

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 the issuance of a firm fixed price delivery order under the National Aeronautics and Space Administration (NASA) Solutions for Enterprise-Wide Procurement (SEWP) V Government-wide Acquisition Contract (GWAC) for Veritas software maintenance.
3. Description of the Supplies or Services: The proposed action is for the acquisition of Veritas software maintenance for VA Office of Information and Technology (OI&T), Service Delivery and Engineering (SDE), Infrastructure Operations (IO). The Veritas software supports two main VA applications, Loan Guaranty Processing (LGY) and Health Data Repository (HDR). The 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. These maintenance services are critical in order for OI&T SDE IO to be able to operate successfully. Without the acquisition of this required maintenance the software will become inoperable. This proposed action is for services only, no software will be procured. The period of performance shall include a 12-month base period with 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 market research, as described in section 8 of this justification it was determined that limited competition is available among authorized resellers for the required maintenance support. The current OI&T SDE IO infrastructure is based on existing Veritas software and VA requires support compatible with the existing infrastructure protocols and functionality for continued operational availability. The software updates are required for Veritas software. Only Veritas or an authorized reseller can provide the necessary software maintenance, specifically the software updates, because of the propriety source code required to develop and implement software updates. No other source is capable of providing the required software maintenance that meets VA's unique functional requirements. Furthermore, no other source can provide the software maintenance without access to the Veritas proprietary code since access to this code is required to ensure all the services provided are properly configured to the fielded software. If the Veritas software is not maintained it would

negatively impact the LGY and HDR applications in the event of software failures. The LGY application would be completely unavailable to the Veterans and critical health data of the HDR application would be unavailable to VA health care faculties. The brand name Veritas software maintenance is the only software maintenance that meets the Government's requirements.

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 this brand name item. In accordance with FAR 5.301 and 16.505(b)(2)(ii)(D), the award notice for this action will be synopsized on the Federal Business Opportunities Page (FBO) and this justification will be made publicly available within 14 days of award. Additionally, in accordance with FAR 16.505(a)(4)(iii)(A) this justification will be submitted to all applicable NASA SEWP V GWAC holders along with the Request for Quotation in order to fully 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 perform additional market research in a timely manner so that alternate solutions can be considered should they become available. Additionally, VA LGY, which represents a portion of this procurement, is currently working on migrating the databases from Solaris to Linux, which may render the Veritas software obsolete. The migration is currently scheduled to commence around October of 2018. 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.

8. Market Research: The Government's technical experts conducted market research in May 2017 to ascertain the ability of any other source to provide the aforementioned software maintenance and support. The research consisted of reviewing various software license maintenance plans offered. Based on the market research conducted by the Government's technical experts, it has been determined that no other brand of software maintenance (for example: VMware and NetApp) can meet the Government's requirements due to the need to access the source code and other proprietary data of the Veritas software to perform the maintenance support services. Unauthorized software providers do not have access to the proprietary data of the software to be able to provide troubleshooting, updates, fixes, patches, and upgrades. Only Veritas or its authorized resellers have access to the source code of the software to provide the necessary support.

Market research was also conducted in July 2017 through the use of the Provider Lookup Tool on the NASA SEWP V GWAC website. The research show that there are a total of 98 NASA SEWP GWAC holders that can fulfill the Government's requirements of which 13 vendors from Group B(2) comprised of Service Disabled Veteran-Owned Small Businesses (SDVOSB). Based on the results of the market research, there is a reasonable expectation that sufficient competition exists among SDVOSBs in Group B(2). Therefore, the Request for Quote for this requirement will be submitted to Group

B(2) SDVOSB NASA SEWP V GWAC holders under North American Industry
Classification System code 541519.

9. Other Facts: None.