


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 award of a firm fixed-price delivery order under the National Aeronautics and Space Administration (NASA) Solutions for Enterprise-Wide Procurement (SEWP) V Government-wide Acquisition Contract (GWAC) for brand name International Business Machines (IBM) Corporation's Rational product software maintenance and technical support.
3. Description of Supplies or Services: VA, Office of Information and Technology (OI&T), Enterprise Project Management Office (EPMO), has a requirement to renew software maintenance and technical support, to include updates and manufacturer telephone and web-based technical support services for a broad range of IBM Rational products. The products/licenses requiring maintenance under this order fall into two segments including (1) token-based licenses, in which tokens are exchanged to activate an a la carte suite of IBM Rational product licenses in varying quantities at a fixed maximum of 21,000 tokens; and (2) 402 floating licenses across seven specific software products. The maintenance and support services shall include resolution of problem tickets via the IBM Support Web Portal, resolution of phone calls via the IBM Support Help Desk, release of software hotfixes and software version updates, electronic distribution of maintenance updates or new releases, and authority access control methods. Product support services will enable EPMO to continue its program and project development mission by providing maintenance on the standard manufacturer user license agreement for existing VA IBM Rational product subscription licenses. This action is for services only, no additional software licenses will be procured or renewed. VA anticipates that the requirements for the IBM software maintenance renewals will cover a four year period based on the anticipated usage of the perpetual IBM Rational licenses, to support the need for three option years. The period of performance for this effort consists of a 12-month base period with three 12-month option periods. The total

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 described in section 8 of this justification, limited competition is anticipated among

IBM authorized resellers. Only IBM Rational product software maintenance and technical support can meet the Government's requirements. Without this software maintenance and support, OI&T would not be able to troubleshoot configuration, operational use, and customization of IBM Rational Tool products in use throughout VA's information technology (IT) software and system solution delivery process in performing requirements management through design, modeling, change and configuration management, and test and quality management.

VA requires renewal of IBM Rational software maintenance and technical support for continued operational availability. Only IBM or an authorized reseller can provide the software maintenance because of the proprietary source code required to develop and implement software updates. Additionally, this code is required to ensure all software maintenance and support performed on the software is properly configured. Only the original software developer or its authorized resellers have access to this code to provide these services. This software maintenance and support is the only software maintenance that meets the Government's requirements. Failure to acquire the aforementioned software maintenance and support will prevent the VA software and system delivery implementation team from obtaining hotfixes and patches for identified security vulnerabilities, defect resolutions, and infrastructure compatibility reengineering releases that will allow the Rational tools to be Section 508, security, and enterprise architecture compliant. Furthermore, without these licenses VA project and program managers would be prevented from managing full software development methodologies, ensuring complete traceability of stated business requirements and referencing models into functional requirements, and executing change orders for software test cases and evidence discovery. Without the necessary software maintenance and technical support, project and program requirements will not successfully integrate project design, change, issue, risk, requirements and testing data with project scheduling data into other data collection systems, resulting in significant mission degradation.

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 of the required brand name IBM Rational software maintenance renewals. In accordance with FAR 5.301 and 16.505(b)(2), the award notice for this action will be synopsisized within 14 days of award on the Federal Business Opportunities Page (FBO) and this justification will be made publicly available. Additionally, this justification shall be posted with the solicitation on the NASA SEWP V GWAC website to notify prospective offerors.

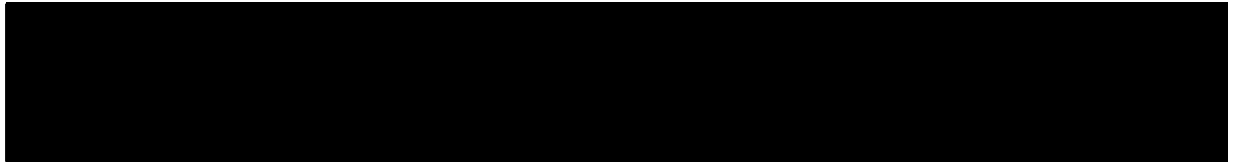
7. Actions to Increase Competition: The Government will continue to conduct market research to ascertain if there are changes in the marketplace that would enable future actions to be competed.

8. Market Research: Market research was conducted in October and November of 2016 to ascertain the ability of any other source other than IBM, or IBM authorized resellers, that could provide the required software maintenance and support. Although the Technical expert found a few vendors possess similar maintenance and support capabilities, only IBM or their specific authorized resellers (designated IBM "Approved Vendor Business Partners") have access to the proprietary source code specific to the maintenance for this particular software. No other software providers were found to have access to the proprietary data of the software in order to provide software maintenance and support on the existing IBM products.

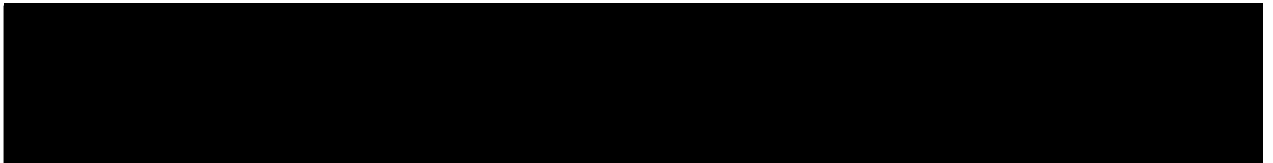
On February 21, 2017, additional market research was conducted using the Provider Lookup Tool on the NASA SEWP V GWAC website. It was determined that there are numerous NASA SEWP V GWAC holders that are authorized resellers that can provide the required software license renewals, maintenance and support under North American Industry Classification System code 541519. Further market research was conducted in December 2016 by contacting IBM. In discussions, IBM reconfirmed that only IBM Approved Vendor Business Partners are authorized to provide the required IBM Rational Tools maintenance support. The list IBM provided showed all but one are within SEWP. Therefore, limited competition is anticipated under the NASA SEWP V GWAC for the requirements described herein.

9. Other Facts: None.

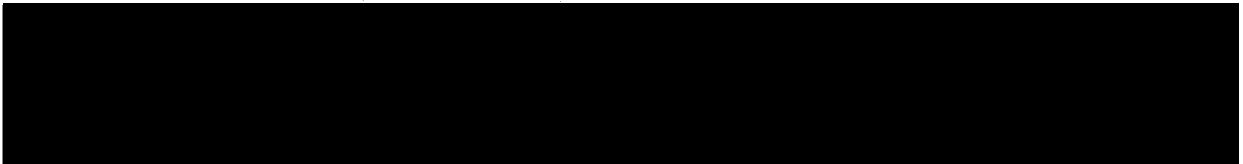
10. Technical and Requirements Certification: I certify that the supporting data under my cognizance, which are included in this justification, are accurate and complete to the best of my knowledge and belief.



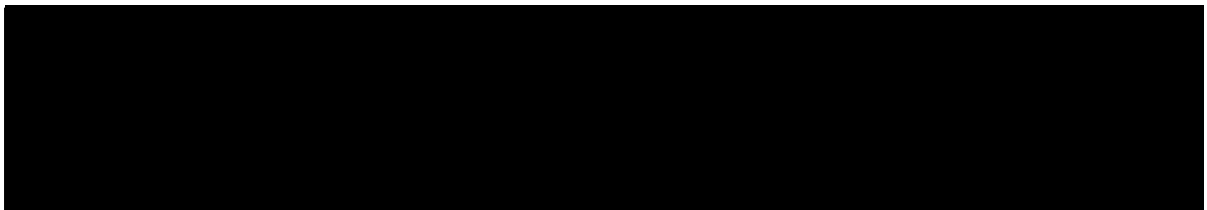
11. Fair and Reasonable Cost Determination: I hereby determine that the anticipated price to the Government for this contract action will be fair and reasonable based on anticipation of competition and discounts among NASA SEWP V GWAC resellers of the required IBM Rational software maintenance renewals. Additionally, catalog pricing for SEWP V GWAC holders has already been determined by NASA to be fair and reasonable. Finally, price analysis shall be conducted the successful quotation will be compared to the independent government cost estimate.



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



13. Legal Sufficiency Certification: I have reviewed this justification and find it adequate to support other than full and open competition and deem it legally sufficient.



Approval

In my role as Head of the Contracting Activity, based on the foregoing justification, I hereby approve the acquisition for IBM Rational product software maintenance and support, on a limited competition basis pursuant to the statutory authority cited in section 4 above, subject to availability of funds, and provided that the services herein described have otherwise been authorized for acquisition.

