

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: The proposed action is for a brand name firm-fixed-priced delivery order, issued under the National Aeronautics and Space Administration (NASA), Solutions for Enterprise-Wide Procurement (SEWP) V, Government-Wide Acquisition Contract (GWAC).
  
3. Description of the Supplies or Services: The Department of Veterans Affairs (VA), Office of Information and Technology (OI&T), Information Technology Operations and Services Infrastructure Operations, Austin Information Technology Center (AITC) has a requirement for 14 brand name Veritas Clearwell 8200 appliances, 8200 Non-Returnable Disks, with associated service units and maintenance support, used by VA for the Office of General Counsel (OGC) in support of the Veritas Clearwell eDiscovery application software. The software allows users to perform preservation, processing (such as decryption and de-duplication), searching, review, analysis, and production of electronically stored information including email. This assists attorneys, custodians of relevant information, and other OI&T personnel in accomplishing their required discovery and auditing tasks more efficiently. OI&T personnel use Veritas eDiscovery in the event they need to assist in litigation and criminal cases where email users attempt to circumvent controls and try to prevent VA investigators and OGC from accessing their email and associated document archives. The period of performance shall consist of delivery of the required goods and services within 30 days after award and 12-months of associated maintenance support with one 12-month option for the continuation of the maintenance support as VA anticipates the use of the aforementioned appliances during the next two years. The total estimated value of the proposed action is [REDACTED] including options.
  
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 the market research, as described in section 8 of this document, it was determined that limited competition is available among resellers of the required brand name Veritas Clearwell Appliances and support services. The purpose of this acquisition is to expand the current architecture in support of the Veritas Clearwell eDiscovery application software which has had a large

increase in customer utilization and the number of customers supported. Because of system constraints the eDiscovery software requires high Input/Output Processors for use with MySQL. The eDiscovery performs graphical document conversions requiring large dedicated Central Processing Unit pull requiring a distributed architecture with high speed interconnects. Currently, eDiscovery architecture in place has reached physical limits of the amount of the data it can support; therefore, the need is to add additional resources in order to continue operations.

The new Veritas Clearwell appliances are required because these are the only appliances the eDiscovery software can maintain interoperability and seamless connectivity. If the VA were to replace the existing eDiscovery architecture and Veritas Clearwell appliances throughout the VA, the costs would be significantly higher and the continuity of services would be impacted. Market research demonstrated that other manufacturer's products would cause unnecessary integration and communication issues. Other manufacturer products would not seamlessly integrate and connect with critical components of the eDiscovery software already in place within AITC. This is due to proprietary design, source code and protocols used by Veritas to implement proprietary technology for their products.

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 could meet the Government's requirements. It was determined however that limited competition is viable as there are multiple resellers that hold NASA SEWP V GWACs for the required brand name Veritas Clearwell Appliance 8200 In accordance with FAR 16.505(a)(4)(iii)(A) this justification will be posted with the solicitation on the NASA SEWP V website.

7. Actions to Increase Competition: The Government will continue to conduct market research to ascertain if there are changes in the market place that would enable future actions to be competed.

8. Market Research: Market research was conducted by VA technical experts in January 2019. The market research was conducted by a review of industry websites and analysis of alternative resolutions in support of eDiscovery software performance. The analysis was to identify different virtualization configurations and testing; however, it was determined that installing the Veritas Clearwell appliances would relieve the virtual infrastructure constraints.

The market research included a review of similar products available from other Original Equipment Manufacturers (OEMs) to include International Business Machines eDiscovery Solutions, and AccessData. The review demonstrated that other OEMs cannot provide appliances to support the expansion of the current Veritas architecture that would be compatible with the existing Veritas Clearwell eDiscovery application software. Due to the proprietary design, source code and protocols of the eDiscovery application software no other appliance would be able to maintain interoperability and

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8200 Non-Returnable Disks, Service Units &  
Maintenance Support

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seamless connectivity without access to the proprietary source code. Based on these efforts, the Government concluded that only brand name Veritas Clearwell products can meet the stated interoperability and compatibility requirements.

Additional market research was conducted by the Contract Specialist in August 2019 by utilizing the NASA SEWP V GWAC Provider Look-up Tool. The tool revealed multiple resellers of brand name Veritas Clearwell appliances including verified Service Disabled Veteran Owned Small Business resellers in Group B2 hence, there is reasonable expectation that limited competition exists.

9. Other Facts: None

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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.

[Redacted]

Program Manager

Date:

[Redacted]

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. NASA SEWP V GWAC prices have been determined to be fair and reasonable. Additionally, competition is expected among resellers for this action. Additional price analysis may be performed in accordance with FAR 15.404-1(b).

[Redacted]

Procuring Contracting Officer

Date: \_\_\_\_\_

[Redacted]

Signature: \_\_\_\_\_

12. Procuring Contracting Officer Certification: I certify that this justification is accurate and complete to the best of my knowledge and belief.

[Redacted]

Procuring Contracting Officer

Date: \_\_\_\_\_

[Redacted]

Signature: \_\_\_\_\_

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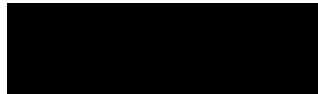
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Approval

In my role as procuring activity Advocate for Competition, based on the foregoing justification, I hereby approve the acquisition of 14 brand name Veritas Appliance 8200, 8200 Non-Returnable Disks, with associated service units & maintenance support on another than fair opportunity basis pursuant to the authority cited in section 4 above, subject to availability of funds, and provided that the services herein described have otherwise been authorized for acquisition.

Date: 9/16/2019

Signature:

A black rectangular box redacting the signature of the Interim Advocate for Competition.

Interim Advocate for Competition  
Technology Acquisition Center  
Office of Procurement Acquisition and Logistics

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JUSTIFICATION FOR AN EXCEPTION TO FAIR OPPORTUNITY

Coordination Matrix



9/13/19

Date

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Concur/Non-Concur

Director, Procurement Service B  
Technology Acquisition Center  
Office of Procurement, Acquisition, and Logistics  
Department of Veterans Affairs