

JUSTIFICATION AND APPROVAL
FOR AN EXCEPTION TO FAIR OPPORTUNITY

1. Contracting Activity: Department of Veterans Affairs (VA)
Office of Acquisition Operations
Technology Acquisition Center
260 Industrial Way West
Eatontown, New Jersey 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) Government Wide Acquisition Contract (GWAC) for the renewal of maintenance and support services for brand name EMC Networker software that is registered to the Department of Veterans Affairs (VA) Cooperative Studies Program Coordinating Center (CSPCC).

3. Description of the Supplies or Services: The proposed action is for the renewal of maintenance and support services for the existing EMC Networker software licenses. Support services include technical support, maintenance and product updates. CSPCC has used the backup software for over ten years, accumulating ten years of backup/archival tapes using the software. This allows for backup and restore of collected clinical research data and derived data sets. The maintenance of the EMC Networker software licenses ensures that the product remains operational, as well as provides updates and technical support. The total estimated value of the proposed action is [REDACTED]

4. Statutory Authority: The statutory authority permitting an exception to fair opportunity is Section 41 U.S.C. 4106(c) as implemented by the Federal Acquisition Regulation (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 described in paragraph 8 of this document, it was determined that limited competition is available for the maintenance renewal of the brand name item. The brand name software is manufactured by EMC, Inc. VA CSPCC has a requirement for annual maintenance and support of existing EMC Networker brand name software.

VA CSPCC currently owns one EMC Networker license and is continuing to backup and restore collected clinical research data. VA CSPCC requires maintenance on this product to continue to update the functionality which provides additional features and support for the end user. EMC owns all proprietary program language and intellectual property of all software products under the Networker umbrella. There is no support or resale of this product outside of EMC authorized resellers. Therefore, only EMC authorized resellers can provide the support for this software. Although other products exist with capabilities, none can satisfy VA CSPCC requirements for the ability to retrieve and restore existing backups from over ten years of backed up data. To

EMC Networker License Maintenance and Support Renewal

introduce another software backup product would require a complete re-engineering of the existing backup and restore process being used. It would force VA CSPCC to find a method to transfer all existing backups to the new software at a prohibitive cost that would not be recovered through competition.

6. Efforts to Obtain Competition: Market research was conducted, details of which are in the market research section of this document. Based on this research, it was determined that limited competition is anticipated for the maintenance of the brand name item. In accordance with FAR 5.301 and 16.505(b)(2), this action will be synopsisized on the Federal Business Opportunities page upon award and the justification will be made publicly available.

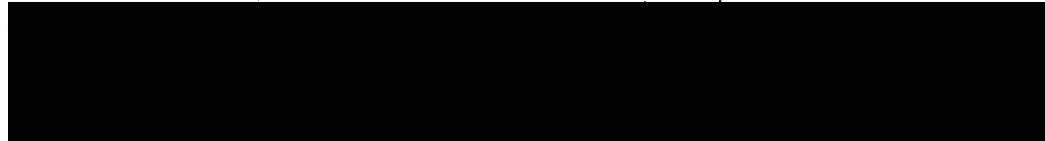
7. Actions to Increase Competition: Although the Government is limiting competition as a result of specifying a brand name, there are authorized resellers of these products on the NASA SEWP IV contract. Competition for this requirement among these vendors is anticipated. Furthermore, in order to remove or overcome barriers to competition in future acquisitions for this requirement, the Government will continue to conduct market research to consider alternate solutions.

8. Market Research: The Government's technical experts conducted market research in March 2013 by searching the NASA SEWP IV GWAC to ascertain if any other source, other than an authorized reseller can provide the aforementioned hardware maintenance support. It was determined no other source other than EMC Networker reseller was found that could provide the required maintenance support due to proprietary program language.

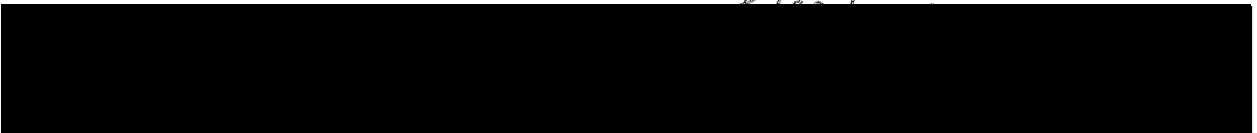
9. Other Facts: N/A

EMC Networker License Maintenance and Support Renewal

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 the expectation of price competition in addition to the fact that prices on the NASA SEWP IV GWAC have already been determined to be fair and reasonable. Additional price analysis will be performed by comparing the proposed prices to the IGCE.



12. Procuring Contracting Officer Certification: I certify that this justification is accurate and complete to the best of my knowledge and belief. As this contract action does not exceed \$650,000, the certification below required by FAR 16.505(b)(2)(ii)(C)(1) serves as approval.

