

JUSTIFICATION AND APPROVAL
FOR EXCEPTION TO FAIR OPPORTUNITY

1. Contracting Activity: Department of Veterans Affairs
Office of Acquisition Operations
Technology Acquisition Center - Austin
1701 Directors Blvd., Suite 600
Austin, TX 78744
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) to acquire the ability to increase the current virtual test user simulation limit of VA's Business Machines Corporation (IBM) Rational Performance Tester Pack Virtual Testers perpetual license.
3. Description of Supplies or Services: VA currently owns IBM Rational Performance Test Pack Virtual Testers software. The proposed action is to acquire the ability to increase the current virtual test user simulation limit from 500 to 10,000 concurrent test simulations. The contractor will modify VA's perpetual software license terms to meet VA's new need to test large web-based programs, such as MyHealthVet. The VA requires this increase because testing larger programs requires a larger number of concurrent test simulations. The total estimated price of the proposed action is \$176,800.00.
4. Statutory Authority: The statutory authority permitting an 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 "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: This is a brand name justification in support of FAR 11.105, Items Peculiar to One Manufacturer. Based on market research, as described in paragraph 8 of this document, IBM is the only source capable of providing the capability provided through its Rational Performance Test Pack Virtual Testers brand software. No other software can provide the ability to increase the simulation usage from 500 to 10,000 virtual users, and no other source can otherwise provide a replacement to VA's existing solution.
6. Efforts to Obtain Competition: The technical team conducted market research, details of which are in the market research section of this document. Although the Government is limiting competition by specifying a brand name, there are multiple authorized resellers of the brand name software on the NASA SEWP IV GWAC. In accordance with FAR 5.301 and 16.505(b)(2)(D)(1)(i), this action will be synopsisized at award on the Federal Business Opportunity (FBO) Page and the justification will be made publicly available.

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 consisted of VA technical personnel's review of similar Commercial Off-the-Shelf testing software. Hewlett Packard's (HP) Mercury Testing Tool software was selected for evaluation as the closest alternative to the existing solution. Based on the review it was determined that, if HP's Mercury Testing Tool software or any other brand name software were considered, VA would have to replace all of the Rational software integrated with the Rational Tester and re-integrate it with the new software. The replacement cost, including the implementation and reconfiguration cost is estimated at approximately \$30 million, which would be cost prohibitive.

9. Other Facts: Not Applicable.


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.

Julie S. Harvey

Date: 5/29/2012

Director

OIT PD Product Assessment Competency Division

Signature: 

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.

Daniel Winterroth

Date: 7/24/12

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. As this contract action does not exceed \$650,000, the certification below required by FAR 16.505(b)(2)(ii)(C)(1) serves as approval.

Daniel Winterroth

Date: 7/24/12

Procuring Contracting Officer

Signature: 