

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 issued under a National Aeronautics and Space Administration (NASA) Solutions for Enterprise-Wide Procurement (SEWP) V Government Wide Acquisition Contract (GWAC) for the renewal of brand name Commvault Simpana software maintenance support.

3. Description of the Supplies or Services: Office of Information and Technology, Service Delivery and Engineering, Field Operations Region 4 requires the renewal of Commvault Simpana software maintenance for existing perpetual licenses operating on existing CommCells storage products supporting additional Veterans Health Administration (VHA) Medical Center (VAMC) servers and expanding disaster preparedness and recovery time objectives of all server-based data and applications in all medical centers in Region 4. The required Commvault Simpana software maintenance support includes bug fixes, upgrade releases and enhancements, helpdesk support, and periodic product updates. The period of performance for this action is from August 1, 2017 through July 31, 2018. The total estimated price of the proposed action is \$252,628.70.

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 section eight of this document, it was determined that limited competition is available among authorized resellers of Commvault Simpana software maintenance. This action is for the procurement of Commvault Simpana software maintenance in support of Region 4 VHA VAMC servers, and database backups of disaster preparedness and recovery time objectives of all server-based data and applications. Due to its proprietary codes, only Commvault Simpana or its authorized resellers can provide the required maintenance support. No other manufacturer's backup licenses are compatible, functional, or interchangeable with the existing infrastructure.

6. Efforts to Obtain Competition: Market research was conducted, details of which are in the market research section of this document. In accordance with FAR 5.301 and 16.505(b)(2), this action will be synopsisized at award on the Federal Business Opportunities Page (FBO) and the justification will be made publicly available. In addition, this Justification for an Exception to Fair Opportunity will be made publicly

available on the FedBizOps Page and posted on the NASA SEWP V website with the solicitation.

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, changes in the marketplace such as Commvault releasing the software in open source, which would potentially allow other vendors access to the software to perform the required maintenance.

8. Market Research: The Government Technical experts conducted an internet search and utilized the NASA SEWP V Manufacturer lookup tool in June 2016 to determine if other service providers could satisfy the requirements. While other software developers provide software with similar capabilities, such as Hewlett Packard and Memopal, it was determined that each developer provides software maintenance for its own software products. For this reason, it was concluded that Commvault is the only source that can provide software maintenance support due to the proprietary software code.

The Government conducted additional market research on January 31, 2017, via a Request for Information (RFI) submitted to Groups A, B, C, and D of the NASA SEWP V GWAC. On February 7, 2017, the RFI closed and six market research quotes were received. The Government technical team reviewed the responses provided and deemed that all six respondents were capable of reselling the Commvault software maintenance. Based on the RFI responses, it was determined that there is viable competition for the brand name Commvault software support amongst resellers on the NASA SEWP V GWAC. Limited competition is expected for this acquisition.

9. Other Facts: N/A

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.

Name: Paula A Pelusi Date: 5/8/2017
Title: R4 Senior IT Analyst Signature: Paula A. Pelusi

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 GWAC prices have previously been determined fair and reasonable. Additionally, price competition is expected among authorized resellers for this action. Additional price analysis will be performed by comparing the successful quote to the Independent Government Cost Estimate.

Kevin Monahan Date: 5-30-17
Procuring Contracting Office Signature: Kevin Monahan

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

Kevin Monahan Date: 5-30-17
Procuring Contracting Officer Signature: Kevin Monahan