

JUSTIFICATION FOR AN EXCEPTION TO FAIR OPPORTUNITY

1. Contracting Activity: Department of Veterans Affairs (VA)
Office of Procurement, Acquisition, and Logistics
Technology Acquisition Center
23 Christopher Way
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 Governmentwide Acquisition Contract (GWAC) for brand name BDNA Corporation (BDNA) software maintenance.
3. Description of the Supplies or Services: VA, Office of Information and Technology, Architecture, Strategy and Design (ASD), Technology Strategies office has a requirement for the procurement of brand name BDNA software maintenance to include Information Technology Operating Systems (non-medical devices), Server Annual Maintenance, and BDNA Normalize per Desktop – 2 data sources for 550,000 seat licenses. The required software maintenance consists of assistance support, support services (including error correction), and software updates. Procurement of this software maintenance will enable ASD to continue to support Continuous Readiness in Information Security Program (CRISP) efforts. This proposed action is for services only; no software will be renewed or procured. The period of performance shall be from December 31, 2017 to through December 30, 2018, plus two 12-month option periods, if exercised.
4. Statutory Authority: The statutory authority permitting an 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 justification, it was determined that limited competition is viable among authorized resellers for this requirement. BDNA requires annual software maintenance for existing Normalization licenses to provide assistance support, support services (including error correction), and software updates. Only BDNA, or its authorized resellers, can provide the required software maintenance due to BDNA’s proprietary software code. Since the software is proprietary, a legal restriction is placed on access to the software code that is required in order to develop updates to the software. Without this access it is impossible to modify the software code as necessary to provide the required updates. Access to this code is also required to ensure the services provided to the software are properly configured.
6. Efforts to Obtain Competition: Market research was conducted, details of which are in section eight of this document. This effort did not yield any additional sources that can meet the Government’s requirements. Although the Government is limiting competition as a result of specifying BDNA brand name software maintenance, it was

BDNA Normalization Tool Software Maintenance

determined however that limited competition is viable among authorized resellers for this brand name BDNA software maintenance. 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.

8. Market Research: The Government's technical experts conducted market research during June 2017 through November 2017 by reviewing similar software maintenance products to ascertain if these items could meet VA's requirements. Specifically, the Government's technical experts reviewed products from Blazent, Inc. and BMC, Inc. to determine whether any other sources can provide software maintenance on the existing BDNA software. Based on this review of similar brand name software it was determined that no other source could provide software maintenance for the BDNA software as every other source, other than BDNA's resellers, lacked access to the proprietary source code necessary to provide the required support. Only BDNA or its authorized resellers can provide the required software maintenance for the existing licenses as only those sources have the ability to access the proprietary code.

Additional market research was conducted in November 2017 by utilizing the NASA SEWP Provider Lookup tool to determine whether the brand name BDNA products are available from NASA SEWP V GWAC holders. VA determined that there are several resellers of the brand name BDNA products that hold current GWACs such that limited competition is anticipated.

9. Other Facts: None.