

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 task order issued under the National Aeronautics and Space Administration (NASA) Solutions for Enterprise Wide Procurement V (SEWP) Governmentwide Acquisition Contract (GWAC), for renewal of Veritas software with software maintenance, and technical support services.

3. Description of Supplies or Services: VA, Office of Information and Technology, Information Technology Operations & Services has a requirement for renewal of software licences with software maintenance for the 1001 terabytes (TB) of Veritas NetBackup Platform Base software currently in use at the VA, and technical support services. The Veritas Capacity software products currently employed within the existing Infrastructure Operations (IO) storage infrastructure support data backup and recovery operations for all IO hosted systems, storage, and associated applications that are currently deployed. This effort is to renew annual software with software maintenance support for Veritas NetBackup Platform Base Complete Edition 7.7 (or most current version) software and software maintenance, and technical support services. The software maintenance shall consist of patches, bug fixes, new features, and new product releases. The technical support services shall include the review of VA NBU deployments to analyze current performance and trends; reporting problems or deficiencies found in the VA NBU deployments; perform optimizations for each deployment; a dedicated helpdesk support technician; a senior NBU technical support point of contact to provide ongoing expertise for VA's tactical and strategic NBU related initiatives; and training. The period of performance shall be for 12-months commencing on September 30, 2017. The total estimated price of the proposed action is \$ [REDACTED].

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 8 of this justification, it was determined that limited competition is viable among authorized resellers for the required brand name Veritas software and associated software maintenance and technical support services. The current IO storage infrastructure includes database structures, protocols, and software application programming interfaces only supported by existing Veritas Capacity software for which VA requires renewal of its annual software license and

associated maintenance, and technical support services to ensure continued operational availability. Only Veritas NetBackup software is interoperable with VA's IO backup infrastructure. VA's backup data is currently stored within a Veritas proprietary file, known as a catalog, that can only be accessed by Veritas software due to its proprietary nature. No other software can access the Veritas catalog. Without the Veritas software, VA would no longer be able to access its data. If another brand name software was used, a new backup infrastructure would have to be created which would result in extensive duplicated costs and delivery delays that would not be recovered through competition. Also, if another brand name software was used the currently accessible backup data would risk transfer and compatibility issues with another software. In addition, only Veritas or an authorized reseller has access to the proprietary source code to have the ability to access the proprietary source code to configure the required patches, bug fixes, new features, and new product releases. Additionally, access to the proprietary source code is necessary to provide the technical support services including deployment and implementation support. Failure to acquire the software maintenance and technical support services would cause system failures, putting the 1,001 TB of storage and associated data currently being backed up and restored, including internal VA sensitive information, at risk of security breach and compromise.

6. Efforts to Obtain Competition: Market research was conducted, details of which are in section 8 of this document. Although the Government is limiting competition as a result of specifying a brand name, there are multiple authorized resellers of the brand name software maintenance on the NASA SEWP V GWAC. The justification will be posted along with the solicitation in accordance with FAR 6.302-1(c). Any proposals that are received shall be evaluated. Furthermore, 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.

7. Actions to Increase Competition: The Government will continue to conduct market research to ascertain if there are changes in the market place that would enable future actions to be competed. Vendors present white papers and education on competing products throughout the year that are evaluated by the government's experts.

8. Market Research: The Government's technical experts conducted market research in March 2017 by reviewing similar software and software maintenance to ascertain if these products could meet or be modified to meet VA's requirements. Specifically, the Government's technical experts conducted web-based research on vendor websites to include Avamar, CommVault, Tivoli Storage Manager and Backup Exec. Although these vendors offer similar software products and software maintenance, only Veritas or an authorized reseller are capable of providing software and software maintenance that meets the Government's compatibility and interoperability requirements as described in section five of this justification.

Additionally, market research was conducted in March 2017 by utilizing the NASA

SEWP V Provider Lookup Tool to determine whether the required brand name Veritas Capacity Software Maintenance was available from NASA SEWP V GWAC holders. The results of the search found that there are 71 resellers of Veritas products that could possibly meet VA's needs. Therefore, 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.

[REDACTED]

Date [REDACTED]

Project Manager

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. Additional price competition is expected among authorized resellers for this action.

[REDACTED]

Date [REDACTED]

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: [REDACTED]

Procuring Contracting Officer

Signature [REDACTED]

Approval

In my role as procuring activity Advocate for Competition, based on the foregoing justification, I hereby approve the acquisition of Veritas Capacity software maintenance 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 property and services herein described have otherwise been authorized for acquisition.

Date [REDACTED]

Signature: [REDACTED]

Advocate for Competition
Technology Acquisition Center
Office of Acquisition Operations