

## 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, New Jersey 07724
2. Description of Action: This proposed action is for a firm-fixed price delivery order under a National Aeronautics and Space Administration (NASA) Solutions for Enterprise-Wide Procurement (SEWP) V Government wide Acquisition Contract (GWAC) for Imperva brand name Software Maintenance and Support.
3. Description of Supplies or Services: VA, Office of Information and Technology (OI&T), Information and Technology Operations and Services (ITOPS), Enterprise Operations (EO) requires brand name Imperva software maintenance and support for EO's current network monitoring software licenses. The required software maintenance will consist of software upgrades and updates to include major releases, point releases, service releases and security releases of applicable software on a quarterly basis, and/or within 48 hours in cases in which a high risk vulnerability fix becomes available. The maintenance is required to ensure the existing software remains operational. Additionally, VA requires the Contractor to staff a telephone number 24 hours per day, 7 days per week, 365 days per year for VA to contact and open a maintenance support call. The Period of Performance shall be September 15, 2017 through September 14, 2018.
4. Statutory Authority: The statutory authority permitting this exception to fair opportunity is Section 41 U.S.C 4106(c)(2) as implemented by Federal Acquisition Regulation (FAR) Section 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 8 of this document, it was determined that limited competition is available among authorized resellers for the required brand name Imperva Software Maintenance Support. Imperva software is currently deployed throughout the EO infrastructure to provide system security event and log correlation, security event alerts and information security threat intelligence, and reporting of all network malware activity. This is used for Security Information and Event Management functions for EO data center systems and networks. Only Imperva or an authorized reseller can provide the necessary software maintenance because of the proprietary source code required to develop and implement software upgrades and updates, perform software diagnostics, and troubleshoot the software proprietary to Imperva. Specifically, the software currently fielded has proprietary constraints that preclude another source from providing services without access to the source code. Without

the aforementioned proprietary source code, no source other than Imperva or its authorized resellers can meet VA's needs. Software maintenance is required to ensure the Imperva software in operation at EO remains up-to-date. Should maintenance for the Imperva software not be acquired, there is an immediate risk to EO's network security posture. Gaps would exist in the software, thus not allowing full security visibility of database vulnerabilities on the network. Imperva software maintenance is vital to VA for continued sustainment of uninterrupted network monitoring.

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. VA determined that limited competition is viable among authorized resellers for the required brand name Imperva software maintenance support that are current NASA SEWP GWAC holders. In accordance with FAR 5.301 and 16.505(b)(2)(ii)(D), this action will be synopsized and the justification will be made publicly available on the Federal Business Opportunities Page within 14 days of award of the order. 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 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 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: In April 2017, the Government's technical experts reviewed similar software maintenance and support brand providers, specifically IBM, AMP Tech Solutions and AppSecurity to ascertain if these providers could meet, or be modified to meet, VA's requirements. Although these vendors possess products with similar capabilities to provide the software maintenance and support, only Imperva or an authorized reseller has access to the proprietary source code required to provide maintenance and support to the Imperva software in operation within EO. Therefore, only Imperva or an authorized reseller can provide the required software maintenance and support.

Additionally, in July 2017, the Contract Specialist conducted market research to ascertain the extent of limited competition among resellers. Through use of the Provider Look-up tool on the NASA SEWP V GWAC website, numerous resellers of the required Imperva software maintenance and support that hold current GWACs were identified that could possibly meet VA's needs. Of the identified resellers, 9 are verified Service Disabled Veteran Owned Small Businesses. Therefore limited competition among these vendors is anticipated.

9. Other Facts: None.