

JUSTIFICATION AND APPROVAL  
FOR AN EXCEPTION TO FAIR OPPORTUNITY

1. Contracting Activity: Department of Veterans Affairs (VA)  
Office of Acquisition Operations  
Technology Acquisition Center  
260 Industrial Way West  
Eatontown, NJ 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) IV Government-Wide Acquisition Contract (GWAC) for the procurement of EMC Corporation (EMC) VNX storage arrays and replication appliances with supporting software to be integrated into the existing storage infrastructure at VA, Veterans Health Administration (VHA) Chief Business Office (CBO) Consolidated Patient Account Center (CPAC) and Health Administration Center (HAC) along with installation and configuration services and maintenance support. The period of performance for delivery, installation and configuration services is 60 days after receipt of order along with three years of maintenance support.
3. Description of Supplies or Services: The proposed action is to procure two EMC VNX 5700 storage arrays and four EMC replication appliances with supporting software to enhance the existing infrastructure at VHA CBO CPAC and HAC Field Program Offices (FPO) located in Denver, CO and Asheville NC. The role of the CPAC and HAC includes revenue collection and health plan and benefit management on behalf of VA. The required EMC VNX Series storage units will be integrated into the existing storage infrastructure at the FPOs, and will strengthen Disaster Recovery (DR) and Continuity of Operations (COOP) capabilities as well as provide operational relief to FPO sites whose storage infrastructure is currently overtaxed. Installation and configuration services and maintenance support are also required. The contractor shall provide EMC personnel or authorized agents to coordinate any onsite provisioning of the hardware and software as implemented during installation and configuration. The maintenance support shall include 24-hour, 7-days a week phone and website support, and four hour onsite response time. The warranty shall cover three years from the delivery of the equipment. The total estimated price of the proposed action is [REDACTED]
4. Statutory Authority: The statutory authority permitting this exception to fair opportunity is Section 41 U.S.C. § 4106 (c) as implemented by the Federal Acquisition Regulation (FAR) Subpart 16.505(b)(2)(i)(B), entitled "Exceptions to the fair opportunity process," stating that 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 8 of this document, it was determined that limited competition is available for this brand name equipment. The required EMC VNX Series storage arrays and replication appliances with supporting software will be integrated into the existing storage infrastructure consisting EMC enterprise software and replication



technology that utilizes proprietary source code that is not compatible with any other brand name storage arrays and replication appliances. Specifically, the current storage infrastructure is comprised of EMC storage and replication appliances managed and configured with EMC's Unisphere management and monitoring software, as well as EMC RecoverPoint/SE replication technology that can only support a singular pairing between EMC brand replication appliances. This supporting EMC enterprise software and replication technology has been successfully integrated into the CPAC storage network and has been approved to operate. The required storage and replication appliances and supporting software are needed to strengthen DR and COOP capabilities within the existing infrastructure, and provide operational relief to other FBO sites. This involves data migration and data replication to alternate sites. The management and monitoring of data migration and data replication, including recovery plans, have been built surrounding utilizing the existing EMC enterprise software and replication technology. No other brand storage and appliances are compatible with the existing EMC technology, and are therefore unsupported for integration into the existing infrastructure. Only EMC brand name storage and replication appliances can be added to the network without requiring a complete tear out and redesign of the network infrastructure causing unacceptable risk to revenue collection, health administration, and patient enrollment operations. Finally, any source providing the installation and configuration services and maintenance support must have full access to the EMC equipment in order to install, configure, update and repair the equipment which requires access to EMC's proprietary source code.

6. Efforts to Obtain Competition: Market research was conducted, details of which are in the market research section of this document. Although the Government is limiting competition as a result of specifying unique or highly specialized equipment, there are multiple authorized resellers of the equipment on the NASA SEWP IV GWAC. Additionally, in accordance with NASA SEWP guidance, this Justification and Approval will be submitted to all four NASA SEWP IV GWAC groups prior to release of the Request for Quote (RFQ) in order to fully notify all interested parties. Furthermore, in accordance with FAR 5.301 and FAR 16.505(b)(2), this action will be synopsisized at award on the Federal Business Opportunity Page (FBO) and the justification will be made publicly available within 14 days after award.

7. Actions to Increase Competition: In order to remove or overcome barriers to competition in the future, the Government's technical experts will continue to perform market research to determine if other products can be considered prior to the exercise of any options and prior to any future procurement for this requirement.

8. Market Research: Market research was conducted in July 2012 by the Government's technical experts. A Request for Information (RFI) was submitted via NASA SEWP IV GWAC seeking solutions for enterprise augmentation or replacement of existing EMC storage equipment. Responses were received consisting of solutions from NetApp and Dell. Both solutions were investigated for compatibility with the existing replication technology, and were found to be unsupported for integration. A Hewlett Packard solution was also assessed for additional market research purposes and was also found to be unsupported for integration. None of the aforementioned

brand name items were found to be compatible with the current replication system or configuration and management software. The Government's technical expert was contacted by a sales representative from NetApp via phone on July 23, 2012 in regards to its RFI response. NetApp stated that it could offer a comparable system including replication. The Government's technical expert explained that would require a complete redesign which is an unacceptable risk to the Government's revenue collections. The NetApp representative found the Government's technical reasoning to be acceptable. Dell Inc., was contacted on August 8, 2012 in regards to its RFI response, via e-mail to advise them of the Government's assessment that Dell EqualLogic storage equipment cannot meet the requirement. The solution required a complete replacement of the existing storage and replication solution causing unacceptable risk to revenue collection operations. Dell did not respond.

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.

8/15/2012

X

Josh Dillingham

Program Manager, SD&E: FPO

Signed by: JOSHUA T DILLINGHAM 369119

11. Fair and Reasonable Cost Determination: I hereby determine that the anticipated price to the Government for this contract action will be fair and reasonable based on the fact that contracts awarded on NASA SEWP IV GWAC have already been determined to be fair and reasonable. As there are 18 authorized resellers of EMC products within Groups B and C on NASA SEWP, price competition is anticipated. Finally, the successful quote will be compared to the Independent Government Cost Estimate.

Carol G. Newcomb

Date:

8/16/2012

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.

Carol G. Newcomb

Date:

8/16/2012

Procuring Contracting Officer

Signature:

13. Legal Sufficiency Certification: I have reviewed this justification and find it adequate to support other than full and open competition and deem it legally sufficient.

Josyl Barchue

Date:

8/17/2012

Legal Counsel

Signature:

## Approval

In my role as the Contracting Activity Competition Advocate and based on the foregoing justification, I hereby approve a firm fixed-price delivery order issued under the National Aeronautics and Space Administration Solutions for Enterprise Wide Procurement IV Government Wide Acquisition Contract for EMC storage equipment for VA CPAC and HAC FBOs. This action will be issued as an exception to fair opportunity, pursuant to the authority of Section 41 U.S.C. § 4106 (c), subject to availability of funds, and provided that the property and services herein described have otherwise been authorized for acquisition.

Date: 8/22/12Signature: Wendy J. McCutcheon  
Iris B. Cooper  
Head of the Contracting Activity