

## 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, New Jersey 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) V Governmentwide Acquisition Contract (GWAC) for brand name Document Storage System, Inc. (DSS) Databridge software license subscriptions and maintenance support.
  
3. Description of the Supplies or Services: VA, Veterans Health Administration (VHA), Veterans Integrated Service Network (VISN) 21 has a requirement for the renewal of six brand name DSS Clinical Information System (CIS) Databridge Software license subscriptions and maintenance support for the San Francisco, Palo Alto, Northern California, Fresno, Las Vegas, and Reno VA locations. The software at each VISN only communicates with software within the respective VISN. The Databridge license subscriptions and maintenance support is a VA specific windows-based Veterans Integrated System Technology Architecture (VistA) software utilized to receive and update critical patient care CIS data from the Anesthesia, Intensive Care Unit (ICU) and Post Anesthesia Care Unit (PACU) electronic charting systems. Databridge has been proven to fully integrate with the existing VistA system as evident by use throughout the VHA hospitals across the country and provides seamless electronic interaction between the VistA record and the CIS / Anesthesia Record Keeping Systems. This integration with VistA allows the critical care clinicians to have an extremely efficient, very powerful method for capturing physiological vitals, fluids, medications, laboratory results, patient assessments, orders and notes that would otherwise be misinterpreted if hand written or potentially lost. This software is focused on patient safety and ensures that complete patient records and care plans are integrated with VISTA so that clinicians outside the critical care areas of the medical center can track their patients care in VistA and appropriately provide response as necessary. Ultimately, patient safety is maximized, clinical efficacy and efficiency is increased, patient information is secure, and documentation of patient care is quicker. Most importantly, DSS Databridge software licenses interface with VistA. VA requires support compatible with the existing Databridge infrastructure protocol and functionality for continued operational availability. The required support services are designed to provide VHA staff with the resources they need to fulfill the needs of Veterans. The support is required to ensure VHA can successfully manage performance of its Databridge infrastructure and that the existing DSS Databridge software remains operational. The period of performance is October 1, 2019 through September 30, 2020, plus three 12-month option periods for continued licensing and support services.

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 market research, as described in section 8 of this justification, it was determined that limited competition is available for the required brand name DSS Databridge software license subscriptions and maintenance support among resellers. Maintenance is required for software updates and patches to VHA's current DSS Databridge software. These updates and patches provide new feature sets, address program errors in prior software versions, and provide security enhancements. Only DSS, through a reseller, can provide the necessary software upgrades and patches because of the propriety source code required to develop and implement software updates. Since the software is proprietary, a legal restriction is placed on access to the software code that is required to develop upgrades and patches to the software. Without this access it is impossible for another source to modify the software code as necessary to provide the required patches and upgrades and to ensure all the services provided are properly configured. No other source other than a DSS reseller can provide the required maintenance support for the requirements described herein, such as assistance via phone, Voice over Internet Protocol, and email, as well as all software upgrades and patches. Without procuring the required maintenance, VHA Critical Care staff will not have continued operational availability which will prevent required resources that our staff requires to fulfill the needs of their patients in the Operating Room, ICU and PACU.

Additionally, the proprietary Databridge software was developed by Vista Mumps programmers to provide two-way communication between CIS and the VA Vista environment through bidirectional communications using Health Level 7 code and Application Programming Interfaces. No other Databridge brand software product is capable of integrating with the current Vista infrastructure and the CIS. VA anticipates that in order to implement another software into the current Vista infrastructure, it would require hundreds of hours of redevelopment by Vista Mumps programmers over a five-year period which would involve testing, validation, and reconfiguration resulting in extensive duplicated costs in the amount of \$31,754,612.50 that would not be recovered through competition. This estimate is based on previous efforts for similar Vista software development. Therefore, the Databridge Software license subscriptions and subsequent maintenance and support are required for consistency amongst the VISN VA Medical Centers (VAMC) so communication between hospital's CIS and VA Computer Data Centers can be transmitted without any disruption. Not having the Databridge software consistently implemented across the VISN would have adverse effects on the transmission of information between VISN VAMC's Anesthesia, PACU and ICU critical care areas and their Vista, Vista Imaging and Computerized Patient Record System servers thereby potentially putting VISN 21 most critically ill veterans at risk of receiving inappropriate care, illness or possible death as vital critical care data won't be updated in the patient's critical care charting system. Furthermore, no other

software can interoperate with Mumps programming infrastructure upon which VistA is built.

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 resellers for brand name DSS Databridge software licenses and maintenance support. 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: To remove or overcome barriers to competition in future acquisitions for this requirement, the program office will continue to perform market research to consider and ascertain if any other sources can provide these services in the future. Specifically, the Government will continue to investigate alternatives to DSS Databridge software license subscriptions and maintenance support that may be compatible with the current infrastructure, or whether DSS permits third parties to access its proprietary software to provide maintenance and support. VA technical experts will conduct this market research throughout the year.

8. Market Research: In June 2019, the Government's technical experts reviewed similar software products to include their ability to provide software maintenance to ascertain if they could meet VA's requirements. The Government's technical experts conducted web-based research for other similar virtual server software available from Cerner and Epic to ascertain if other products could meet the Government's requirements for interoperability and compatibility with VHA's existing DSS infrastructure currently utilizing DSS Databridge software. Specifically, Cerner, Epic, and other companies can work with Windows based programs; however, they do not interoperate with Mumps programming infrastructure that VistA is built on. As a result of market research, the technical experts confirmed that the source code required to issue the upgrades and patches is proprietary, accordingly only DSS or its authorized resellers are capable of providing the required maintenance and upgrades for the existing DSS Databridge software. No other manufacturer has the capability of developing and issuing software upgrades and patches for DSS Databridge software necessary to support existing VHA requirements. Based on the above, only DSS Databridge software maintenance meets all the Government's requirements.

Additional market research was conducted in August 2019 by utilizing the NASA SEWP V GWAC Provider Lookup tool to determine whether the brand name DSS software maintenance is available from NASA SEWP V GWAC holders. It was determined that there are several resellers of the brand name DSS software maintenance that hold current GWACs. Therefore, limited competition is expected.

9. Other Facts: None.