

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 firm-fixed-price task order to be issued under the National Aeronautics and Space Administration (NASA) Solutions for Enterprise-Wide Procurement (SEWP) V Government-wide Acquisition Contract (GWAC) for the purchase of additional 1E brand AppClarity licenses and renewal of software maintenance for existing 1E brand AppClarity and ActiveEfficiency software licenses.
  
3. Description of the Supplies or Services: VA Office of Information Technology (OIT) requires the renewal of software maintenance for its existing 480,000 perpetual 1E brand AppClarity and ActiveEfficiency software licenses. VA also requires 120,000 additional 1E AppClarity licenses to meet increased demands within the VA due to expansion of the VA network and increased personnel. VA utilizes 1E AppClarity and ActiveEfficiency to maintain its "A" grade in the software licensing portion of the Federal Information Technology Acquisition Reform Act (FITARA). The 1E software and maintenance supports the VA Electronic Software Asset Management (ESAM) solution which acts as a single organized solution that effectively manages software licenses and costs across the VA enterprise. The ESAM's purpose is to reduce software spending, minimize resource burden in both administration and management of software, and ensure license compliance. The 1E software supports FITARA compliance by communicating with existing VA data sources to catalog and deduplicate existing VA software. The 1E software also calculates license metrics, compares metrics to what VA currently owns, and provides desktop metering and software usage to determine how often VA software is used.

Software maintenance shall be provided 24 hours a day, 7 days a week, 365 days a year. All software maintenance shall include but not be limited to major product and technology releases, technical support, updates, fixes, security alerts, data fixes, and critical patch updates, upgrade scripts, and certification with most existing third-party products/versions. Incidents are documented in a Monthly Incident Report that contains the following: Incident Number; VA application impacted by the Incident; Resolution Information; and Root Cause of Incident. The Contractor shall provide access to security or functionality patches and upgrades as they are issued by 1E for these two products; and provide access to a 1E subject matter experts to assist in the installation and configuration of these patches as well as support for outages in the application, regardless of the source of the problem. The period of performance shall be for 12 months beginning July 13, 2019, with one 12-month option period for continued maintenance support.

4. Statutory Authority: Pursuant to Federal Acquisition Regulation (FAR) Subpart 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 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 Above: Based on market research, as described in Section 8 of this justification, it was determined that limited competition is available among NASA SEWP V GWAC contract holders for the required brand name 1E software licenses and software maintenance. 1E’s brand name software and support are the only software that can continue to build upon VA’s existing 1E ESAM solution. The 1E AppClarity and ActiveEfficiency brand name software inventory includes current existing ownership of 480,000 AppClarity and ActiveEfficiency licenses spread over the entirety of VA’s pool of both desktop and server endpoints. Any other brand name software would be unable to interoperate and communicate with the currently fielded AppClarity and ActiveEfficiency within the ESAM solution. Specifically, only 1E brand-name software can interoperate with the existing ESAM solution to provide upstream forwarding of localized data. Additionally, only 1E software licenses interoperate and communicate with the existing ESAM database which provide VA OIT a single interactive view that displays the monitored VA enterprise licensing. These are critical to VA’s compliance with FITARA and maintain its “A” grade in the software licensing portion. The current ESAM solution and software communicate through a source code that is based on 1E’s proprietary data. No other software can provide this communication capability without access to this proprietary source code. If another solution were to be procured it would require implementation of a new ESAM solution with associated software licenses and maintenance. Specifically, VA would require duplicative efforts to conduct planning activities, analyze functional requirements, solution design, implementation, configuration, migration of data, testing, and training in order to build and implement a new ESAM solution. In addition, any new solution would require significant time to build and normalize existing data from VA enterprise software licenses including but not limited to VMware VCenter, International Business Machines (IBM) BigFix, IBM Software Use Analysis, and Microsoft System Center Configuration Manager. Finally, VA has built custom Structured Query Language server reports to work specifically with 1E AppClarity software database tables. If another software were to be procured, VA would need to procure new infrastructure, servers, and customizations to work with the solution. These efforts are anticipated to require at least 2 years of redundant labor, infrastructure, and activities with duplicated costs of at least \$20,000,000.00 that would not be recovered through competition. These estimates are based on historical data including that of the current Contract VA118-11-D-1010 Order VA118-1010-0034.

Finally, maintenance is required for software updates and patches to VA’s current and additional 1E software licenses. 1E owns the proprietary rights to the AppClarity and ActiveEfficiency software and only 1E, through its resellers, has the required access to the source code and other proprietary data to provide the maintenance support for its 1E software to meet the Government’s needs. Access to this code is required to ensure all services provided are properly configured.

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, it was determined that limited competition is available among authorized resellers for brand name 1E licenses, as well as software maintenance and 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: 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. It is anticipated that the existing ESAM solution and 1E software will be replaced in Fiscal Year (FY) 2021 with a ServiceNow Asset Management module. The acquisition is expected to be awarded this FY19, 4<sup>th</sup> Quarter, and requiring at least 12 months for rollout and transition. It is the Government's intent that this action will continue support of the existing licenses and procure additional licenses required to support the ESAM solution until its replacement.

8. Market Research: Government's technical experts conducted market research between March and April 2019 to ascertain if similar software licenses and maintenance could meet the Government's requirements. Specifically, the Government conducted web searches and reviews of Gartner reports. The Government reviewed similar software products including FlexNet Manager Suite by Flexera, Centro for Enterprise Software Asset Management by Centro, Aspera SmartTrack by Aspera, IT Asset Management Suite Powered by LANDESK by Ivanti, and Remedy Asset Management by BMC Software. The market research confirmed that no other software provider can interoperate with the existing 1E ESAM solution. The market research further confirmed that only 1E and its resellers can provide the required maintenance support for the additional and existing 1E software due to the proprietary nature of the 1E source code. Based on these market research efforts, the Government's technical experts have determined that only 1E brand name software and maintenance can meet VA's needs.

Additional market research was conducted during May 2019 by utilizing the NASA SEWP V GWAC Provider Lookup Tool. The Provider Lookup Tool yielded six contract holders which are Group B(2) Service-Disabled Veteran-Owned Small Businesses (SDVOSB) offering 1E brand name products. Furthermore, the NASA SEWP V GWAC has a dynamic catalog where line items can be added based on customer requests; therefore, as long as the required item or service is within scope of the NASA SEWP V GWAC, items and services can be added to the catalog on a daily basis.

9. Other Facts: None.

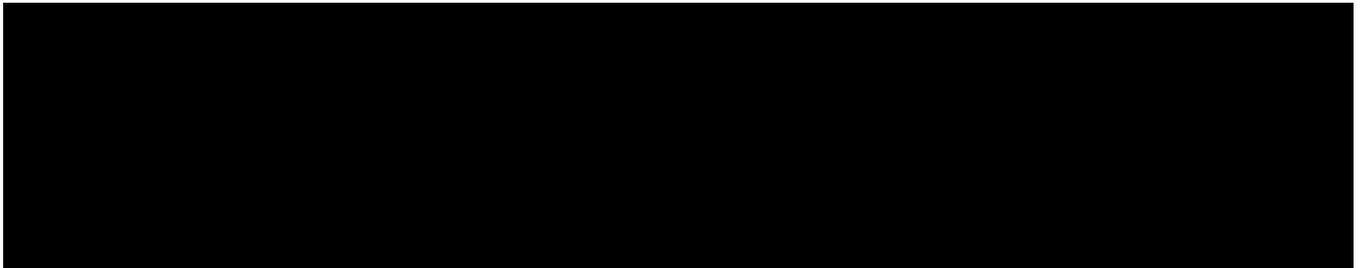
10. Technical and Requirements Certification: I certify that the supporting data under my cognizance, which are included in this justification, are accurate and complete to the best of my knowledge and belief.



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 based on anticipated competition. Additionally, NASA SEWP V GWAC has already determined the prices on contract to be fair and reasonable. Finally, price analysis will be conducted by comparing the successful quote with the Independent Government Cost Estimate.



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



Approval

In my role as procuring activity Advocate for Competition, based on the foregoing justification, I hereby approve the acquisition of a firm-fixed-price task order to be issued under the NASA SEWP V GWAC for the purchase of additional 1E brand AppClarity licenses and renewal of software maintenance for existing 1E brand AppClarity and ActiveEfficiency software licenses on an other than fair opportunity basis pursuant to the authority cited in paragraph 4 above, subject to availability of funds, and provided that the property and services herein described have otherwise been authorized for acquisition.

