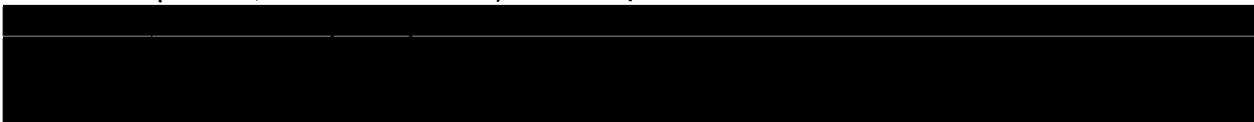


JUSTIFICATION
FOR AN EXCEPTION TO FAIR OPPORTUNITY

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 order issued under the National Aeronautics and Space Administration (NASA) Solutions for Enterprise-Wide Procurement (SEWP) V Governmentwide Acquisition Contract (GWAC) for EMC hardware and software maintenance.

3. Description of the Supplies or Services: The VA Office of Information and Technology, Service Delivery and Engineering, Executive Office of Technology Management requires EMC hardware and software maintenance for the 16 EMC storage systems at multiple locations throughout Region 3. This hardware and software provides the ability to store virtualized data as part of VA's virtualization infrastructure. In addition, it is used to meet a majority of the network-attached storage and data protection needs. The required hardware maintenance shall include the following to all 16 EMC systems throughout the region: 4 hour on-site maintenance with 30 minute engineer response of severity 1 issues, replacement parts and onsite hardware repair when deemed necessary, 24 hours a day, 7 days a week, 365 days/year coverage, less than one hour initial engineer-level response time, and 4 hour on-site response time for emergency dispatches. Coverage is defined as unlimited parts and labor. Software maintenance shall provide direct access to EMC technical support via telephone and email 24 hours a day, 7 days a week. The support will also provide continued access to product documentation, knowledge base documentation, user forum, and software and firmware updates to include major releases, point releases, newly released features, service releases, security releases of applicable software/firmware, and bug fixes, on-site response, and installation of software releases. This proposed action will not include the purchase of any hardware or software except for replacement parts and software updates, if needed. The period of performance for this action is 12 months,


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 document, it was determined that limited competition is available for this procurement among EMC's authorized resellers. VA currently utilizes

EMC brand hardware and software to support server virtualization operations throughout the VA enterprise. The existing server virtualization storage solution is vital to providing high-availability virtualized servers for their respective facilities including fault-tolerance and in-use migrations.

No other hardware and software manufacturer can provide the required maintenance and support services currently in place without the required source code which is proprietary to EMC. Only EMC hardware and software maintenance support can be utilized for EMC hardware and software products as EMC is the only supplier of the hardware replacement parts, software updates (to include all version updates and bug fixes) and technical support. No other source is capable of providing the required software maintenance of the existing licenses as only EMC or its authorized resellers have access to the proprietary source code necessary to provide the required software upgrades and updates to include major releases, point releases, service releases of applicable software. Since the software is proprietary, a legal restriction is placed on access to the software code that is required in order to develop updates and patches to the software. Without this access, it is impossible to modify the software code as necessary to provide the required patches and updates. Access to this code is also required to ensure the services provided to the software are properly configured. In addition, no other brand name replacement parts meet VA's form, fit and function requirements other than EMC. Specifically, no other parts can operate and fit within the existing EMC systems. Use of any other parts will result in compatibility and interoperability issues.

The server virtualization storage solutions currently in place are considered to be a critical piece of virtualization infrastructure throughout VA. Likewise, it is critical that this infrastructure remain operational at all times and maintenance and support services be continuously available. If the brand name EMC hardware and software was not maintenance, there would be a potential of patient data loss. In addition, the facilities' systems could not function without this maintenance.

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 the aforementioned brand name EMC software licenses and maintenance. In accordance with FAR 5.301 and 16.505(b)(2)(ii)(D), this action will be synopsisized at award on the Federal Business Opportunities Page and the justification will be made publicly available. In addition, this Justification for an Exception to Fair Opportunity will be made publicly within 14 days of award.

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 perform market research to determine if there are any products and/or source providers available that will enable future requirements to be competed. The lifecycle of EMC hardware and software is approximately eight years. At the end of each piece of equipment's life cycle, VA will compete for new hardware and software.

8. Market Research: Research for other source/service providers was conducted in June 2017 by the Government's technical experts by reviewing other hardware and software maintenance that are similar to the EMC services being acquired. Specifically, VA's technical team contacted NetApp, Dell, and Hitachi to determine whether they can provide software or hardware maintenance support on the existing EMC software. All of these sources agreed with our assessment that NetApp, Compellent, and Hitachi can only provide service for their proprietary hardware and software and that they are not able to provide maintenance on EMC proprietary hardware and software. Based on this review, it was determined that no other source, besides EMC or one of their authorized resellers, could provide software maintenance support for the EMC software or hardware as every other source, lacked access to the proprietary source code necessary to provide the required support. Only EMC or an EMC authorized reseller can provide hardware and software maintenance and technical support of EMC proprietary hardware and software products.

Additional market research was conducted in June 2017 by utilizing the NASA SEWP V GWAC Provider Lookup Tool and it was determined that there are numerous authorized resellers of brand name EMC products that can provide the required maintenance under North American Industry Classification System code 541519. Therefore, competition for the required maintenance and technical support is expected among these authorized resellers.

9. Other Facts: None.