# CLASS JUSTIFICATION AND APPROVAL (J&A) FOR AN EXCEPTION TO FAIR OPPORTUNITY UNDER FEDERAL ACQUISITION REGULATION (FAR) SUBPART 16.5 ACQUISITIONS BRAND-NAME

Multiple Award Schedule/Multiple Award Contract (MAC)
Orders under MAC/Fair Opportunity, FAR 16.505

Purchase Request Number: Various
Contract Number: Various
Task/Delivery Order Number: Various
Procurement Title: Brand Name Class Justification for Software Support
[redacted]
Statutory and Regulatory Authority: 10 U.S.C. 3406(c)(5) and **FAR 16.507(b)(2);** see paragraph 4(b) for additional authorities

Justification for OTFAOC Number: JA26-010 **MOD 1**

Upon the basis of the following justification, I, as the Senior Procurement Executive, hereby approve this brand-name class justification for the proposed contractual action **(MOD 1)** pursuant to the following:

| Regulatory Authority | Narrative |
|---|---|
| **FAR 16.507-6(b)(2), FAR 16.507-7** | The particular brand name, product, or feature is essential to the Government's requirements; and market research indicates other companies' similar products, or products lacking the particular feature, do not meet, or cannot be modified to meet, the Agency's needs. **Only one awardee is capable of providing the supplies or services required at the level of quality required because the supplier or services ordered are unique or highly specialized and there are no authorized resellers.** |
| **GSAR 537.7104-3, GSAR 538.7104-4** | |
| **FAR 6.103-1** Defense FAR Supplement (DFARS) 206.302-1 | Only one source, and no other supplies or services will satisfy agency requirements |

1. REQUIRING AGENCY AND CONTRACTING ACTIVITY:

Requiring Agency:
Defense Information Systems Agency (DISA)



[redacted]

Acquisition Logistics and Contracts Division (BDL)
6910 Cooper Avenue
Fort Meade, Maryland 20755-7088

Contracting Activity:
DISA/Defense Information Technology Contracting Organization (DITCO)/PS832
2300 East Drive, Building 3600
Scott Air Force Base, Illinois 62225-5406

2. NATURE/DESCRIPTION OF ACTION(S):

**MOD 1: This administrative modification is executed to align the underlying authorities of this Class J&A with the Revolutionary FAR Overhaul (RFO). This action ensures the document remains compliant with the modernized procurement framework without altering the mission requirement, the total estimated ceiling, or the period of performance. The requirement continues to be for proprietary, brand-name software support for COTS assets previously purchased and currently integrated into the mission partner infrastructure. Per the RFO regulatory authorities this modification is strictly administrative and does not exceed the previously approved value, the original approval authority remains valid and sufficient for this action.**

**Original J&A**

a. The nature of this action is to procure software support for previously purchased proprietary, commercial off-the-shelf, brand name software already integrated within the existing mission partner infrastructure. Scope is limited to the defined duration and ceiling of this J&A for software support and includes all required original equipment manufacturers (OEMs). This J&A does not cover the procurement of new software licenses or new subscriptions. Scope is restricted to software support only (to include subscription renewals, if appropriate). It is noted that the ordered software support can be, in effect, longer than the duration of this class J&A, as long as the contract/order is issued during the covered period. Contract/orders may also include option periods.

b. Mission partners may be any DISA or non-DISA entities. Any DITCO contracting office procuring software support may use this class J&A; although, the primary contracting office is PS832, the IT Infrastructure Branch. Individual procurements will be awarded as firm-fixed-price contracts or delivery orders to an authorized reseller of the required OEM, utilizing the National Aeronautics and Space Administration (NASA) Solutions for Enterprise-Wide Procurement (SEWP) contracts, Army Computer Hardware Enterprise Software and Solutions (CHESS), General Services Administration (GSA) Federal Supply Schedules (FSS), or the open market via beta.SAM.gov.

c. This brand name class J&A will justify software support requirements for a period of five years, estimated to begin on January 1, 2026, and extending through December

31, 2030. When possible, competitive requests for quotes will be issued for individual requirements to maximize competition among authorized resellers of the required OEM. A redacted copy of the approved class J&A will be posted with each software support requirement. The total estimated cost of the proposed acquisitions is [redacted]. This estimate is based on tracking actual usage of the predecessor brand name class J&A for software support, in effect from January 2021 through December 2025, which has a ceiling in the amount of [redacted].

3. DESCRIPTION OF THE SUPPLIES OR SERVICES:

The objective of the contracting efforts supported by this brand name class J&A is to renew annual software support for previously acquired software licenses and subscriptions that are installed on existing mission partner networks. The brand name software support to be acquired under this class J&A requires renewal to sustain existing infrastructure. The software support may include, but is not limited to, product updates/upgrades, new releases and versions, fixes, and patches for the purposes of maintaining the operability and usability of the software products.

4. SUPPORTING RATIONALE FOR BRAND-NAME JUSTIFICATION:

(a) A brand name justification was previously approved for each of the original software licenses or subscription procurements now requiring software support by the requisite OEM. Extensive market research was conducted for the initial procurements, which documented the technical and specific details of the only products that could meet the Government's needs. It is a logical conclusion that once a brand name software product is procured, only the product OEM or one of its authorized resellers can provide continued software support, as third party support is not authorized.

The required software support is essential to the Government's requirements, as each OEM offers the only brand name product support to maintain the current infrastructure in place. Because the products are already integrated into the mission partner infrastructure, no other products can seamlessly integrate with the existing infrastructure without making changes to the baseline. Existing applications were specifically designed to interface and operate with specific OEM products. Other software brands may provide similar functionality, but without rewriting the application source code to integrate other OEMs' solutions into existing OEM-centric environments, the competing programs would not be functional. Current operating systems are already implemented and require continued software support to maintain operations. Only the previously acquired brand name software meets the required need for support and compatibility with existing architecture. Introducing alternative products would not meet the Government's need for interoperability.

Existing OEM products are proprietary, and upgrades and support are available from only the existing OEM or its authorized resellers. If the currently installed software support is not renewed, the software would not receive the necessary updates, upgrades, and patches upon which the Government depends to provide continuity of operations. OEMs for

applicable software support do not authorize any third party software modifications or patches to their software. Existing product OEMs own the copyrighted source software, with all legal rights, privileges, and ownership contained therein. No other source may legally modify or change the software, nor would they have access to the source code to do so, due to copyright and patent law protections.

(b) After completion of market research for each software support requirement, the contracting officer will select the best method for accomplishing the acquisition. This brand name class J&A allows for the following specific authorities:

1) An analysis of software orders awarded by DITCO over the past several years revealed that at least 90 percent of software orders were competed utilizing NASA SEWP Fair Opportunity and other contract vehicles utilizing FAR 16.5 procedures. For this reason, the primary authority for all actions authorized under this class J&A and competed as Fair Opportunity against NASA SEWP is FAR 16.505(a)(4). The particular brand name, product, or feature is essential to the Government's requirements; and market research indicates other companies' similar products, or products lacking the particular feature, do not meet or cannot be modified to meet, the Agency's needs. The acquisitions referenced herein are conducted under the statutory authority of 10 U.S.C. 3406(c)(5).

2) The authority for limiting sources to specific brand name product(s) when purchasing software support from GSA FSS or Blanket Purchase Agreement (BPA) orders established in accordance with (IAW) FAR 8.405-3 is FAR 8.405-6(b)(1). IAW FAR 8.405-6(b)(1), the particular brand name, product, or feature is essential to the Government's requirements and market research indicates other companies' similar products, or products lacking the particular feature, do not meet, or cannot be modified to meet, the Agency's needs. The acquisitions referenced herein are conducted under the statutory authority of the Multiple Award Schedule Program, 41 U.S.C. 152(3).

3) The authority for limiting sources to specific brand name product(s) when purchasing software support from open market sources is FAR 6.302-1/DFARS 206.302-1, only one responsible source or a limited number of responsible sources, and no other supplies or services will satisfy agency requirements. The acquisitions referenced herein are conducted under the statutory authority of 10 U.S.C.2304(c)(1).

5. COST/PRICE FAIR AND REASONABLE DETERMINATION:

a. Price reasonableness will be determined at the individual contract or order level. Quotes will be solicited from the OEM and/or authorized resellers of the required support through the most appropriate acquisition method, as determined by market research to promote competition to the maximum extent. The contracting officer will make a determination of fair and reasonable prices based on the comparisons of competitive quotes received, historical prices, commercial price lists, Governmental contract price lists, and the independent Government cost estimate. In addition, a determination will be

made that the order represents the best value to the Government and results in the lowest overall price. Although NASA SEWP, Army CHESS, and GSA have already determined the contract or schedule prices to be fair and reasonable, the contracting officer will seek additional discounts for all of these actions prior to placing an order.

b. All open market contracts with a lifecycle cost over [redacted] placed under this class J&A will be subject to cost and price analysis IAW DISA Acquisition Regulation Supplement (DARS) 5815.404-1(S-91), unless an exception applies.

6. MARKET RESEARCH:

a. Based on current market research, interoperability, and system constraints, it has been determined that only brand name software support can fully meet and satisfy Agency requirements. Only the proprietary software support, which is available through the OEM or their authorized resellers, will satisfy Agency needs and can support the infrastructures currently in place. Current market research also considered the fact that the Agency has been procuring brand name software support through the OEM or their authorized resellers for years, with publicly posted brand name J&As that have not been challenged, solidifying the OEM/reseller industry standard.

b. This brand name class J&A supports all applicable requirements for a 5-year period, estimated to run from January 1, 2026, through December 31, 2030. Market research will be performed for each individual requirement to determine that only the previously awarded brand name software and support can fully meet the Government's need. There is latitude within NASA SEWP, Army CHESS, GSA Schedules, and beta.SAM.gov for small business set-asides, and market research findings will be coordinated through the DISA Office of Small Business Programs IAW DFARS 219.201(c)(10) and DARS 5819.2.

7. ANY OTHER SUPPORTING FACTS:

The software support products sustained by this brand name class J&A are for software licenses and subscriptions that were originally acquired under an individual approved brand name J&A.

8. ACTIONS THE AGENCY MAY TAKE TO OVERCOME BARRIERS THAT LED TO THE EXCEPTION TO FULL AND OPEN COMPETITION:

Individual requirements will be competed amongst the authorized resellers of the previously acquired software via NASA SEWP, Army CHESS, GSA Schedules, or GSA BPAs and beta.SAM.gov. If the OEM elects to surrender their legal ownership, copyright, and/or intellectual property software rights and move toward providing an open source solution for the products being renewed under individual procurements, then DISA will seek open competition. Regardless, the Government will continue to search the marketplace, and alternative software solutions will continually be researched to determine if alternative solutions exist. If the Government should determine that the previously acquired brand name products are no longer required, the Government will seek a competitive acquisition approach for the required

functionality. At that point, every effort will be made to provide for competition to the maximum extent practicable, based on new technologies that will support mission partner needs.

TECHNICAL CERTIFICATION: I certify that the supporting data under my cognizance, which are included in the J&A, are accurate and complete, to the best of my knowledge and belief.

[redacted]

REQUIREMENTS CERTIFICATION: I certify that the supporting data under my cognizance, which are included in the J&A, are accurate and complete, to the best of my knowledge and belief.

[redacted]

CONTRACTING OFFICER CERTIFICATION: I certify that this justification is accurate and complete, to the best of my knowledge and belief.

[redacted]

ALL QUESTIONS REGARDING THIS JUSTIFICATION ARE TO BE REFERRED TO matthew.r.cassady2.civ@mail.mil