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 the issuance of 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 hardware and software maintenance support on existing brand name NetApp, Inc. (NetApp) Converged Virtualization Infrastructures (CVI) and NetApp storage solutions.

3. Description of the Supplies or Services: VA, Office of Information & Technology, Service Delivery and Engineering, Storage Enterprise Service Line has a requirement to procure brand name NetApp hardware and software maintenance support for pre-existing, VA-owned brand name NetApp CVIs and NetApp storage solutions, equipped with NetApp hardware and software components and ancillary components. This effort encompasses CVIs, other ancillary components, and storage solutions for storage devices located in the National Data Center Program data center in St. Louis, Missouri, Regions 1-6, VA Central Office, and the National Data Center Operations and Logistics. The currently fielded CVIs were provided by NetApp and the solution was created and configured through NetApp's proprietary structuring. VA utilizes the storage device configurations to support server virtualization operations, site File Shares, and critical medical and administrative systems. The storage solutions are vital in providing high-availability, virtualized servers for their respective facilities, including fault-tolerance and in-use migrations to support clinical and administrative use cases, resulting in zero loss of data. Maintenance support includes 24x7 remote hardware and software technical support and targeted response, onsite support, repair, minor updates and upgrades on the NetApp CVIs and storage solutions. This maintenance will ensure these items remain operational. This effort is only for services, no software will be renewed or procured under this proposed action. In addition, no new hardware will be procured with the exception of replacement parts needed to complete hardware maintenance. The period of performance shall be one 12-month base period and two 12-month option periods for the renewal of the hardware and software maintenance support. This effort also includes two optional tasks for hardware maintenance support of additional NetApp storage components. The total estimated price of the proposed action is [redacted] inclusive of all 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 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 upon market research, as described in section 8 of this justification, the Government determined that limited competition is available for this action among NetApp resellers. As part of this requirement, VA requires continued hardware and software maintenance support for the operation of the pre-existing storage device configurations in place, inclusive of the NetApp CVI systems and sub components. NetApp or NetApp resellers are the only sources that can meet all of VA's technical requirements since the entire solution is based on NetApp's proprietary coding. Specifically, NetApp or NetApp resellers, are the only sources that have access to NetApp's proprietary code which is required to provide any services on the aforementioned storage components. Access to this code is required to develop and push updates and upgrades to the currently fielded items and access to the code is needed to ensure all services provided are properly configured. In addition, maintenance is required for both the CVIs and storage solutions under one proposed action because they are both integrated within their assigned facility and one source is needed to properly configure services provided to both the CVIs and storage solutions in place.

In addition, only NetApp or NetApp resellers can provide the replacement parts for both the CVI and storage solution. Specifically, no other source can provide support for storage array shelves that will be operational with the current storage systems back end. Therefore, no source other than NetApp or NetApp resellers can meet VA's interoperability and compatibility requirements due to NetApp's proprietary source code that allows the hardware and software to work in conjunction with one another. No other source's parts could be installed, or maintenance be provided on the current NetApp system equipment due to the system's proprietary code which does not interoperate with any other brand name products. Procuring any other software and maintenance would render the current software and equipment non-operational.

Use of another brand of storage hardware and software components would require VA to replace its current CVI solution inclusive of NetApp CVI systems and sub components. VA is not replacing its CVI solution, rather it simply requires continued hardware and software maintenance of its existing NetApp storage solution components. It is estimated that replacement of the current CVI solution would require over one year to migrate, make changes to existing processes, test, move to production, and continue to make changes to stabilize the new system. Replacement of the current CVI solution will also require a significant reengineering effort and potentially result in disruption to server virtualization operations, site File Shares, and critical medical and administrative systems. Replacement of the current CVI solution would result in extensive delays of a minimum of one year and duplicated costs in excess of approximately $40 million (including labor and hardware and software costs) that would not be recovered through competition. These estimates are based on similar efforts to procure the software and hardware to establish the current CVI solution.
Failure to procure the brand name hardware and software maintenance support will prohibit VA's ability to ensure the components that comprise the CVI solution are current, secure and operational. A disruption in service due to nonoperational hardware and software will adversely affect storage solutions vital to providing high-availability,

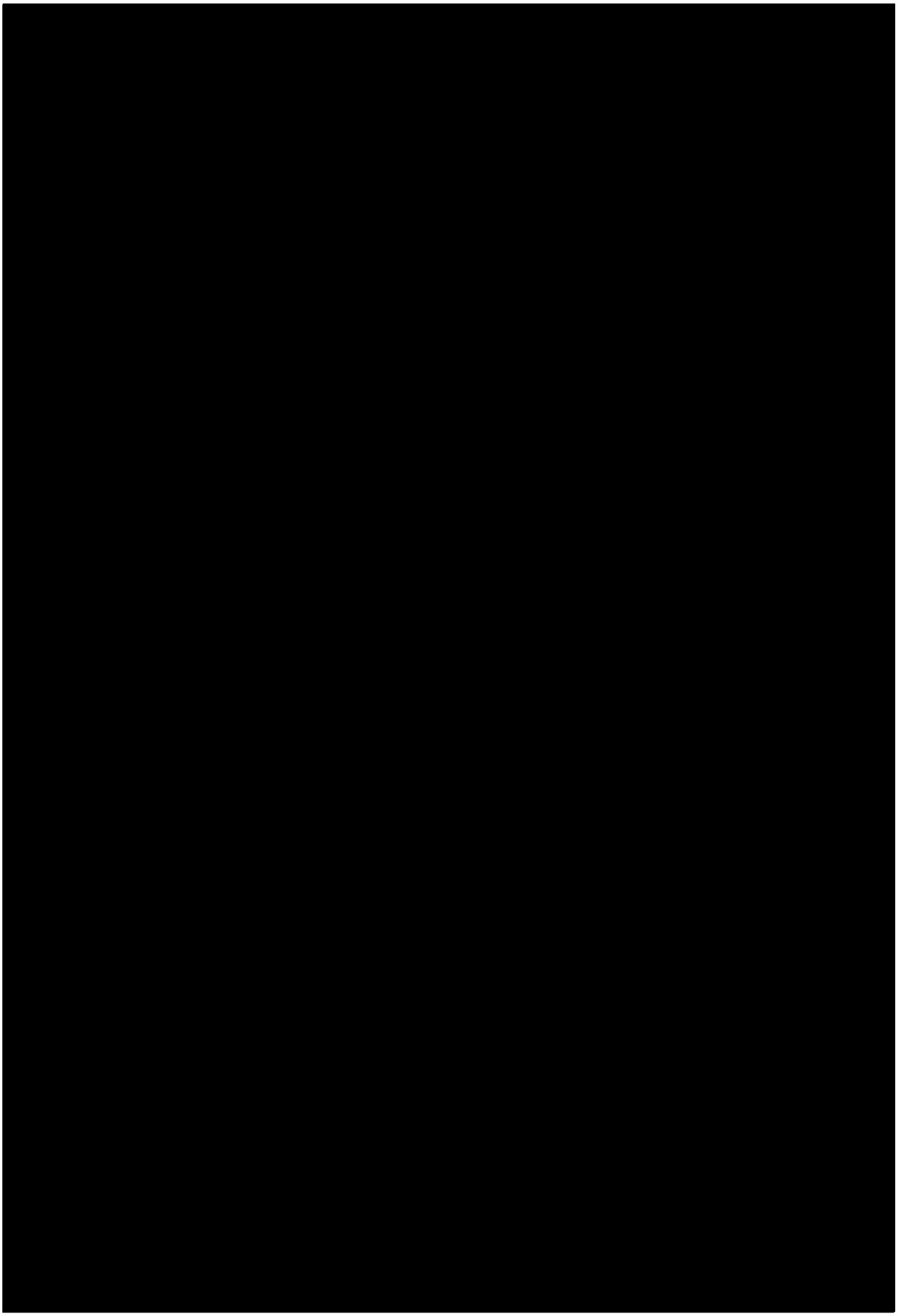
virtualized servers for critical VA medical and administrative systems and result in loss of critical/sensitive VA data.

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. Although the Government is limiting competition as a result of specifying a brand name, limited competition is viable among resellers for the required brand name maintenance support that are NASA SEWP V GWAC holders. 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 synopsized on the Federal Business Opportunities website and this justification will be made publicly available within 14 days of award. The justification will also be posted to the NASA SEWP V GWAC website with the Request for Quotation for review by prospective GWAC holders.

7. Actions to Increase Competition: In order to remove or overcome barriers to competition in future acquisitions for the requirements described herein, the agency will continue to perform 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 during July and August 2019 to ascertain the ability of any other source, other than a NetApp reseller, that can provide the aforementioned software and hardware maintenance and replacement parts. Specifically, the Government's technical experts conducted web based research and discovered that while other maintenance support offerings from alternative manufacturers such as Hewlett Packard, EMC Corporation, and International Business Machines exist, they do not meet VA's technical compatibility/interoperability requirements for the existing NetApp infrastructure in place. Additionally, only NetApp, or its resellers can access the proprietary source code in order to provide the required maintenance support or provide NetApp replacement parts for both the CVI and storage solution. Unauthorized maintenance providers do not have access to the proprietary data on the existing NetApp storage hardware to be able to provide the required maintenance for repair, minor updates and upgrades on the NetApp CVIs and storage solutions. As a result, the Government's technical experts concluded that only NetApp or resellers have the capability to provide the continued maintenance support for the existing NetApp configurations. In addition, VA Subject Matter Experts regularly review industry trade publications and conduct internet research to ascertain if any other brand name maintenance support is available. Based on all of these market research efforts, the Government's technical experts have determined that only the aforementioned NetApp brand name maintenance support can meet all of the VA's needs.

Furthermore, a Request for Information (RFI) was issued on the NASA SEWP V GWAC on August 9, 2019. The RFI closed on August 23, 2019 and three responses were received. Of the three responses, two vendors were determined capable of meeting the Government's requirements. Both vendors were Service-Disabled-Veteran-Owned small business (SDVOSB). Additional, market research was conducted by the

Government on September 13, 2019 by utilizing the NASA SEWP Provider Look-up Tool to determine whether the requested hardware and software maintenance is available from resellers that hold NASA SEWP contracts. It was determined that there are several SDVOSB resellers under Group B2 for brand name NetApp products and services. Furthermore, market research was conducted on the Vendor Information Pages (VIP) database which found more than two VIP verified SDVOSB vendors under North American Industry Classification System code 541519 and keyword search "NetApp" are capable of providing the required brand name NetApp hardware and software maintenance.

9. Other Facts: None.