

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 (DO) issued under the National Aeronautics and Space Administration (NASA) Solutions for Enterprise-Wide Procurement (SEWP) V Government Wide Acquisition Contract (GWAC) for Commvault software licenses and maintenance.
3. Description of the Supplies or Services: This proposed action is for brand name Commvault software licensing which consists of a quantity of 1,700 Commvault Data Protection Advanced Per Terabytes (TB), Capacity License, Perpetual, Tier G (1,001-3,000) - FB407 and 1 Commvault Operational Intelligence Foundation Package with corresponding maintenance for VA Office of Information and Technology (OI&T), Enterprise Service Lines (ESL) Storage. VA, OI&T, ESL requires the additional software licensing in order to expand disaster preparedness and recovery time objectives of all research server-based data and applications in all medical centers throughout the enterprise. This enhancement will help backup/restore various systems throughout all the sites within OI&T as a centralized backup solution. This is to purchase additional capacity for an existing system that already is established and serves the purpose of disaster recovery of all VA Medical Centers. Due to unanticipated demands and requirements, the original procurement did not include enough licenses to backup research data; therefore, these licenses are needed to meet mission requirements. Maintenance shall include: access to all upgrade releases (minor and major) and all bug fix releases and periodic updates, enhancements and corrections to the software, and technical support. Maintenance also includes a 12 month warranty and is required on these licenses to ensure they remain operational. The anticipated period of performance is 12 months for software maintenance, inclusive of software delivery within 30 days of DO award. The total estimated price of the proposed action is \$XXXXXX.
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 available among authorized resellers for the brand name Commvault software licenses and maintenance. There is no other software or software maintenance that meets VA's requirements to expand the currently implemented Commvault infrastructure due to Commvault's proprietary codes and software interfaces. If another product was introduced, there would be interoperability and compatibility issues with the current Commvault architecture rendering the infrastructure

unusable. Specifically, another product's software would not be able to communicate with the currently implemented Commvault infrastructure. This is due to the proprietary constraints in which the existing software functions and communicates. Moreover, acquisition of a different brand of software license and maintenance would require a completely separate non-Commvault infrastructure to support the existing application due to Commvault's proprietary structures, protocols, software application programming interfaces, and different products along with completely separate ESL staffing. This acquisition is part of an ongoing effort to backup/restore the present and future data growth capacity demands for all VA facilities. Only brand name Commvault software licenses and maintenance can provide the required licenses and maintenance for the current Commvault backup system utilized for Region 4. No other manufacturer's licenses or maintenance are compatible, functional, or interchangeable with the existing infrastructure. The backup solution currently in place is considered to be a critical piece of infrastructure; it is critical that this infrastructure remain operational at all times and maintenance and support services continuously available. If the Commvault backup software does not remain operational at all times, VA is at risk of experiencing a severe data loss should a backup server or platform failure occur. Such data loss would severely impact critical communications and business activities of all VA facilities and facilities datacenters. Without Commvault, VA would lose the ability to restore any data that was lost due to hardware and/or software issues or human error. Also, no other source other than authorized resellers for brand name Commvault can provide the aforementioned maintenance since access to the Commvault proprietary code is required to ensure all features provided are working properly for the software and services provided are properly configured.

6. Efforts to Obtain Competition: Market research was conducted, details of which are in the market research section of this document. This effort did not yield any additional sources that can meet the Government's requirements. It was determined however, that limited competition is viable among authorized resellers for the aforementioned brand name Commvault software licenses and maintenance. In accordance with FAR 5.301 and 16.505(b)(2)(ii)(D), this action will be synopsisized at award on the Federal Business Opportunities Page and the justification will be made publicly available. In addition, this Justification for an Exception to Fair Opportunity will be made publicly within 14 days of award.

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 Government's technical experts conducted market research in February 2017 by conducting internet searches and reviews of published technical data for backup software available from NetBackup and Symantec Backup Exec. After reviewing these two other brand name software products, VA's technical experts determined that they would not be interoperable or compatible in the existing infrastructure as outlined in section 5 of this justification. Also, while these sources provide similar software maintenance packages, they can provide the maintenance on

the CommVault software since they do not have access to the CommVault source code required to maintain the existing software. Based upon this research, the Government's technical experts have determined that only CommVault brand name software and maintenance can meet all of VA's requirements. None of the brands researched can meet all of VA's functional requirements as discussed in section five of this document. Based upon this research, the Government's technical experts have determined that only CommVault brand name software and maintenance can meet all of VA's requirements. Finally, market research was conducted in April 2017 by utilizing the NASA SEWP V GWAC Provider Lookup Tool which identified numerous resellers of the required Commvault software and maintenance support including 19 prospective Service Disabled Veteran-owned small business holders. Therefore, limited competition is anticipated on NASA SEWP V GWAC among authorized resellers of the required brand name Commvault software licenses and support.

9. Other Facts: None.