

JUSTIFICATION
FOR AN EXCEPTION TO FAIR OPPORTUNITY

1. Contracting Activity: Department of Veterans Affairs (VA)
Office of Acquisition Operations
Technology Acquisition Center
1701 Directors Blvd
Austin, TX 78744
2. Description of Action: The proposed action is for a brand name firm-fixed-price task order to be issued under the National Aeronautics and Space Administration (NASA) Solutions for Enterprise Wide Procurement (SEWP) V Governmentwide Acquisition Contract (GWAC).
3. Description of the Supplies or Services: VA, Office of Information and Technology, Information Technology Operations and Services, Region 5 Field Operations, requires renewal of annual software maintenance support of Xerox software, 10 licenses of Xerox FreeFlow Variable Information (VI) Design Professional and 3 licenses of Xerox FreeFlow Variable Information (VI) eCompose Multi-User 2+. The maintenance provides access to all software updates and patches, which includes maintenance released and major version released for the Xerox FreeFlow product software, and includes technical support. This action will co-term the maintenance period of performance so there are two periods of performance. The period of performance for the VI Design Professional is July 29, 2017 to July 1, 2018 with two option years. The period of performance for the VI eCompose Multi-User 2+ is July 2, 2017 to July 1, 2018 with two option years. The total estimated price of this proposed action is [REDACTED], inclusive of all options.
4. Statutory Authority: The statutory authority permitting an exception to fair opportunity is Section 41 U.S.C. 4106(c)(2) as implemented by 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: More than one awardee is capable of providing the supplies or services required, but fair opportunity is limited by restriction to a brand name. VA owns perpetual licenses of Xerox brand FreeFlow VI products: Design Professional software is client portion used by developers to design and create master form letters; and eCompose software is the server portion that runs on the VA leased Xerox printing systems that generate correspondence by Veterans Benefits Administration (VBA) claim adjusters to veterans and beneficiaries for veterans claim processing. This proprietary software has become an integral part of operations in support of the veterans claim processing systems. Only Xerox can provide maintenance services due to the proprietary aspects of the Xerox FreeFlow VI software and its source code. No other known brands of software could be determined equal to, compatible or interoperable with the existing Xerox FreeFlow VI software and Xerox printers in use by VBA. Competing for new software and printer would not result in

XEROX SOFTWARE MAINTENANCE SUPPORT

savings, and the purchase of the Xerox software maintenance is more advantageous to the Government.

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. It was determined that limited competition is viable among resellers for these brand name items. In accordance with FAR 16.505(b)(2)(ii)(D), this action is not required to be synopsisized on the Federal Business Opportunities Page upon award because the total estimated price is less than the simplified acquisition threshold, however, the Brand Name Justification will be posted on the NASA SEWP website to notify all interested parties.

7. Actions to Increase Competition: Although the Government is limiting competition as a result of specifying a brand name, there are authorized resellers of these products on the NASA SEWP V contract. Competition for this requirement among these vendors is anticipated. Furthermore, the Government will continue to conduct market research to learn if there are changes in the marketplace that would enable future actions to be competed.

8. Market Research: Market Research was conducted in February 2017, by VA technical representatives to ascertain if other sources, other than Xerox or their authorized resellers can meet VA needs. The Government's technical expert conducted internet market research that consisted of a review of similar software. Specifically, the subject matter experts looked at EFI Micro Press, Fiery Central, and Alto Imaging Technologies Image Arranger brands. As a result of the market research, the technical experts confirmed that these branded products do not have access to Xerox's proprietary source code. Therefore, only Xerox and its authorized resellers are capable of developing and issuing software updates and fixes for the FreeFlow VI software necessary to support existing requirements. Additionally, this same market research confirmed that no other software could be used to operate the Xerox printing devices due to proprietary code patented by Xerox Corporation.

The VA technical personnel conducted market research in February 2017 by using the NASA SEWP V GWAC Provider Lookup tool to determine what vendors are capable of meeting the requirement. In addition, the Contract Specialist (CS) conducted market research in April 2017 by using the NASA SEWP V GWAC Provider Lookup tool to determine what vendors are capable of meeting the requirement. Based on this market research, the CS found 18 service-disabled Veteran-owned small businesses (SDVOSB) listed in the results. However, 4 of the 18 SDVOSBs listed (GAI, Phoenix Data Security, Proquire, and VetInfo Tech) are not VIP verified and they cannot be counted. Therefore, 14 SDVOSBs are capable of meeting the full requirement.

9. Other Facts: None.

XEROX SOFTWARE MAINTENANCE SUPPORT

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.

Kathy M. DiPierro

Program Manager

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 because NASA SEWP V GWAC prices have previously been determined fair and reasonable. Additionally, price competition is expected among authorized resellers for this action. Additional price analysis may be performed in accordance with FAR 15.404-1(b).

Lateefah Parker

Procuring Contracting Officer

Date: _____

Signature: _____

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

Lateefah Parker

Procuring Contracting Officer

Date: _____

Signature: _____