

JUSTIFICATION
FOR AN EXCEPTION TO FAIR OPPORTUNITY

1. Contracting Activity: Department of Veterans Affairs (VA)
Office of Acquisition Operations Technology Acquisition Center
1701 Directors Blvd Ste. 600
Austin TX. 78744
2. Description of Action: The proposed action is for the issuance of a firm fixed price delivery order under the National Aeronautics and Space Administration (NASA) Solutions for Enterprise-Wide Procurement (SEWP) V Government-wide Acquisition Contract (GWAC) for the procurement of International Business Machines (IBM) software maintenance.
3. Description of Supplies or Services: The proposed action is for the acquisition of IBM software maintenance for z/Operating system (OS) licensing and Advanced Interactive executive internal OS software in support of the VA Office of Information and Technology, Service Delivery and Engineering, Infrastructure Operations (IO). 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, and account advocate expedited response services. For the proposed action, the period of performance is October 1, 2018 – September 30, 2019 (the Base year is 12 months with two 12-month Option Periods) and the estimated price is [REDACTED] (inclusive of Option Periods).
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: Based on market research, as described in section 8 of this justification, it was determined that limited competition is available among authorized resellers for the required maintenance support. The current IO infrastructure is based on existing IBM software and VA requires IBM software maintenance for the existing infrastructure protocols and functionality for continued operational availability. VA requires software upgrades and updates to include major releases, point releases, service releases of applicable software on a quarterly basis, or within 48 hours in cases where a high-risk vulnerability fix becomes available. The IBM software maintenance is required for the z/OS licensing and Advanced Interactive executive internal OS software. Only IBM or an authorized reseller can provide the necessary software maintenance because of the propriety source code required to develop and implement software upgrades and updates, also to ensure proper configuration of the software. No other source can provide the required IBM software maintenance that meets VA's unique functional requirements of maintenance of the z/OS licensing and Advanced Interactive executive internal OS software. In addition, a prior implementation of IBM software licenses already exists in IO. Acquisition of a different product would result in duplicative costs if the IBM software licenses were abandoned in favor of a different product and IO would need to re-purchase the initial software licenses previously purchased and server hardware/platforms that currently run IBM OS software. No other license is compatible with or interoperable with the existing IBM software, proprietary database structures, protocols, and software application programming interfaces and IBM server hardware currently in use. The

renewal of brand name IBM software license support is the only software maintenance that meets the Government's requirements.

6. Efforts to Obtain Competition: Market research was conducted, details of which are in section 8 of this justification. 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 within 14 days of award. Additionally, in accordance with FAR 16.505(a)(4)(iii)(A) this justification will be submitted to all applicable NASA SEWP V GWAC holders along with the Request for Quotation in order to fully notify all interested parties.
7. Actions to Increase Competition: In order to remove or overcome barriers to competition in future acquisitions for this requirement, the agency will work with the program office to perform additional market research in a timely manner so that alternate solutions can be considered should they become available.
8. Market Research: In Aug 2018, the Government's technical experts conducted market research by reviewing all other known similar software and services to ascertain if these items could meet VA's requirements. Specifically, the Government's technical experts conducted web-based research on [REDACTED]. As a result of the market research, the technical experts confirmed that the source code required to issue the updates is proprietary, IBM or an authorized reseller is the only source capable of providing the required IBM software maintenance for the z/OS licensing and Advanced Interactive executive internal OS software. No other firm has the capability of developing and issuing software updates and fixes for IBM software necessary to support existing IO requirements. Additionally, the research from utilizing the NASA SEWP V GWAC Provider Lookup Tool shows that there are multiple NASA SEWP V contract holders that can fulfill the Government's requirements, of which there are authorized resellers represented from all Groups. Therefore, the RFQ for this requirement will be submitted to Group B(2) SDVOSB GWAC holders under North American Industry Classification System code 541519.
9. Other Facts: N/A

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]

[Redacted]

[Redacted Signature]

Chief, NCA Business Systems Division

Signature:

11. Fair and Reasonable Cost Determination: I hereby determine that the anticipated price to the Government for this action will be fair and reasonable based on contracts awarded on NASA SEWP having already been determined to be fair and reasonable. Additionally, as there are multiple potential resellers on NASA SEWP, further price competition is anticipated. Finally, the successful quote will be compared to the Independent Government Cost Estimate.

[Redacted]

[Redacted]

[Redacted Signature]

Procuring Contracting Officer

Signature

12. Procuring Contracting Officer Certification: I certify that this justification is accurate and complete to the best of my knowledge and belief.

[Redacted]

[Redacted]

[Redacted Signature]

[Redacted]

[Redacted]