

Department of Defense

206.302-1

of FAR 6.202(a) is in Table 6-1, Determinations and Findings.

TABLE 6-1—DETERMINATIONS AND FINDINGS

Determinations and Findings
Authority to Exclude a Source

In accordance with 10 U.S.C. 2304(b)(1), it is my determination that the following contract action may be awarded using full and open competition after exclusion of _____¹:

(Describe requirement.) Findings The exclusion of _____¹

Alternate 1: will increase or maintain competition for this requirement and is expected to result in a reduction of \$_____ in overall costs for the present and future acquisition of these supplies or services. (Describe how estimate was derived.)

Alternate 2: is in the interest of national defense because it will result in having a supplier available for furnishing these supplies or services in case of a national emergency or industrial mobilization. (Explain circumstances requiring exclusion of source.)

Alternate 3: is in the interest of national defense because it will result in establishment or maintenance of an essential engineering, research or development capability to be provided by an educational or other nonprofit institution or a federally funded research and development center. (Explain circumstances requiring exclusion of source.)

206.203 Set-asides for small business concerns.

(b) Also no separate justification or determination and findings is required for contract actions processed as historically black college and university and minority institution set-asides (see 226.7003).

[63 FR 41973, Aug. 6, 1998]

Subpart 206.3—Other Than Full and Open Competition

206.302 Circumstances permitting other than full and open competition.

206.302-1 Only one responsible source and no other supplies or services will satisfy agency requirements.

(a) *Authority.* (2)(i) Section 8059 of Pub. L. 101-511 and similar sections in subsequent defense appropriations acts prohibit departments and agencies from entering into contracts for studies, analyses, or consulting services (see FAR subpart 37.2) on the basis of an unsolicited proposal without providing for full and open competition, unless—

(1) The head of the contracting activity, or a designee no lower than chief of the contracting office, determines that—

(i) Following thorough technical evaluation, only one source is fully qualified to perform the proposed work;

(ii) The unsolicited proposal offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence; or

(iii) The contract benefits the national defense by taking advantage of a unique and significant industrial accomplishment or by ensuring financial support to a new product or idea;

(2) A civilian official of the DoD, whose appointment has been confirmed by the Senate, determines the award to be in the interest of national defense; or

(3) The contract is related to improvement of equipment that is in development or production.

(b) *Application.* This authority may be used for acquisitions of test articles and associated support services from a designated foreign source under the DoD Foreign Comparative Testing Program.

(4) Do not use this authority unless the equipment or parts have been adopted as standard items of supply in

¹Identify source being excluded.