

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 the issuance of a Firm-Fixed-Price Task Order issued under the National Aeronautics and Space Administration (NASA) Solutions for Enterprise-Wide Procurement (SEWP) V Governmentwide Acquisition Contract (GWAC) for hardware and software maintenance support on existing brand name NetApp Converged Virtualization Infrastructures (CVIs) and NetApp storage solutions.
3. Description of the Supplies or Services: VA, Office of Information Technology (OI&T), Service Delivery and Engineering (SDE), Storage Enterprise Service Line (ESL) has a requirement to procure brand name hardware and software maintenance support for pre-existing, VA-owned brand name NetApp CVIs equipped with NetApp hardware and software components and ancillary Brocade and Cisco components. The CVI is a complete solution that was provided by NetApp. In addition, VA requires hardware and software maintenance on existing NetApp storage solutions that currently integrate with these systems/CVIs within the facility they are located in. This effort encompasses CVIs and storage solutions throughout Regions 1-6. Maintenance support includes repair, minor updates, and upgrades on the NetApp CVIs and storage solutions. This maintenance will ensure these items remain operational. The period of performance will be eight (8) months from date of award, followed by a 12-month option period.
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 upon market research, as described in section 8 of this justification, the Government determined that limited competition is available for this action among resellers for the required maintenance support. VA requires continued hardware and software maintenance support for the operation of the pre-existing storage device configurations in place, inclusive of the CVI systems which include brand name Brocade and Cisco components. VA utilizes the storage device configurations to support server virtualization operations, site File Shares, and critical medical and administrative systems. The storage solutions are vital in providing high-availability, virtualized servers for their respective facilities, including fault-tolerance and in-use migrations to support clinical and administrative use cases, resulting in zero loss of data. NetApp or a NetApp reseller are the only sources that can meet all of VA's technical requirements. Specifically, NetApp, or an authorized NetApp reseller, is the only

source that has access to NetApp's proprietary code which is required to provide any services on the aforementioned CVIs and storage solutions. Access to this code is needed to develop and push updates and upgrades to the currently fielded items and access to the code is needed to ensure all services provided are properly configured. The currently fielded CVIs were provided by NetApp and they created and configured the entire solution through NetApp's proprietary structuring. Therefore, support cannot be broken out based on separate brands as the entire solution is based on NetApp's proprietary coding. In addition, maintenance is needed for both the CVIs and storage solutions under one proposed action because they are both integrated within their assigned facility and one source is needed to properly configure services provided to both the CVIs and storage solutions in place.

In addition, only NetApp or a NetApp reseller can provide the replacement parts for both the CUI and storage solution. Specifically, no other source can provide support for storage array shelves that will be operational with the current storage systems back end. Therefore, no source other than NetApp or an authorized NetApp reseller can meet VA's interoperability and compatibility requirements due to NetApp's proprietary source code that allows the hardware and software to work in conjunction with one another. Therefore, if VA were to separate the hardware and software requirements, there would be configuration issues. No other source's parts could be installed or maintenance be provided on the current NetApp system equipment due to system's proprietary code which does not interoperate with any other brand name products. Purchasing any other software and maintenance could render the current software and equipment unoperational.

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 for the required hardware and software maintenance support other than brand name NetApp or its authorized resellers that can meet the Government's requirements. Although the Government is limiting competition as a result of specifying a brand name, limited competition is viable among authorized resellers for the required brand name maintenance support that are NASA SEWP V GWAC holders. In accordance with FAR 5.301 and 16.505(b)(2)(ii)(D), this action will be synopsisized and the justification will be made publicly available on the Federal Business Opportunities Page within 14 days of award. The justification will also be posted to the NASA SEWP V GWAC website with the Request for Quotation for review by prospective GWAC holders.

7. Actions to Increase Competition: In order to remove or overcome barriers to competition in future acquisitions for the requirements described herein, the agency will continue to perform market research to ascertain if there are changes in the marketplace that would enable future actions to be competed.

8. Market Research: The Government's technical experts conducted market research during June 2018 by reviewing similar software and hardware maintenance offerings to ascertain if other brands could meet VA's functionality requirements. Specifically, the Government's technical experts conducted web based research and discovered that

while other maintenance support offerings from alternative manufacturers such as Hewlett Packard, EMC Corporation, and International Business Machines (IBM) exists, they do not meet VA's technical compatibility requirements for the existing NetApp infrastructure in place. As a result, the Government's technical experts concluded that only NetApp or an authorized reseller has a capability to provide the continued maintenance support for the existing NetApp configurations. In addition, VA Subject Matter Experts regularly review industry trade publications and conduct internet research to ascertain if any other brand name maintenance support is available. Based on all of these market research efforts, the Government's technical experts have determined that only the aforementioned NetApp brand name maintenance support can meet all of the VA's needs.

In addition, market research was conducted on July 27, 2018 by utilizing the NASA SEWP Provider Look-up Tool to determine whether the requested maintenance is available from resellers that hold NASA SEWP contracts. It was determined that there are 17 VA Vendor Information Pages-verified service-disabled Veteran-owned small business resellers under NASA SEWP for brand name NetApp.

9. Other Facts: None