

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 delivery order awarded under the National Aeronautics and Space Administration (NASA) Solutions for Enterprise-Wide Procurement (SEWP) V Government-Wide Acquisition Contract (GWAC) for International Business Machines FileNet software.
3. Description of the Supplies or Services: VA Financial Services Center (FSC) requires International Business Machine (IBM) FileNet P8 software subscription and technical support in order to maintain the software licenses and maintenance agreements for the existing program at FSC Enterprise Content Management. The contractor shall provide all necessary maintenance support, to include patches and upgrades, and shall ensure that the IBM FileNet software licenses are operational and performance is not degraded. The maintenance will also include access to the IBM technical support portal, the ability to enter service requests, 24x7 via phone support and access to IBM knowledge bases. The IBM FileNet software subscription will provide access to defect correction information, restrictions, bypasses and new releases and versions IBM makes generally available. The period of performance for this effort is August 1, 2017 through July 31, 2018.
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: This is a brand name justification in accordance with FAR 11.105, entitled "Items Peculiar to One Manufacturer". Based on market research as described in section 8 of this document, limited competition is available among authorized resellers for IBM FileNet software maintenance. VA currently utilizes IBM FileNet software to store and manage document content in a central repository. The current VA invoicing system communicates through software that is based on IBM proprietary source code. Due to the complexity of the FileNet software and the need for 24X7 support, no other software maintenance can provide the required capability without that source code. Based on the proprietary nature of source code, another vendor could not properly patch and maintain the currently fielded software without the proprietary computer language from the initial IBM source code. VA does not possess the proprietary technical data required to maintain and upgrade the IBM FileNet software in use at the FSC. Failure to acquire the maintenance subscription and support for this software would leave VA without the

necessary updates, bug fixes, and certified technical support to ensure the software and services remain operational. The Government contacted IBM in March 2017 to ascertain if this proprietary source code is for sale and was advised it is not. The software maintenance subscription and technical support is required to ensure continuity of services for the existing IBM FileNet software licenses.

6. Efforts to Obtain Competition: Market research was conducted, details of which are located in the market research, section eight of this document. Although the Government is limiting competition as a result of specifying IBM software licenses and technical support, there are multiple value added resellers of this product that hold current NASA SEWP V contracts. In accordance with FAR 5.301 and FAR 16.505(b)(2)(ii)(D), this action will be synopsisized and the justification will be made publically available on the Federal Business Opportunities Page within 14 days after award. In accordance with FAR 16.505(a)(4)(iii)(A), the justification will be posted with the Request For Quote (RFQ) on the NASA SEWP V website.

7. Actions to Increase Competition: In order to remove or overcome barriers to competition in future acquisitions for the requirement described herein, the Government's technical experts has and will continue to perform market research to determine if there are changes in the market place that would enable future actions to be competed.

8. Market Research: Market research was conducted in March 2017, with Government technical reviewing and comparing other software maintenance service providers that are available on National Aeronautics and Space Administration (NASA) Solutions for Enterprise-Wide Procurement (SEWP) V Government-Wide Acquisition Contract (GWAC). Although these sources may be able to provide general maintenance capabilities, none could provide the required maintenance to sustain the existing IBM FileNet software without access to the IBM proprietary source code. In addition, market research was conducted to ascertain if other products could satisfy VA's requirements. Specifically, VA subject matter experts reviewed brand names Microsoft SharePoint and OpenText Enterprise Content Management Software Suite brands and determined that neither product could seamlessly integrate into the existing VA networks. Brand name IBM FileNet software subscription, software maintenance and technical support or equal is required for this action. Consistent with Federal Acquisition Regulation (FAR) 7.102(a)(4) and in the interests of reaching Service Disabled Veteran Owned Small Business (SDVOSB) vendors, the VA will utilize the NASA SEWP SDVOSB targeting strategy to meet the requirement and ensure award to a verified SDVOSB vendor.

In May 2017, the contract specialist conducted market research to ascertain the extent of limited competition among resellers. After reviewing the NASA SEWP V GWAC website, There were 84 resellers of brand name IBM products identified that hold NASA SEWP V GWAC's. Of those 84 GWAC holders, 40 are SDVOSB vendors that have the capability of meeting the VA FSC's needs.

9. Other Facts: None



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Contracting Officer