) Asheville; FPO Denver, Sacramento Data Center, Denver Data Center, North Chicago Federal Health Care Center; Temple, TX VAMC; Orlando, FL VAMC; Philadelphia Sungard Data Center, and Albany Stratton VAMC). Commvault Data Archive Enterprise software provides the ability to store data as part of VA's centralized storage strategy and maintenance is required to ensure the existing software remains operational. Software maintenance includes 24 hours per day, 7 days per week coverage 365 days/year phone and website access, availability for reporting a trouble ticket, and 4 hour response time. Software updates include major releases, point releases, service releases and security releases of applicable software. Coverage allows for VA to determine capacity requirements for each CommCell ID (CCID) associated with the existing Commvault Data Archive Enterprise software. The period of performance shall be February 1, 2017 through January 31, 2018 with two 12-month option periods.
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: Based on market research, as described in paragraph 8 of this document, the VA determined that limited competition is available among authorized resellers for the required Commvault software maintenance. VA currently uses Commvault software to support server virtualization operations throughout the VA enterprise. Access to the proprietary source code is necessary to provide the required software upgrades and updates to include major

releases, point releases, service releases and security releases. Access to this code is required to ensure all services provided on the software are properly configured and that all upgrades and updates are properly pushed through to the fielded software. Failure to acquire compatible software maintenance would cause system failures, such as network flows which identify malicious activity and real-time correlation employing sense analytics to identify high-risk threats, attacks, and security breaches. The existing integrated storage solution is installed at 12 VA locations, where it is vital to providing high-availability storage for its respective regions. It provides analysis, search, Commvault alerting, policy-based automation and role-based access features and supports hardware based snapshots, de-duplication and integration with VMware and HyperV virtualization hypervisors. Additionally, this software was purchased along with the existing hardware infrastructure as an integrated storage solution. Therefore, the Commvault brand name software is the only software that can continue to work with VA's existing integrated solution infrastructure. Any other brand name software is unable to integrate with the currently fielded Commvault software. Specifically, the current system and software communicates through a source code that is based on Commvault proprietary data and any alternate brand software will use its own proprietary code or open source code which would not be compatible with the existing infrastructure. Therefore, only Commvault or an authorized reseller which has access to the proprietary source code have the ability to meet VA's requirements as no other brand product is compatible with or interoperable with the existing integrated storage solution currently based on Commvault software.

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. The VA determined that limited competition is viable among authorized resellers for the required brand name Commvault software maintenance support that are current NASA SEWP V GWAC holders. In accordance with FAR 5.301 and 16.505(b)(2)(ii)(D), notice of award for this action will be synopsized 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 website 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 Government will continue to perform market research to determine if there are any products and/or source providers available that will enable future requirements to be competed.

8. Market Research: The Government's technical experts conducted market research in December 2016 by reviewing similar brands of software maintenance to ascertain if these products could meet or be modified to meet VA's requirements. Specifically, the Government's technical experts conducted web-based research on vendor websites to include Hewlett Packard and Imperva, Inc. Although these vendors offer similar software maintenance, only Commvault or an authorized reseller are capable of providing software maintenance that meets the Government's compatibility and

interoperability requirements as described in paragraph 5 above. On December 21, 2016, the Government contacted Commvault to ascertain if this proprietary source code was for sale. Commvault advised that this data is not for sale.

Additionally, market research was conducted in December 2016 utilizing the NASA SEWP V GWAC Provider Lookup Tool to determine whether the required brand name Commvault software maintenance support was available from current GWAC holders. The results of the search found numerous GWAC holders that are Commvault resellers that could possibly meet VA's needs, including 15 Service-Disabled Veteran- Owned Small Business Value Added Resellers. Therefore, limited competition is anticipated.

9. Other Facts: None.