

## INSTRUCTIONS FOR PREPARING A JUSTIFICATION FOR OTHER THAN FULL AND OPEN COMPETITION

I. General: The requiring activity shall complete the justification form, prepare a narrative justification for other than full and open competition (using the instructions contained in No. II below), and obtain the necessary certification and approval signatures, except for those signatures within the contracting chain of command. When other than full and open competition is contemplated for acquisitions of \$25,000 or less, see No. III below.

The contracting officer shall review the requiring activity's justification. If the document is fully justified, the contracting officer may sign the certification and submit the justification for appropriate (upper-level) contracting approvals. **If it appears that the facts contained in the requiring activity's justification are in error or do not lead to the conclusion that other than full and open competition is appropriate for the acquisition, then full and open competition shall be obtained.**

II. Instructions for Preparing a Narrative Justification: The requiring activity shall provide a narrative justification for other than full and open competition as an attachment to the form. The narrative justification shall contain at least the information listed below. The justification should logically lead to the conclusion that other than full and open competition is appropriate for this acquisition, using rationale appropriate to the anticipated statutory exception.

1. Background information and statement of the need the acquisition is intended to satisfy (nature and/or description of the action being approved and a description of the supplies or services required to meet the Department's needs - including the estimated value) (See FAR 6.303-2 (a) (2) and (3));
2. Citation of the specific contemplated exception to full and open competition (See the list of statutory exceptions contained on the justification form);
3. Facts sufficient to reasonably and legitimately lead to the specific exception to full and open competition;
  - a. If the first exception (one responsible source) is contemplated, address or provide the following:
    - (1) Specific technical features or capabilities which are not available from any other source; \*

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\* If there is a need for ADP equipment or services compatible with an existing operating system or ADPE, see Federal Information Resources Management Regulation (FIRMR) 201-30.009-3 (Amendment 7, March, 1986) for additional requirements.

- (2) Documentation to support the need for the special characteristics;

(3) Estimated costs to duplicate the special facilities or previous work along with the computations used to derive these estimated costs;

(4) Information on how it was decided that only one source could perform the work;

b. If the first exception is contemplated for an unsolicited research proposal, address or provide the following:

(1) Certification that the proposal was unsolicited;

(2) Facts sufficient to conclude that a “unique and innovative” concept is involved (See FAR Subpart 15.5);

(3) Facts sufficient to conclude that the unsolicited proposal is not otherwise available to the Government and that the proposal does not resemble the substance of a pending competitive acquisition;

c. If the second exception (unusual and compelling urgency) is contemplated, address or provide the following:

(1) Critical dates for award, production or delivery;

(2) Data, estimated cost or other rationale on the extent and nature of the serious injury or financial harm to the Government;

(3) Information on the impact on the Government if a contract is not awarded by the requested date compared to the impact on the Government if the contract is awarded pursuant to full and open competition;

(4) Explanation of the circumstances that led to the need for an urgent contractual action (Explain why the requisition could not have been processed by the requiring activity in sufficient time to permit full and open competition. Note that the existence of legislation, court order, Strategic Planning Objective (SPO) or Presidential mandate is not, by itself, sufficient basis for a justification for other than full and open competition. However, the circumstances necessitating legislation, court order, Strategic Planning Objective (SPO) or Presidential mandate may justify contractual action other than full and open competition);

(5) List of recommended sources.

d. If the third exception (to establish or maintain essential engineering, research or development capability by an educational or other nonprofit institution) is contemplated, see FAR 6.302-3 for details;

e. If the fourth exception (pursuant to an international agreement) is contemplated, address or provide the following:

(1) Citation of the specific international agreement or treaty;

(2) Copy of the agreement or treaty (if too voluminous provide pertinent portions of the agreement or treaty);

f. If the fifth exception (authorized or required by statute) is contemplated, cite the specific statute and see FAR 6.302-5 and Commerce Acquisition Regulation (CAR) 1306.304 (a);

g. If the sixth exception (national security) is contemplated, see FAR 6.302-6;

h. If the seventh exception (public interest) is contemplated, see FAR 6.302-7 and note that this requires a determination by the Secretary. The Competition in Contracting Act prohibits delegation of this authority.

4. Extent and results of any market survey conducted along with a list of any additional sources;

5. Statement of actions which could be taken to remove or overcome barriers to competition in any subsequent acquisitions.

III. Special Instructions for Acquisitions of \$25,000 or Less: Acquisitions which fall in this dollar range are required to be conducted competitively, but are not subject to the requirement of “full and open competition”. Contracting officers are generally required to solicit quotations from a reasonable number of sources to promote “competition to the maximum extent practicable”. Because of the different competition standard, different justification procedures are required.

The requiring activity shall complete the same justification form and generally look to the same instructions for preparing a narrative justification when non-competitive procedures are contemplated acquisitions of \$25,000 or less. However, the manner and extent of the narrative justification shall be commensurate with the estimated value of the acquisition. In any case, the narrative justification shall not be as formal or as extensive as the narrative justification required for acquisitions above \$25,000. Also, (upper-level) approvals are not required for these acquisitions. Only the signatures and the certifications of the requisitioner and the contracting officer are required.