

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 Document Storage System, Inc. (DSS) Request of Information (ROI) Plus subscription license renewals with maintenance and perfective maintenance support services.
3. Description of Supplies or Services: VA, Office of Informatics and Analytics has a requirement for 153 brand name DSS ROI Plus software license renewals, maintenance support, and perfective maintenance services. DSS ROI Plus enables health care facilities to track, process, and manage requests for copies of information contained in the Veterans Health Administration (VHA) Privacy Act System of Records and Health Insurance Portability and Accountability Act (HIPAA) designated record sets, lawful under the HIPAA Privacy Rule and the Freedom of Information Act. All licenses come with maintenance for downloads, upgrades, bug fixes, major and minor release upgrades, and troubleshooting. Troubleshooting consists of support Monday through Friday, 8:00am to 7:00pm Eastern Time, via electronic, telephone, and on-site tasking. Emergency maintenance is also provided for all licenses 24 hours a day, 7 days a week, and 365 days a year. Also as part of this requirement, VA requires perfective maintenance. This perfective maintenance is performed as minor changes to the software that VA normally requests to be released approximately twice each year. The period of performance shall be March 1, 2018 through February 28, 2019 with two 12-month options.
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 document, it was determined that limited competition is viable among authorized resellers for brand name DSS ROI software licenses and services. In 2003, VHA deployed the DSS ROI Manager software system (currently called ROI Plus) to satisfy the mandate under the Privacy Act of 1974, title 5, United States Code 552a(c) and the HIPAA Privacy Rule.

This requirement is to renew licenses and acquire maintenance support and perfective maintenance services for the continued use of the DSS ROI Plus software in order to

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remain compliant with the aforementioned mandate. DSS ROI software is the only software that integrates with Veterans Health Information System Technology Architecture (VistA) and Computerized Patient Records System (CPRS) graphical user interface, to provide a single point of data entry for real-time interaction between the system and the patient's chart. This software retrieves information from CPRS when requested by Veterans or their families. When this occurs, it results in an ROI disclosure. This ability to interface with CPRS and VistA allows VA to generate an automated accounting of disclosures in accordance with Privacy Act and HIPAA Privacy Rule requirements, which no other brand software allows. DSS ROI Plus is the only software available that can provide this single point of data entry for real-time interaction and already interfaced to CPRS, which is a VA functional requirement.

Failure to procure the DSS ROI Plus as described would have a severe impact on VA and the Veteran. VA would be required to account for all of the disclosures manually, which equates to well over a million disclosures. VA would have to manually compile a report when a party requests an accounting of disclosures or a disclosure summary. This accounting is required to be provided to the Veteran within 60 calendar days.

Additionally as part of this requirement, VA requires brand name software maintenance and perfective maintenance from DSS or its authorized reseller. The required software being maintained contains proprietary code and any form of maintenance, such as bug fixes or enhancements, cannot be performed by any other brand vendor. Only DSS or its authorized resellers have access to this proprietary code, and therefore are the only sources that can provide the required maintenance and perfective 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 brand name DSS ROI software. In accordance with FAR 5.301 and 16.505(b)(2), this action will be synopsisized on the Federal Business Opportunities Page and the justification will be made publicly available within 14 days of award. Additionally, 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 marketplace that would enable future actions to be fully competed.

8. Market Research: Market research was conducted during December 2017 by utilizing the NASA SEWP V Request for Information (RFI) Tool. RFI Request #78646 yielded only one response from a DSS, Inc. reseller, GMC Tek, LLC. GMC Tek, LLC is a HUBZone certified, Small Disadvantaged, Minority Woman owned business. Additional market research was conducted during December 2017 by the Government's technical experts by reviewing similar products.

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Specifically, the Government's technical experts conducted web-based research on software solutions offered by IOD, Inc.'s ROI Services, HealthPort's Release of Information system, and Epic Systems Corporation's Health Information Management.

VA reviewed each of the possible source's product information and it was determined that only DSS ROI software meets VA's requirements. Based upon reviews of these products, the Government's technical experts determined that none of these products can meet the Government's functionality, interoperability and compatibility requirements to provide a single point of data entry for real-time interaction and already interfaced to CPRS as discussed in section five above. No other solutions can seamlessly integrate with the VA's VistA and CPRS. Additionally, as stated above in section five, only DSS ROI or an authorized reseller can provide the required subscription license renewals with maintenance and perfective maintenance support services. The Government's technical experts have determined that only DSS ROI brand name subscription license renewals with maintenance and perfective maintenance support services can meet all of VA's needs.

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

9. Other Facts: None.