

Approval

In my role as Advocate for Competition, based on the foregoing justification, I hereby approve the acquisition of NetApp maintenance and technical support on an other than fair opportunity basis, pursuant to the authority cited in paragraph 4 above, subject to availability of funds, and provided that the services herein described have otherwise been authorized for acquisition.

Date: 7-18-17

Signature:



Advocate for Competition  
Technology Acquisition Center  
Office of Acquisition Operations

Net App Storage Array

Control Number: TAC-17-40590

Justification For An Exception To Fair Opportunity  
Coordination Matrix



Concur/Non-Concur

Acting Director  
Technology Acquisition Center-Austin (0032B2H)  
Office of Acquisition Operations  
Department of Veterans Affairs

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 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 NetApp maintenance and technical support.
  
3. Description of the Supplies or Services: VA Office of Information and Technology, Region 4, requires NetApp maintenance and technical support packages for the existing hardware manufactured by NetApp located at multiple sites across Region 4. This hardware provides the ability for the 24 x 7, 4-hour support at the Region 4 Medical Centers. The required hardware maintenance and technical support shall provide online support, access to technical support via telephone and email 24 hours a day, 7 days a week. The support will also provide continued access to product updates including major firmware enhancements, newly released features and bug fixes, remote monitoring, as well as hardware replacement parts and 4-hour onsite repair when deemed necessary. The hardware support is required to ensure Medical centers have continuous access to home and group drives, and medical files. The proposed action will include a base period where the maintenance and support of existing hardware and software will be co-termed to expire on July 31, 2018. This proposed action will not include the purchase of any additional hardware or software. The total estimated price of this proposed action is [REDACTED], including a base year and 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 extensive market research, as described in section 8 of this justification, it was determined that limited competition is viable among authorized resellers for NetApp maintenance and technical support. VA has utilized NetApp brand hardware to support the home drive and department share structure and Converge Virtualization Infrastructure Solution implemented in Region 4 to store various types of data including VA facilities staff's Microsoft Outlook Personal Folder Files, Microsoft Office Suite data types, official Government pictures, official Government videos, Adobe Acrobat Files Portable

Document Format files, and Virtual Application servers with vmware technology in a centralized environment utilizing the Common Internet File System and Network File System protocol. Only NetApp or an authorized NetApp reseller can provide the required hardware maintenance and technical support services on the NetApp software currently used within the Region 4 solution. Only NetApp can provide the required hardware support as only NetApp has access to the proprietary microcode utilized by the NetApp hardware's core software (firmware). Access to the microcode is required for updates as well as bug fixes to the NetApp hardware. Updates and patches to the hardware's core software are required to maintain compatibility with other NetApp software. If any other source were to provide hardware maintenance and technical support on the NetApp products, they would not be able to access the hardware microcode to provide updates and patches, and, as such, the NetApp hardware would not remain compatible with the NetApp software. This code is also needed to ensure all services provided are properly configured. Utilizing any source other than NetApp or a NetApp authorized reseller for hardware support would result in NetApp's cancellation of support for both hardware and software support contracts. The Government contacted NetApp in April 2017, to ascertain if this proprietary source code is for sale and was advised it is not. Replacing the NetApp hardware products would require purchasing new hardware and software, onsite installation and configuration of the hardware and software as well as re-training all VA information technology support staff. This would also encompass the reconfiguration of the entire consolidated exchange solution which consists of other hardware and software (besides the affected hardware and software) located at the two datacenter locations and Veterans Integrated Service Networks 1 through 5. The replacement of the VA's current NetApp solution would not only be a significant expense, but it would also require no less than 24 months to migrate all data to the new solution as well as 12 months to set up and test the replacement configuration. During this time, the NetApp equipment and storage arrays would be without support and would increase the risk of severe data loss to an unacceptable level. Therefore, renewal of the current hardware maintenance and technical support is required to ensure continuity of maintenance and support for Region 4's existing NetApp solution, and only NetApp or an Authorized Reseller can provide this hardware maintenance.

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 GWAC 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.

8. Market Research: The VA technical experts conducted market research in April 2017, by reviewing industry trade publications and conducting internet research to ascertain if any other brand name hardware maintenance and technical support is available. Additionally, the technical experts reviewed other similar support providers, including [REDACTED]. It was also determined that none of the reviewed providers could provide the required firmware updates or the necessary NetApp replacement parts. Due to the proprietary nature of the source code, it was concluded that there are no other service providers that can provide the maintenance and technical support required without the proprietary source code as outlined in paragraph five of this document. Based on these market research efforts, VA's technical experts have determined that only NetApp brand name hardware maintenance can meet all of VA's needs.

The Contract Specialist conducted market research in June 2017, by using the NASA SEWP V GWAC Market Research Tool and issuing a request for information on the NASA SEWP V GWAC and found several NASA SEWP V GWAC resellers capable of meeting the full requirement.

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.

[Redacted]

Date: 6/28/2017

Division Chief,

Storage Management Division

Signature: [Redacted]

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 may be performed in accordance with FAR 15.404-1(b).

[Redacted]

Date: 7-17-2017

Procuring Contracting Officer

Signature: [Redacted]

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

[Redacted]

Date: 7-17-2017

Procuring Contracting Officer

Signature: [Redacted]