

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 to be issued under the National Aeronautics and Space Administration (NASA) Solutions for Enterprise-Wide Procurement (SEWP) V Governmentwide Acquisition Contract (GWAC) for brand name Gigamon hardware and software maintenance support.
3. Description of the Supplies or Services: VA, Office of Information and Technology, Enterprise Program Management Office (ePMO) has a requirement for maintenance support of brand name Gigamon hardware and software products currently deployed in VA. This contract shall provide Premium Product Support and Software Maintenance (Premium Support) for Gigamon hardware and software products currently operating in the VA enterprise. This Premium Support shall provide following services including but not limited to technical support access 24 hours per day, 7 days per week, 365 days per year; technical support by phone, email, and web and real-time chat; one-year defect correction or workaround; error isolation plus assistance with more complex configuration and "how to" questions; full access to latest software releases for duration of Premium Support Agreement and same day shipping of replacement hardware components. This effort is for services and no new software and hardware will be procured except for ancillary replacement parts needed to repair the fielded hardware. The period of performance is based on the various start dates shown in the Product Description supporting this acquisition for each item ending 12 months from the start date, including base requirements for FY17 and option requirements for FY18. The maximum length of this proposed action, if all options are exercised, will be November 2018. The maintenance is required to ensure the Gigamon hardware and software remains operational.
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 Above: Based on market research, as described in section eight of this document, the Government has determined that limited competition is available for this action among resellers for the required Gigamon hardware and software maintenance support. No other source is capable of providing the required support as only Gigamon or its authorized resellers have access to the proprietary source code necessary to provide the required software releases and technical support for the existing hardware and software products. Since the source code is proprietary, a legal restriction is placed on its in order to develop releases to the software. Without access to this proprietary code it is impossible to modify the software

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code as necessary to provide the required updates. Access to this code is also required to ensure the services provided to maintain the hardware and software are properly configured. In addition, no other replacement parts can meet VA's interoperability and compatibility requirements. Specifically, no other hardware can meet VA form, fit and function requirements. The current infrastructure is comprised of only Gigamon hardware and use of any other parts will not fit within the current architecture and render the existing hardware and software infrastructure inoperable.

6. Efforts to Obtain Competition: Market research was conducted, details of which are in section eight of this justification. It was determined that limited competition is viable among authorized resellers for the required brand name Gigamon support services. In accordance with FAR 5.301 and 16.505(b)(2)(ii)(D), notice of award of this action will be synopsisized 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: 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. ePMO will continue to monitor the market for availability of other solutions that are compatible with VA's infrastructure.

8. Market Research: The Government's technical experts conducted market research during August 2017 by reviewing other products and maintenance support similar to the Gigamon products previously acquired by VA. Specifically, the Government's technical experts reviewed products and services from Ixia and NetScout to determine whether any other sources can provide hardware and software maintenance support on the existing Gigamon products. Based on this review of similar brand name hardware and software products and services it was determined that no other source could provide hardware and software maintenance support for the Gigamon products as every other source, other than Gigamon's resellers, lacked access to the proprietary source code necessary to provide the required support. Only Gigamon or its authorized resellers can provide the required hardware and software maintenance support for the existing Gigamon hardware and software acquired by VA as only those sources have the ability to access the proprietary code.

On September 5, 2017, additional market research was conducted using the Provider Lookup Tool on the NASA SEWP V GWAC website. It was determined that there are numerous NASA SEWP V GWAC holders that are authorized resellers of brand name Gigamon products that can provide the required hardware and software maintenance support services under North American Industry Classification System code 541519. Therefore limited competition is anticipated.

9. Other Facts: None.