

## JUSTIFICATION FOR AN EXCEPTION TO FAIR OPPORTUNITY

1. Contracting Activity: Department of Veterans Affairs (VA)  
Office of Procurement Acquisition and Logistics (OPAL)  
Technology Acquisition Center  
23 Christopher Way  
Eatontown, NJ 07724
  
2. Description of Action: The 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 Government Wide Acquisition Contract (GWAC) for the renewal of brand name Spok Care telecommunication software licenses and associated maintenance support services. .
  
3. Description of the Supplies or Services: The proposed action is for the continuation of Spok Care Connect Suite telecommunications software maintenance support, and associated services to include annual licensing, maintenance and software updates. Services shall be performed onsite at two locations, the Michael E. DeBakey VA Medical Center (MEDVAMC), 2002 Holcombe Blvd, Houston, TX 77030 and the Gulf Coast Veterans Health Care System, (GCVHCS), 400 Veterans Avenue, Biloxi, MS 39531. In 2019, VA purchased Spok Care Connect Suite telecommunications software to maintain continuous communications with medical staff which is critical to providing telephone services to Veterans and others who need to call into the medical centers. The purpose of this requirement is to procure continued licensing and associated maintenance services support for the Spok Care Connect Suite telecommunications software. The period of performance shall be from October 1, 2019 through September 30, 2020 with four 12-month option periods for the renewal of software licensing and associated maintenance and support services. The total estimated value of the proposed action is [REDACTED] (inclusive of 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 market research, as described in section 8 of this document, it was determined that limited competition is available among authorized resellers for this requirement. While more than one vendor is capable of providing the supplies or services required, competition is restricted as a result of a brand-name requirement. Spok Care Connect Suite telecommunications software is currently in use at MEDVAMC and GCVHCS. This software provides Paging and Park & Retrieval capabilities, and Directory Import/Export to assist the visually impaired in performing their duties by intergrating with the JAWS software and providing connectivity to visually impaired keyboards. Only Spok, or an authorized reseller, has access to the proprietary source code necessary to ensure interoperability

with current Spok Care Connect software application. Without access to the proprietary Spok source code, the contractor would not be able to affect changes, updates or upgrades to the proprietary software in the Spok environment. Therefore only a brand name Spok solution can fulfill the Government's needs. Further, no other software is capable of providing the required functionality while ensuring compatibility with JAWS or other visually impaired software. Spok is the only software that is interoperable and compatible with the existing infrastructure, specifically, the existing Spok Care Connect licenses already in place. No other brand can provide the interoperability with existing licenses, without disrupting office productivity. Use of any other brand name software would require this existing infrastructure to be replaced, which would result in extensive duplicate cost and disruption of service that would not be recovered through competition. In addition, utilizing software other than Spok would require a complete code rewrite of Spok Care Connect transport control protocols already in place, enabling paging functionality over a secure port. Failure to maintain the software will inhibit hospital operators ability to page and recall doctors for emergency care.

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 anticipated among authorized resellers for the brand name Spok software licenses and the associated maintenance support services on the NASA SEWP V GWAC. In accordance with 16.505(a)(4)(iii)(A), this Justification for an Exception to Fair Opportunity will be posted on the NASA SEWP V website with the solicitation. In accordance with FAR 5.301(d)(3) and 16.505(b)(2)(ii)(D), this action will not be synopsisized at award on the Federal Business Opportunities Page as the total value of this effort is below the simplified acquisition threshold.

7. Actions to Increase Competition: In order to remove or overcome barriers to competition in future acquisitions for this requirement, 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: In June 2019, the Government technical experts conducted market research to determine if there are viable sources other than Spok Care who could provide the needed communications software solution needed for this requirement. The technical experts analyzed simliar communcations software solutions from other sources, such as Voalte, PerfectServe and Vocera. Although other sources possess similar capabilities to provide the required communication software, only Spok, or an authorized reseller, integrates with the PBX and JABRA software to provide a visually impaired employees access to the telephone directory and paging system. In addition, only Spok has the proprietary source code necessary to ensure interoperability with current Spok Care Connect software application; therefore these other vendors are not able to provide a product that is compatible with existing software. Based upon this market research, the technical experts determined that only a Spok solution can meet the requirements as the communications software for MEDVAMC and GCVHCS.

Additional market research was conducted on August 15, 2019 by issuing a Request for Information (RFI) on the NASA SEWP V GWAC to determine whether brand name Spok software is available from resellers that hold NASA SEWP V contracts. The RFI resulted in responses from two Vendor Information Pages (VIP) verified Service Disabled Veteran-Owned Small Business (SDVOSB) sources, Architecture and Epoch Concepts. Additional market research was also conducted by utilizing the NASA SEWP V GWAC Provider Look-up Tool which confirmed that there are three federal registered partners for Spok Care on the NASA SEWP V GWAC, including two verified VIP SDVOSB sources. Based on the analysis of the responses, there is a reasonable expectation that limited competition exists on the NASA SEWP V GWAC for the required Spok licenses and associated services. Finally, the Government's technical experts contacted Spok July 2019, to inquire whether its source code was for sale. Spok confirmed that the source code is proprietary and not for sale

9. Other Facts: None.

