

JUSTIFICATION FOR AN EXCEPTION TO FAIR OPPORTUNITY

1. Contracting Activity: Department of Veterans Affairs (VA)
Office of Procurement, Acquisition, and Logistics
Technology Acquisition Center
1701 Directors Blvd
Austin, TX 78744

2. Description of Action: The 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 software subscription maintenance and support for Document Storage Systems (DSS) Clinical Information System (CIS)-DataBridge-M perpetual licenses.

3. Description of the Supplies or Services: VA requires the renewal of software maintenance and support for seven VA-owned existing DSS CIS-DataBridge-M perpetual licenses for the following Veterans Health Administration (VHA) Veteran Integrated Service Network (VISN) 12 hospitals: Milwaukee, WI, Madison, WI, Iron Mountain, MI, Hines, IL, Jesse Brown, IL, FHCC-North Chicago, IL, and Danville, IL. This procurement is for the renewal of software maintenance and support services; no new software licenses are being purchased and no licenses are being renewed under this proposed action. Maintenance includes 24x7 coverage for bug fixes, minor release upgrades, and telephone support to maintain VA's ability to manage complex clinical information generated on patients who are admitted to the operating room (OR) and the intensive care unit (ICU). VA requires a period of performance of one year, to include four, 12-month options as it anticipates the use of these licenses during the next five years.

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) 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 paragraph eight of this justification, it was determined that limited competition is viable among authorized resellers for these brand name annual software maintenance and support services. In 2013, VA procured the original DSS perpetual licenses, under VA order number VA69D-13-F-2523, to provide an interface that can translate MUMPS computer data; the foundation of the VistA system. Subsequently, the required solution provides the only interoperability with MUMPS that remains in use due to unique circumstances (inability to replace VA legacy systems such as VistA). Due to the proprietary nature of the software, there are no other support services that can satisfy the Government's needs; therefore only DSS software maintenance and

support can meet the Government's needs. The DSS product is unique in that there are no other MUMPS based programs available that support the data integration between medical devices and the VA Medical Record. Only DSS or its authorized resellers have access to DSS' proprietary software source code needed to provide the required software maintenance and support and ensure that the services provided are properly configured. This code is also required to develop and push updates and upgrades to the existing software. Without the renewal of the DSS software maintenance and support services for the existing licenses VA will not be able to receive critical software updates, enhancements, software corrections, and technical support; posing an immediate risk to VA's ability to manage complex clinical information generated on patients who are admitted to the OR and/or the ICU.

6. Efforts to Obtain Competition: Market research was conducted, details of which are in section 8 of this justification. This effort did not yield any additional sources that can meet the Government's requirements. However, it was determined that limited competition is viable among resellers for these brand name items. In accordance with FAR 5.301 and 16.505(b)(2), this action will be synopsisized at award on the Federal Business Opportunities Page (FBO), and the justification will be made publicly available.

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: In April 2018, the Government technical experts conducted market research by conducting internet searches of other similar software subscription maintenance support services similar to DSS to determine if any were capable of meeting the Governments requirements, which included Discharge Note by Logicare, Speech Analytics by Verint, and Visual Modeling Integration by Venism. Market research determined that although these companies and their software products could provide similar maintenance support for their competing products, they could not access the proprietary DSS CIS-DataBridge software code to provide the required software maintenance services. The DSS product is a proprietary solution, and only DSS or its authorized reseller possess the expertise and access to proprietary data necessary to provide the required software maintenance support without voiding the licenses currently in use. In April 2018, a Request for Information (RFI) was issued through NASA SEWP; only one response was received, which was from a service disabled Veteran owned small business (SDVSOB).

9. Other Facts: None.