

JUSTIFICATION FOR AN EXCEPTION TO FAIR OPPORTUNITY

1. Contracting Activity: Department of Veterans Affairs (VA)
Office of Acquisition Operations
Technology Acquisition Center
1701 Director's Boulevard, Ste 600
Austin, Texas 78744
2. Description of Action: This proposed action is for a firm-fixed-price delivery order issued under the National Aeronautics and Space Administration (NASA) Solutions for Enterprise-Wide Procurement (SEWP) V Governmentwide Acquisition Contract (GWAC) for brand name BMC software license and maintenance.
3. Description of Supplies or Services: VA, Office of Information and Technology, Service Delivery and Engineering, Enterprise Operations (EO), requires brand BMC software license and maintenance for Control-M Workload Automation Platform (Task), Control-M Output Management (Task), Control-M Workload Automation Mainframe Extension Pack (Task), and Mainview SRM STOPx37/II). The BMC software products provide the functions required in support of EO datacenter mainframe computing platform performance management. The current EO infrastructure is based on existing BMC software and VA requires upgrade to new licensing model and support compatible with the existing infrastructure protocols and functionality for continued operational availability. The contractor shall provide software maintenance support which shall include 24 hour per day, 7 days per week, 365 days per year assistance via phone and email, as well as all software upgrades and patches. The new licensing model and maintenance is required to ensure EO operates successfully and the software remains operational. The period of performance is from the date of award through June 30, 2017, plus one option period to extend the period of performance through September 21, 2018, and then an additional 12-month option period. The total estimated price of the proposed action including the three option periods is \$ [REDACTED]
4. Statutory Authority: The statutory authority permitting this exception to fair opportunity is 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: Based on market research, as described in section eight of this justification, it was determined that limited competition is available for the required brand name BMC software and maintenance support among authorized BMC resellers. Maintenance is required for software upgrades and patches to our current BMC software. These upgrades/patches provide new feature sets, address program errors in prior versions, and provide security enhancements. VA requires upgrades and patches for its existing BMC software. Only BMC, or an authorized reseller, can provide the

necessary software upgrades and patches because of the propriety source code required to develop and implement software updates. Since the software is proprietary, a legal restriction is placed on access to the software code that is required in order to develop upgrades and patches to the software. Without this access it is impossible to modify the software code as necessary to provide the required patches and upgrades. Additionally, for this reason no other source other than a BMC authorized reseller can provide the required technical support for the requirement, such assistance via phone and email, as well as all software upgrades and patches.

6. Efforts to Obtain Competition: Market research was conducted, details of which are in section eight 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 authorized resellers for the required brand name BMC software maintenance. In accordance with FAR 5.301 and 16.505(b)(2)(ii)(D), notice of award of this action will be synopsized and this justification will be made publicly available within 14 days of award on the Federal Business Opportunities Page. In accordance with FAR 16.505(a)(4)(iii)(A), this justification will be posted with the request for quotation on the NASA SEWP V GWAC website to notify all interested parties.
7. Actions to Increase Competition: In order to remove or overcome barriers to competition in future acquisitions for this requirement, the agency will work with the program office to continue to perform market research to consider and ascertain if any other sources can provide these services in the future. Specifically the Government will continue to investigate alternatives to BMC software and maintenance that may be compatible with the current infrastructure, or whether BMC permits third parties to access its proprietary software to provide maintenance and support. VA technical experts will conduct this market research throughout the year.
8. Market Research: In May 2017, the Government's technical experts reviewed similar software products to include their ability to provide software maintenance to ascertain if they could meet VA's requirements. The Government's technical experts conducted web-based research on web sites by researching other similar virtual server software from [REDACTED] to ascertain if other products could meet the Government's requirements for interoperability and compatibility with EO's existing mainframe architecture currently comprised of BMC software. As a result of the market research the technical staff confirmed that the source code required to issue the upgrades and patches is proprietary, BMC is the only source capable of providing the required maintenance and upgrades for BMC software. No other firm has the capability of developing and issuing software upgrades and patches for BMC software necessary to support existing EO requirements. Based on the above, only BMC software maintenance meets all of the Government's requirements.

Additional market research was conducted in May 2016 by utilizing the NASA SEWP Provider Lookup tool to determine whether the brand name BMC software maintenance is available from NASA SEWP V GWAC holders. It was determined that there are several resellers of the brand name BMC software maintenance that hold current GWACs such that limited competition is anticipated.

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 upon anticipated competition among NASA SEWP V GWAC holders who are authorized resellers of the required BMC software maintenance described herein. Additionally, NASA SEWP has already determined that the catalog prices on its GWACs are fair and reasonable. Finally, if only one quote is received price analysis shall be conducted by comparing the successful quote to the Independent Government Cost Estimate.

Signature