

JUSTIFICATION
FOR AN EXCEPTION TO FAIR OPPORTUNITY

1. Contracting Activity: Department of Veterans Affairs (VA)
Office of Acquisition Operations
Technology Acquisition Center
260 Industrial Way West
Eatontown, NJ 07724

2. Description of Action: This 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 the procurement of Network Executive (NetEx) software maintenance.

3. Description of Supplies or Services: VA, Office of Information and Technology, Service Delivery and Engineering, Infrastructure Operations (IO) has a requirement for NetEx software maintenance. The software maintenance is for various fielded software currently located at the Hines Information Technology Center. 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 software licenses and updates are necessary for IO to be able to operate successfully. The maintenance is required to ensure the software remains operational. This proposed action is for services only; no software will be renewed or procured. The period of performance is a base period of 12 months with two 12-month options. The total estimated price of the proposed action is \$ [REDACTED], inclusive of the options.

4. Statutory Authority: The statutory authority permitting this exception to fair opportunity is Section 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: Based on extensive market research, as described in section 8 of this justification, it was determined that limited competition is viable among authorized resellers for the brand name NetEx software maintenance. The current IO infrastructure is based on existing NetEx software and VA requires support for these products for continued operational availability. Only NetEx can provide the necessary software updates because access to the propriety source code is required to develop and implement software maintenance. No other source is capable of providing the required software maintenance due to the proprietary nature of the software database structures, protocols, and software application programming interfaces. In addition, this code is required to ensure the software is properly configured when services are provided. Without the aforementioned proprietary source code, no source other than NetEx can meet VA's needs. Software maintenance is required to ensure the NetEx software remains up-to-date. Should maintenance for the

NetEx software not be acquired, there is an immediate risk to the VBA Education Benefits Payments. NetEx software maintenance is vital to VA for continued sustainment of the Benefits Delivery Network. The NetEx software is the communication channel for file transfers between the Bull and IBM Mainframes.

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 software maintenance. In accordance with FAR 16.505(a)(4)(iii)(A)(2), this justification will be provided with the solicitation to all appropriate NASA SEWP V GWAC holders. 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: In order to remove or overcome barriers to competition in future acquisitions for this requirement, 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: Market research was conducted in May 2017. Government's technical experts reviewed similar software products/services to ascertain if these items could meet VA's requirements. Specifically, the Government's technical experts conducted web-based research. As a result of the market research the technical experts confirmed that only NetEx or an authorized reseller can provide the necessary software maintenance and upgrades for NetEx software, because of the proprietary source code required. No other source is capable of developing and issuing software updates and fixes for NetEx software necessary to support existing IO requirements. The other products and services researched, such as those offered by Software Diversified Services, MyAirbridge.com, and filemail.com, were unable to meet the interoperability requirements based on the existing infrastructure; NetEx is already installed and integrated in IO. The services provided by these companies also could not be utilized on the existing NetEx software due to the proprietary constraints as outlined in section five of this justification. Based on the above, only NetEx software licenses and maintenance meets all of the Government's requirements.

Additional market research was conducted in August of 2017 by the Contract Specialist by issuing a request for information on the NASA SEWP V GWAC website and direct communications with a NetEx representative. The market research yielded one response from a SEWP vendor currently offering NetEx products and services. Discussions with NextEx representative revealed that NetEx is willing to sell its products and services with any/all of the SEWP resellers. Therefore, limited competition is anticipated on NASA SEWP V.

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 based on NASA SEWP V contract pricing that has already been determined to be fair and reasonable. In addition, price competition is expected amongst the NASA SEWP V contract holders which will further establish fair and reasonable pricing. Finally, price analysis shall be conducted by comparing the successful quote with the Independent Government Estimate.

[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 Advocate for Competition, based on the foregoing justification, I hereby approve the acquisition of NetEx software maintenance, on a limited competition basis pursuant to the statutory authority cited in section 4 above, subject to availability of funds, and provided that the services herein described have otherwise been authorized for acquisition.

Date [REDACTED]

Signature [REDACTED]

Advocate for Competition
Technology Acquisition Center
Office of Acquisition Operations