

JUSTIFICATION AND APPROVAL
FOR AN EXCEPTION TO FAIR OPPORTUNITY

1. Contracting Activity: Department of Veterans Affairs (VA)
Office of Acquisition and Logistics
Technology Acquisition Center
260 Industrial Way West
Eatontown, New Jersey 07724
2. Description of Action: The proposed action is for a Firm-Fixed-Price Delivery Order (DO) issued under the National Aeronautics and Space Administration (NASA) Solutions for Enterprise-Wide Procurement (SEWP) IV Government Wide Acquisition Contract (GWAC), for Cisco brand name hardware and software to support the expansion and maintenance of the existing Enterprise Video Teleconferencing Network (EVTN) infrastructure. Additionally, a one year warranty is required for the aforementioned Cisco brand name hardware and software.
3. Description of Supplies or Services: The EVTN infrastructure provides the capability to allow any video device in the VA network architecture to communicate with any other video device. The number of video devices is projected to double by the end of Fiscal Year (FY) 12. This proposed action includes the purchase of additional hardware and software to support the expansion and capabilities of the existing video network. Failure to procure additional capacity for EVTN infrastructure will impede, or seriously degrade, VA's ability to support the Telehealth Initiative. This initiative is one of the Secretary's major initiatives to improve Veterans' access to healthcare. The foundation of the EVTN is a Cisco TelePresence Management Suite (TMS) of software that provides management, maintenance and support of video devices. Specifically, the hardware and software being purchased under this proposed action consists of Cisco TelePresence Multipoint Control Units (MCUs), Cisco Video Communication Server (VCS) Expressways, Cisco TMS licenses and related Cisco software and hardware. The Cisco brand name hardware and software required also includes a one year warranty with Cisco SMARTnet Service, which provides troubleshooting support, 8x5xNext Business Day (NBD) advanced hardware replacement, and ongoing Cisco software operating system support. The 8x5xNBD advanced hardware replacement package includes technical support that is available 24x7, advanced hardware replacement that is available eight hours per day (delivering the replacement hardware during normal business hours only), five days a week, with NBD delivery. Cisco software support under this warranty includes access to both minor and major releases within the licensed feature set for the warranty period of one year. Delivery of the Cisco TMS software licenses shall be within ten days after receipt of order and the remainder of the purchases shall be within thirty days after receipt of order.

4. Statutory Authority: The statutory authority permitting this exception to fair opportunity is 41 U.S.C. 4106(c) as implemented by the Federal Acquisition Regulation (FAR) Subpart 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 extensive market research, as described in paragraph eight of this document, it was determined that limited competition is available for the aforementioned brand name items and services. Market research revealed that Cisco hardware and software is the only brand hardware and software that can be added to the VA’s EVTN infrastructure without disrupting the existing EVTN infrastructure. The existing EVTN infrastructure and network management platform currently in place is based on a Cisco brand name platform. Similar platforms and equipment, such as those available from Polycom, Lifesize, and Sony, are not interoperable or compatible with VA’s existing Cisco based equipment. The use of any other product will severely degrade the ability to support and manage the existing EVTN infrastructure’s hardware and software which will result in interoperability and compatibility issues. The interoperability issue is due to the incompatibility of the underlying firmware (Cisco proprietary source code) which limits managing devices to their full capabilities as well as system license keys which are only available and applicable to the specific Cisco branded devices. This proprietary source code allows the currently fielded Cisco hardware and software to communicate with only additional Cisco brand name items. Furthermore, the use of any other hardware and software would also require a complete replacement of the currently fielded Cisco brand name hardware and software utilized on the EVTN infrastructure due to lack of interoperability and compatibility. This replacement effort would result in extensive delivery delays and duplicated costs that would not be recovered through competition. Additionally, a one year warranty is required for the aforementioned Cisco brand name hardware and software. Only Cisco or an authorized reseller can provide the aforementioned warranty on Cisco brand name products.
6. Efforts to Obtain Competition: Market research was conducted, details of which are contained in the market research section of this document. Based on this research, it was determined that limited competition is anticipated for the required brand name hardware and software. Although the Government is limiting competition as a result of specifying brand name items, there are multiple authorized resellers of the brand name items on the NASA SEWP IV GWAC. Additionally, this Justification and Approval (J&A) will be submitted to all four NASA SEWP IV GWAC groups in order to fully notify all interested parties. Any proposals received will be evaluated. Furthermore, in accordance with FAR 5.3, the contract award will be synopsisized on the

Federal Business Opportunities (FBO) Page. In addition, this J&A will be made publicly available on the FBO Page.

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 so that other solutions can be considered.
8. Market Research: Market research was conducted in June 2012 utilizing the NASA SEWP IV GWAC Product Verification and Manufacturer Lookup tool and it was determined that there are 35 authorized resellers of the Cisco hardware and software that are current NASA SEWP IV contract holders. In addition, a Request for Information (RFI) was posted on the NASA SEWP IV website in which five responses were received. Of the five responses received, one respondent was a Value Added Reseller from Group A (Force 3) and four respondents were Other Than Small Businesses from Group D (Intelligent Decisions, Iron Bow, Microtech and WWT). No responses were received from the remaining NASA SEWP IV contract holders. Based on the above RFI results, the procurement will be open to all four groups to ensure maximum competition.

In February 2012, the Government's technical video network engineers conducted ongoing market research to determine if other brand name products existed that could meet VA's requirement. VA's technical video network engineers reviewed similar platforms and equipment from Polycom, Lifesize, and Sony. However, these other video network platforms and equipment cannot meet VA's needs as they are not fully interoperable and compatible with the current equipment used with the EVTN infrastructure. Based on this market research, only Cisco brand name hardware and software can meet all of VA's needs to support the expansion and maintenance of the existing EVTN infrastructure.

9. Other Facts: In accordance with Policy Alert 06-10, this requirement has been reported in the Forecast of Contracting Opportunities database.