

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, New Jersey 07724
2. Description of Action: This proposed action is for a firm-fixed-price delivery order 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) Veterans Integrated System Technology Architecture Chemotherapy Manager (VCM) software license subscriptions, maintenance, and support.
3. Description of the Supplies or Services: VA, Veterans Health Administration (VHA), Veterans Integrated Service Network (VISN) 21 has a requirement for the renewal of two brand name DSS VCM Large Hospital Software license subscriptions, maintenance, and support for the San Francisco and Palo Alto locations, and renewal of three brand name DSS VCM Medium Hospital Software license subscriptions, maintenance, and support for the Fresno, Las Vegas, and Reno locations. The software at each VISN only communicates with software within the respective VISN. Additionally, VISN 21 requires one new DSS VCM Medium Hospital Perpetual License Software license subscription for the Northern California VA Medical Center (VAMC) location will be included as an optional task for the initial subscription and for subsequent maintenance and support in the option years. The VCM is a VA specific windows-based Veterans Integrated System Technology Architecture (VistA) chemotherapy software decision support and ordering system. VCM has been proven to fully integrate with the VistA system as evident by use in other VHA hospitals across the country and provides for seamless electronic interaction between the ordering oncologist and pharmacist. This integration with VistA allows the oncologist to have an extremely efficient, very powerful method for preventing medication errors cause by misinterpretation of hand written orders. This software is focused on patient safety and ensures that order sets are integrated and complete and that dosing is appropriate. With VCM, the clinical practice of oncology becomes automated from the assignment of therapy to the calculation of chemotherapy doses to the documentation of care. Ultimately, patient safety is maximized, clinical efficiency is increased, patient information is secure, documentation of patient care is quicker, and with DSS VCM it interfaces with VistA. VA requires maintenance and support compatible with the existing VCM infrastructure protocol and functionality for continued operational availability. The required maintenance and support services are designed to provide the VHA staff with the resources they need to fulfill the needs of their customers. The maintenance is required to ensure VHA can successfully manage performance of its VCM infrastructure and that the existing DSS VCM software remains operational. The period of performance is October 1, 2018 through September 30, 2019, plus three 12-month option periods for continued maintenance and support services, and one optional task

for one new DSS VCM Medium Hospital Perpetual License Software subscription, if exercised. The optional task may be exercised once per 12-month performance period, not to exceed a total of four, to renew the VCM software license and maintenance.

4. Statutory Authority: The statutory authority permitting this 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 8 of this justification, it was determined that limited competition is available for the required brand name DSS VCM software subscription licenses, maintenance and support services among resellers. Maintenance is required for software updates and patches to VHA's current DSS VCM software. These updates and patches provide new feature sets, address program errors in prior software versions, and provide security enhancements. Only DSS, through a reseller, can provide the necessary software upgrades and patches because of the propriety source code required to develop and implement software updates. Since the software is proprietary, a legal restriction is placed on access to the software code that is required in order to develop upgrades and patches to the software. Without this access it is impossible for another source to modify the software code as necessary to provide the required patches and upgrades and to ensure all the services provided are properly configured. No other source other than a DSS reseller can provide the required maintenance support for the maintenance support requirements described herein, such as assistance via phone and email, as well as all software upgrades and patches. Without procuring the required maintenance the VHA staff will not have continued operational availability which will prevent required resources that Oncology requires to fulfill the needs of their critical Cancer patients.

Additionally, the proprietary VCM software was developed by VistA Mumps programmers to integrate an automated solution for ordering chemotherapy treatment with the VA VistA environment through bidirectional communications using Health Level 7 code and Application Programming Interfaces. No other chemotherapy manager brand software product is capable of integrating with the current VistA infrastructure. VA anticipates in order to implement another software into the current VistA infrastructure would require hundreds of hours of redevelopment by Vista Mumps programmers over a five year period which would involve testing, validation, and reconfiguration resulting in extensive duplicated costs in the amount of \$31,754,612.50 that would not be recovered through competition. This estimate is based on previous efforts for similar VistA software development. Therefore, the new VCM Medium Hospital Perpetual License Software license subscription and subsequent maintenance and support that can be exercised under the optional task are required for consistency amongst the VISN VAMCs so communication between hospitals and Data Centers can be transmitted without any disruption from the assignment of therapy to the calculation of chemotherapy doses to the documentation of care. Not having the VCM software consistently implemented across the VISN would have adverse effects on the

transmission of information between VISN VAMCs and their VistA and CPRS servers thereby potentially putting VISN 21 critical Cancer patients at risk of assignment and delivery of timely drug therapy, chemotherapy dosage monitoring and instantiations electronic documentation of care. Furthermore, no other VCM software has the ability to interoperate with Mumps programming infrastructure that VistA is built on.

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, the undersigned VA technical representative determined that limited competition is available among resellers for brand name DSS VCM software licenses and maintenance support. In accordance with FAR 16.505(a)(4)(iii)(A)(1), this justification will be provided with the solicitation to all appropriate NASA SEWP V GWAC holders. Furthermore, in accordance with FAR 5.301, 16.505(b)(2)(ii)(D), and 16.505(a)(4)(iii), the award notice for this action will be synopsisized on the Federal Business Opportunities website and this justification will be made publicly available within 14 days of award.

7. Actions to Increase Competition: To remove or overcome barriers to competition in future acquisitions for this requirement, the program office to continue to perform market research to consider and ascertain if any other sources can provide these services in the future. Specifically, the Government will continue to investigate alternatives to DSS VCM software licenses and maintenance that may be compatible with the current infrastructure, or whether DSS permits third parties to access its proprietary software to provide maintenance and support. VA technical experts will conduct this market research throughout the year.

8. Market Research: In June 2018, the Government's technical experts reviewed similar software products to include their ability to provide software maintenance to ascertain if they could meet VA's requirements. The Government's technical experts conducted web-based research for other similar virtual server software available from Cerner and Epic to ascertain if other products could meet the Government's requirements for interoperability and compatibility with VHA's existing DSS infrastructure currently utilizing VCM software. Specifically, Cerner, Epic, and other companies can work with Windows based programs; however, they do not interoperate with Mumps programming infrastructure that VistA is built on. As a result of the market research the technical experts confirmed that the source code required to issue the upgrades and patches is proprietary, accordingly only DSS or its authorized resellers are capable of providing the required maintenance and upgrades for the existing DSS VCM software. No other firm has the capability of developing and issuing software upgrades and patches for DSS VCM software necessary to support existing VHA requirements. Based on the above, only DSS VCM software maintenance meets all of the Government's requirements.

Additional market research was conducted in August 2018 by utilizing the NASA SEWP Provider Lookup tool to determine whether the brand name DSS software maintenance is available from NASA SEWP V GWAC holders. It was determined that there are several resellers of the brand name DSS software maintenance that hold current GWACs. The results found one Service Disabled Veteran Owned Small

Business (SDVOSB), two small business, and one large business. Furthermore, NASA SEWP V GWAC has a dynamic catalog where line items can be added based on customer requests; therefore, as long as the required item or service is within scope of the NASA SEWP V contracts, items and services can be added to the catalog on a daily basis.

9. Other Facts: None.