

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, New Jersey 07724
2. Description of Action: The proposed action is for the issuance of a firm-fixed-price task order under the National Aeronautics and Space Administration (NASA) Solutions for Enterprise-Wide Procurement (SEWP) V Governmentwide Acquisition Contract (GWAC) for Nuance Dragon Naturally Speaking software licenses, maintenance, support and training.
3. Description of Supplies or Services: VA Office of Information and Technology (OI&T), Vocational Rehabilitation and Employment (VRE) Division have a requirement to procure 1,000 Dragon Professional Group 15.0, (Federal Government) Open License Program (OLP) Level F licenses and associated software maintenance, support and training. The software maintenance and support provides 24 x 7 telephone support, software updates, fixes, patches and access to the Nuance User Management Center. Dragon NaturallySpeaking (also known as Dragon for PC, or DNS), is a speech recognition software package developed by Dragon Systems of Newton, Massachusetts, which merged with Lernout & Hauspie Speech Products and was later acquired by Nuance Communications, formerly known as ScanSoft. DNS uses a minimal user interface. As an example, dictated words appear in a floating tooltip as they are spoken (though there is an option to suppress this display to increase speed), and when the speaker pauses, the program transcribes the words into the active window at the location of the cursor. The software has three primary areas of functionality: voice recognition in dictation with speech transcribed as written text, recognition of spoken commands, and text-to-speech: speaking text content of a document. Voice profiles can be accessed by different computers in a networked environment, although the audio hardware and configuration must be identical to those of the machine generating the configuration. The Professional version allows creation of custom commands to control programs or functions not built into DNS. VRE uses this software to allow their counselors the ability to quickly convert their notes or voice notes into text in a quick and efficient manner. This allows the VRE counselors to see more Veterans in a normal work week driving up their production while allowing them to note everything VA needs to know about the care and welfare of the Veteran. 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 VRE voice to text program to be able to operate successfully. Without the acquisition of the required software maintenance, the software could become inoperable. The period of

performance for this effort is 12 months from the date of award with four 12-month option periods. The total estimated price, inclusive of option periods, 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 available among authorized resellers for the required software maintenance. The current VRE voice to text project is based on existing Nuance DNS Software deployed within VA. VA requires additional licenses and support compatible with the existing functionality for continued operational availability. Due to the proprietary nature of the software code in the existing VRE voice to text project, which is comprised of Nuance DNS software, only Nuance software will meet VA's requirements due to compatibility and interoperability requirements with the existing project operations and infrastructure. Only Nuance or a Nuance reseller can provide the necessary software, maintenance and training. No other manufactures licenses are compatible, functional, or interoperable with the existing Nuance software and project infrastructure. Software maintenance is required to ensure the Nuance software in operation for VRE voice to text project remains up-to-date. Only Nuance or an authorized reseller can provide the maintenance due to the proprietary source code required to develop and implement software upgrades and updates. Failure to acquire the required software licenses, maintenance, support and training would cause an immediate risk to the VRE voice to text project and application. Without the aforementioned proprietary source code, no source other than Nuance and its resellers can meet VA's needs. Nuance is vital to VA for continued sustainment of the VRE voice to text production environments. Use of another software product would prohibit VA's ability to process VRE meetings with Veterans in a timely manner causing a backup in VRE resources and a backlog of Veterans to be seen by VRE.

6. Efforts to Obtain Competition: Market research was conducted, details of which are in section 8 of this justification. Limited competition is anticipated for the required maintenance support. In accordance with FAR 5.301 and 16.505(b)(2)(ii)(D), this action will be synopsized and the justification will be made publicly available on the Federal Business Opportunities Page 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.

8. Market Research: The Government's technical experts conducted market research in August 2017 to ascertain the ability of any other source to provide the aforementioned software licenses, maintenance, support and training. The research consisted of reviewing various software and maintenance plans offered, specifically, Speechnotes, Dictanote, and Speech Texter. Based on the market research conducted by the Government's technical experts, it has been determined that no other brand of software licenses, maintenance, support or training can meet the Government's requirements due to the need to access the source code and other proprietary data of the Nuance DNS software licenses and maintenance. Additionally, other 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 Nuance or its authorized resellers can provide the necessary software licenses and have access to the source code of the software to provide the necessary maintenance and support.

Market research was also conducted in August 2017 through the use of the Provider Lookup Tool on the NASA SEWP V GWAC web site. The research shows that there are a total of 14 NASA SEWP GWAC holders from Group B(2) Service Disabled Veteran Owned Small Business (SDVOSB) that can fulfill the Government's requirements. Based on the results of the market research, there is reasonable expectation that sufficient 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 contract holders under North American Industry Classification System code 541519.

9. Other Facts: None