

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 a firm-fixed-price (FFP) delivery order issued under the National Aeronautics Space Administration (NASA) Solutions for Enterprise Wide Procurement (SEWP) V Government Wide Acquisition Contract (GWAC) for brand name NICE Systems (henceforth referred to as NICE) Engage and Work Force Management (WFM) IEX software maintenance renewals in support of the Voice Access Modernization (VAM) Enterprise Interactive Voice Response (IVR) Enterprise Contact Center (ECC) environment.

3. Description of the Supplies or Services: The proposed action is to provide software maintenance for the NICE Engage and WFM IEX Software. NICE Engage software is a quality assurance (QA) software solution that provides voice and screen recording capabilities for the existing VAM ECC environment. NICE WFM IEX is designed to forecast, schedule, and track agents from a holistic enterprise vantage point. NICE Engage and WFM IEX Software are integrated with the VAM ECC Cisco Unified Contact Center Enterprise (UCCE) components that provide voice and screen encrypted recordings, desktop analytics, coaching, and WFM functionalities. The current environment utilizes 3,100 NICE Engage Agent Licenses and 1,800 NICE WFM IEX Agent licenses. The software maintenance required for the aforementioned licenses includes technical support desk services, patching and hot fixes, assistance with troubleshooting, software bug fixes and distribution of new updates. The period of performance for the maintenance will be September 25, 2019 through September 24, 2020, with three, 12-month option periods. [REDACTED]

4. Statutory Authority: Pursuant to Federal Acquisition Regulation (FAR) 16.505(a)(4), the following brand name requirement is being justified and approved as an exception to fair opportunity under the statutory authority of Section 41 U.S.C. 4106(c)(2) as implemented by 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 extensive market

research, as described in section 8 of this document, it was determined that only NICE or one of its authorized resellers can provide the software maintenance that can meet the Government's requirements.

NICE Engage and WFM IEX software solutions are integrated into the existing Cisco UCCE within the Austin and Philadelphia data centers, and every agent connected to the system must continue to be maintained. The NICE software can co-exist with similar software in the same architecture; however, agent encrypted recordings captured on the NICE platform cannot be replayed on any other manufacturers' equipment and/or software (e.g. Verint, Calabrio). Any other similar software will require total redesign, development, hardware, installation, and configuration of the new system. The result would be two stove-pipe systems, which do not integrate with each other, and require major additional investment to stand-up. Any other similar application and licensing would require an investment of \$5M, which is the duplication costs associated with redesign through configuration outlined above. Additionally, the redesign through configuration including transition would need a six to nine-month timeline. Without continued software maintenance, VA would risk the loss of operational software that provides voice assistance to our Veterans and their families.

Additionally, no other software can integrate and communicate with the existing VAM ECC environment because of the NICE encryption. The existing environment has been in place for five years. This environment has also been meticulously tested in regards with meeting VA security (6500 directives)/web application security assessment scans which is an ongoing task within itself. No other original equipment manufacturer's products can access the NICE proprietary source code and provide interoperability and compatibility with the current VAM ECC environment

The brand name NICE software maintenance is required for continued operation of the existing NICE Engage and WFM IEX Software solutions that are operational within the Austin and Philadelphia data centers. Only NICE or one of its authorized resellers can provide continued software maintenance to the NICE software. No other original equipment manufacturer has access to the NICE proprietary source code that is needed to provide the required software maintenance. Access to this code is required to ensure all the services provided are properly configured and that new updates are properly pushed through and operational.

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 authorized resellers for brand name NICE Engage and WFM IEX Software

maintenance. 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: The Government will continue to conduct 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 from March 2019 to present and currently there is no other NICE software maintenance available in the marketplace to meet the Government's requirements. The Government's technical experts reviewed similar software maintenance products to ascertain if these items could meet VA's requirements. Specifically, the Government's technical experts conducted web-based research of Verint, Zoom and Calabrio products. As a result of the market research, the technical experts confirmed the source code required to issue the updates is proprietary, therefore, no other firm has the capability of developing and issuing software updates and fixes for the NICE software necessary to support existing Voice Access Modernization requirements. All of the products researched were unable to meet the maintenance requirements. Additionally, none of these other software products could meet VA's interoperability and compatibility requirements. Based on all of these market research efforts, the Government's technical experts have determined that only the aforementioned NICE brand name software maintenance can meet all of VA's needs.

9. Other Facts: None.