

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 Government-wide Acquisition Contract (GWAC) for brand name International Business Machines (IBM) WebSphere application server annual software maintenance.
3. Description of the Supplies or Services: VA, Office of Information and Technology (OI&T), Information Technology Operations and Service (ITOPS), Infrastructure Operations (IO) has a requirement for software maintenance for International Business Machines (IBM) software licenses that are currently in use within the VA on the WebSphere Enterprise Service Bus (ESB) Service Oriented Architecture (SOA) system. 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 IO to be able to operate successfully. Without the acquisition of the required software maintenance, the software could become inoperable. The Contractor shall provide a telephone number and/or a point of contact for the VA to utilize for maintenance service calls. The Contractor shall interface with the designated VA Program Manager or his/her delegated representative in tracking and reporting service call tickets. This procurement is for services only, no new software will be procured. The period of performance shall be from August 15, 2017 through August 14, 2018. The total estimated value is \$[REDACTED]
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 8 of this document, it was determined that limited competition is viable amongst authorized resellers of IBM maintenance. The IBM WebSphere ESB SOA system is currently used in the VA enterprise and supports VA's mission to implement shared health care capabilities across the enterprise in co-located data centers. The currently fielded IBM WebSphere ESB SOA system is comprised of IBM

brand name software. IBM is the original software developer of the WebSphere software, and is therefore the only source that can provide the required maintenance of these licenses. IBM WebSphere software is a proprietary product; therefore, only IBM or its authorized resellers have the access to the proprietary data and source code necessary to provide the maintenance required to sustain this system. The proprietary code is required to ensure the IBM WebSphere software is properly operational and defects properly resolved. Access to IBM proprietary data and source code is required to provide the required maintenance. Only IBM or an authorized reseller can provide the support services due to the proprietary source code required to develop and implement software upgrades and updates. This code is also required to ensure all the services are properly configured. Failure to acquire the brand name IBM software maintenance would prohibit the VA from continuing the rollout in support of the SOA ESB system currently deployed. The procurement of the software maintenance and support services will allow VA to meet the required milestone dates for the successful system deployment across the enterprise.

6. Efforts to Obtain Competition: Market research was conducted, details of which are in section 8 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 amongst authorized resellers for the brand name maintenance. In accordance with FAR 5.301 and 16.505(b)(2)(ii)(D), this action will be synopsisized and the justification will be made publicly available on the Federal Business Opportunities Page within 14 days of award of the order, and this justification will also be posted to the NASA SEWP V GWAC website along with the Request for Quotation.

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.

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. Specifically, the technical experts reviewed various software maintenance plans including Oracle, Microsoft BizTalk, and Open ESB. All of these software maintenance plans lack the access to the proprietary data and source code necessary to provide the maintenance required to sustain this system. Based on the market research conducted by the Government's technical experts, it has been determined that no other brand of software maintenance can meet the Government's requirements due to the need to access the source code and other proprietary data of the existing IBM WebSphere software. 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 IBM or its authorized resellers have access to the source code of the software to provide the necessary maintenance.

Additional market research was conducted through the utilization of the NASA SEWP V Provider Lookup Tool. The Provider Lookup Tool yielded 110 contract holders that can

provide the required IBM software maintenance. Of the 110 contract holders, 21 are Service Disabled Veteran Owned Small Businesses (SDVOSB). A search was performed to confirm that there were two or more from Group B(2) SDVOSBs that were registered and verified in Vendor Information Pages (VIP) database. The results of that search identified that there were two or more SDVOSBs that are registered and verified in VIP. Based on the results of the market research, there is reasonable expectation that limited competition exists among SDVOSB concerns in Group B(2). Therefore, the request for quotation for this requirement will be submitted to Group B(2) SDVOSB GWAC holders under North American Industry Classification System code 541519.

9. Other Facts: None.