



DEPARTMENT OF THE ARMY
409th CONTRACTING SUPPORT BRIGADE (EUROPE)
UNIT 23203
APO AE 09263

CCEC-EU

1 October 2011

MEMORANDUM FOR ALL PERSONNEL

SUBJECT: Contracting Policies and Procedures (CPP) 11-003-FAR Parts 6, 8.4, 13.1, 13.5 and 16.505: Justifications for Limiting Competition: Justification and Approvals for Other Than Full and Open Competition (J&A), Sole Source, Limited Source, Exceptions to Fair Opportunity, and Brand Name Competition Policy

1. Purpose. This memorandum provides the policy and guidance for the 409th Contracting Support Brigade (CSB) for limiting competition in any acquisition. While the 409th CSB expects and encourages competition, this CPP addresses acquisitions when competition is not possible or must be limited in order to meet mission requirements.

2. References. FAR, DFARS and AFARS Parts 6, 8.4, 13.1, 13.5 and 16.505

3. Effective Date. The effective date of this CPP is 1 October 2011. All previous J&A, Sole Source and Limiting Sources policies or procedures are hereby rescinded.

4. Policy.

- a. 10 U.S.C. 2304 and 41 U.S.C. 253 require, with certain limited exceptions, that Contracting Officers promote and provide for full and open competition in soliciting offers and awarding Government contracts. Nothing in this CPP should be construed as altering this requirement.
- b. It is the 409th CSB's policy that development and completion of J&As, Sole Source Justifications, Limited Source Justifications, including Brand Name justifications, and Justifications for Exception to Fair Opportunity (this list is hereto referred to as Justifications) are the responsibility of the Contracting Officer. However, the customer or requiring activity is required to provide input for the document and assist the Contracting Officer by providing background and technical information as necessary to sufficiently support the limitation of competition.
- c. Approval Levels (dollar values include all options).

Dollar Threshold	Review	Approval Authority
≤ \$650,000	Legal	Contracting Officer
> \$650,000 through ≤ \$12,500,000	Legal, PARC MOD	Special Competition Advocate (SCA)
> \$12,500,000 through ≤ \$85,500,000	Legal, PARC MOD, SCA, PARC	Head of Contracting Activity
> \$85,500,000	Legal, PARC MOD, SCA, PARC, HCA, DASA(P)	Assistant Secretary of the Army for Acquisition, Logistics, and Technology (ASA(ALT))

- d. Procedures. Contracting Officers will follow the procedures outlined in the Justifications Guide provided in Enclosure 1.
- e. Format. All Justifications will be written using the formats provided in the Guide.
- f. Tracking and Reporting.
 - i. Each Contracting Office will maintain a log and assign a control number to all Justifications utilizing the spreadsheet provided at Attachment 1. These logs will be submitted to the PARC Office quarterly in accordance with the Justifications Guide.
 - ii. The PARC Office will maintain a separate log of the Justifications that are approved by the SCA or that require higher level approval using the control number assigned by the Contracting Office.

5. If you have any questions regarding this CPP, contact Stephanie Benger in the PARC Policy and Compliance Team at DSN 484-6312 or at e-mail DL-409CSB-HQ-CMD-PARC.Policy@eur.army.mil.



DEBRA D. DANIELS
COL, EN
Commanding

- Encl:
1. Justifications Guide
- Atch:
1. Control Log



409th Contracting Support Brigade (CSB)

Justifications Guide

1 October 2011

Table of Contents

Introduction.....	3
Definitions.....	3
Roles and Responsibilities	5
Procedures.....	6
Annex 1- Market Research	12
Purposes For Market Research	12
Techniques For Collecting Information.....	13
Annex 2 - Brand Name and Brand Name Or Equal.....	14
Annex 3 – Competition Exception Authorities.....	15
Annex 4 – Reasons for Limiting Competition	17
Annex 5 - Common Errors Found in Justifications	23

TEMPLATES

Justification Customer Template

Limited Source Template ≤ Simplified Acquisition Threshold – FAR Part 8.4

Limited Source Template > Simplified Acquisition Threshold – FAR Part 8.4

Sole Source Template – FAR Part 13.1

Sole Source Template – FAR Part 13.5 Test Program

Other Than Full and Open Competition Template – FAR Part 12 and 15

Exception to Fair Opportunity Template ≤ Simplified Acquisition Threshold – FAR Part 16.505

Exception to Fair Opportunity Template > Simplified Acquisition Threshold – FAR Part 16.505

Introduction

One of the key tenets of federal contracting is competition. Federal law requires that Contracting Officers (KOs) promote and provide for competition in the acquisition process, and this requirement is found in numerous references throughout acquisition regulations. The potential benefits of competition are better prices, innovative approaches, and a better understanding of what is available in the commercial marketplace, which can better shape the government's requirements and how they are written and can lead to better business decisions.

However, there may be times when competition is not feasible or available. Regulations allow and provide prescriptions for those instances, provided they are justified, documented, and approved at the appropriate levels. Federal Acquisition Regulation (FAR) Part 6 states, "A Contracting Officer shall not commence negotiations for a sole source contract, commence negotiations for a contract resulting from an unsolicited proposal, or award any other contract without providing for full and open competition unless the Contracting Officer: (1) Justifies, if required in FAR 6.302, the use of such actions in writing; (2) Certifies the accuracy and completeness of the Justification; and (3) Obtains the approval required by 6.304."

The purpose of this guide is to provide the procedures that should be used when full and open competition is not appropriate for a particular acquisition. This guide also provides definitions for key terms, the roles and responsibilities of the customer and the contracting community, the documentation requirements, the process, and the thresholds and authorities for approving the necessary documents for limiting competition. In addition, this guide details the tracking and reporting requirements for these actions, the posting requirements (if applicable), and the amendment procedures in the event that the circumstances change during pre or post award. Finally, this guide provides information for use by the customer and the contracting community in preparing the documentation including templates, information regarding market research, brand name requirements, choosing the correct authority, and common Justification errors.

Definitions

"Brand Name" means products or services from a specific manufacturer.

"Brand Name or Equal" purchase descriptions identify a product by its brand name and its model or part number and salient characteristics and permit offers for products essentially equal to the specified brand name. Another definition is: A product description that identifies one or more commercial products by brand name and sets forth those characteristics of the named product that are essential to the customer's needs.

“Brand Name Justification” is the document used to justify procuring a Brand Name only item or service.

“Contract”, for the purposes of this Guide, means any contractual vehicle such as purchase order, delivery order, task order or actual contract.

“Exception to Fair Opportunity Justification” is the document used to limit competition for orders issued under a multiple award contract using the exceptions at FAR 16.505(b)(2)(i).

“Fair Opportunity” means that all contract holders under a multiple award IDIQ contract under FAR 16.5 are given an equal opportunity to compete for task orders issued under that multiple award contract. The procedures and award criteria for task order awards are included in the multiple award contract and must be followed when issuing task orders.

“Full and open competition,” when used with respect to a contract action, means that all responsible sources are permitted to compete.

“Justification and Approval (J&A)” is a document required to justify and obtain appropriate level approvals to contract without providing for full and open competition as required by the FAR.

“Limited Source Justification” is the document used to justify restricting sources under the GSA Federal Supply Schedule (FSS) program as discussed in FAR 8.405-6.

“Option to Extend Services”, for this document, is referring to the Option to Extend Services Clause at either FAR 52.217-8 or the CCE Clause 217-4000, which allows for the contract to be extended for up to 6 additional months.

“Other than Full and Open Competition” means contracting without providing for full and open competition.

“Sole source acquisition” means a contract for the purchase of supplies or services that is entered into or proposed to be entered into by an agency after soliciting and negotiating with only one source.

“Sole Source Justification” is the document used to justify sole source acquisitions under the Simplified Acquisition Threshold (SAT).

Roles and Responsibilities

The Customer:

The customer (also referred to as the requiring activity) is responsible for identifying needs and developing the requirements documentation such as the Statement of Work (SOW) or Performance Work Statement (PWS) and Independent Government Cost Estimate (IGCE). During the process of identifying their needs, customers conduct market research to identify the availability of the products or services they require and the estimated costs for those needs in order to request the necessary internal approvals for execution and funds. Market research also assists customers in defining their needs in a manner that can promote competition and acquisition of commercial items to the maximum extent practicable, as their research gives them a complete picture of what is available in the marketplace and from whom. To the maximum extent practicable, the customer should define their requirements in terms of the functions that need to be performed, the performance required, or the essential physical characteristics of the product or services required. Customers should refrain from enhancing their requirements past the point where they meet the government's minimum needs. Customers should only include restrictive provisions or conditions to the extent necessary to satisfy the needs of the agency.

NOTE: The contracting office shall advise their customers that, whenever contacting a vendor for market research, the customer shall explicitly communicate to the vendor that the purpose is to conduct market research only and that in no way should the vendor interpret this contact as a contract or purchase order.

In the event that there is a reason to limit competition to one or a limited number of sources or there is a reason that only one brand name item will suffice, the customer must provide input for the J&A/Sole Source Justification/Limited Source Justification/Brand Name Justification/Exception to Fair Opportunity Justification (henceforth, Justification) using the Justification Customer Template. The customer must also certify to the input they provide.

The Contracting Officer (KO):

The KO is the person with the authority to enter into, administer, and/or terminate contracts and make related determinations and findings and, as such, is the responsible party for any Justification document. Although significant input is required from the customer, the KO also provides input and is ultimately responsible for authoring and signing all Justifications. In addition, the KO has approval authority on these documents up to the threshold identified in the FAR.

Legal Counsel:

Legal counsel is an important part of the review process and must review all Justifications over the SAT.

Special Competition Advocate (SCA):

The SCA is responsible for promoting the acquisition of commercial items; promoting full and open competition; challenging requirements that are not stated in terms of functions to be performed, performance required or essential physical characteristics; and challenging barriers, such as unnecessarily restrictive statements of work, unnecessarily detailed specifications, and unnecessarily burdensome contract clauses, that thwart those goals. The SCA approves all Justifications at the thresholds identified in the FAR, and coordinates on all Justifications requiring approval by the Head of Contracting Activity or the Army's Senior Procurement Executive.

Head of Contracting Activity (HCA):

The HCA approves justifications at the thresholds identified in the FAR. For the 409th CSB, the HCA is the Commanding General of the Expeditionary Contracting Command.

Senior Procurement Executive (SPE):

The SPE approves justifications at the thresholds identified in the FAR. For the Army, the SPE is the Assistant Secretary of the Army (Acquisition, Logistics, and Technology) (ASA(ALT)).

Procedures

NOTE: When a customer anticipates the need to sole source a procurement they should begin coordination with the contracting office as soon possible. This will allow a review of the market conditions early in the acquisition process, to validate that the appropriate circumstances for a sole source action are present and the acquisition timelines can be met.

1. When a customer believes that the acquisition circumstances require a restriction in competition, or provide for only one or a limited number of sources, the customer should contact the supporting contracting office for business advice as well as to obtain the Justification Customer Template.
2. The customer will complete the template and submit it to the supporting contracting office, who will then assign a KO and/or contract specialist to the effort.

3. The KO/Specialist will utilize the Justification Customer Template to complete the Justification template (included in this guide) that is applicable to the acquisition situation. If there are significant changes to the information provided in the Justification Customer Template as the Justification is developed, the file will be documented with those changes and their cause/disposition. The KO will retain the Justification Customer Template document in the contract file.
4. The KO/Specialist determines which Justification template is applicable based on the dollar value and circumstances of the acquisition.
 - a. Sole Source Justification (SSJ): This template will be used to document the circumstances when the acquisition is below the SAT. This document will also be used for Brand Name Justifications below the SAT.
 - b. Justification and Approval (J&A): This document shall be used when the contract is above the SAT. This document will also be used for Brand Name Justifications above the SAT. Two J&A templates have been developed; one template is for FAR Part 13.5 Commercial Items J&As and the other template is for FAR Part 6 J&As.
 - c. Limited Source Justification: This document shall be used when the contracting office is completing an action using FAR Part 8.4 and is limiting sources, as discussed in FAR 8.405-6.
 - d. Exception to Fair Opportunity Justification: This document shall be used when the contracting office is completing an action using FAR 16.505 and is limiting sources, as discussed in FAR 16.505(b)(2)(i).
5. The KO/Specialist will obtain a log number from the Justifications Log kept by each Contracting Office and include that log number on the Justification and supporting documentation. See paragraph 14 below for more information about tracking and reporting requirements.
6. Once the document is complete, the KO/Specialist will process the Justification through the necessary channels to obtain approval.
7. The approval process is based on the dollar value of the action. The dollar value of the Justification includes the base period, any option periods, and the Option to Extend Services (FAR 52.217-8), if applicable. Note: If a contract action is in Euros, it shall be converted to dollars for J&A approval threshold purposes.

8. Approval Process.

Dollar Threshold	Review	Approval Authority
≤ \$650,000	Legal (above SAT)	Contracting Officer (KO)
> \$650,000 through ≤ \$12,500,000	Legal, PARC MOD	SCA
> \$12,500,000 through ≤ \$85,500,000	Legal, PARC MOD, SCA, PARC	HCA
> \$85,500,000	Legal, PARC MOD, SCA, PARC, HCA, DASA(P)	Assistant Secretary of the Army (Acquisition, Logistics, and Technology) (ASA(ALT))

9. Reviews:

- a. Legal review is required on all Justifications above the SAT.
- b. For all Justifications that must be approved by the SCA, a PARC Procurement Analyst shall review and provide comment on the Justification and any supporting documentation prior to submission to the SCA for approval.
- c. For all Justifications that must be approved higher than the SCA level, the SCA, the PARC's Command Counsel and the PARC must review and sign the Justification document prior to submission to higher headquarters.

10. In most circumstances, the KO shall not begin negotiations or award a contract without an approved Justification. Only in situations of Unusual and Compelling Urgency can a contract be awarded prior to approval of the Justification. However, awarding a contract prior to approval shall only be in rare cases. In those instances, prior coordination with the approval authority should occur to ensure that the basis for the Justification is sufficiently sound to obtain that approval. The KO shall secure approval of the written Justification within 30 days after contract award.

11. Posting Requirements:

- a. All J&As, Limited Source Justifications, and Exception to Fair Opportunity Justifications over the SAT shall be posted on ASFI within 14 days of contract award unless the contract is awarded under Unusual and Compelling Urgency. When awarding under Unusual and Compelling Urgency, the Justification shall be posted within 30 days of contract award.
- b. Brand Name Justifications, regardless of dollar amount, shall be posted with the solicitation.
- c. KOs shall carefully screen all Justifications for contractor proprietary data and remove all such data, and such references and citations as are necessary to protect the proprietary data, before making the Justification available for public inspection. KOs shall adhere to the Freedom of Information Act requirements and prohibitions in determining whether the Justification, or portions of it, is exempt from posting. KOs should consult and work closely with legal throughout this process.
- d. The posting requirements identified in this section are separate from, and in addition to, the pre-solicitation notices and synopsis of contract awards required under FAR Part 5.

12. Class Justifications:

- a. Per AFARS 5106.303-1(c), a Justification made on a class basis—
 - (i) May cover contracts to be awarded in successive fiscal years, provided that the requirements and quantities, as included in the Future Years Defense Plan (FYDP), and their costs have been specifically identified. (The FYDP covers the President's Budget (2 Years) plus 5 years, for a total of 7 years.)
 - (ii) Must address every contract (*action*) included in the scope of the class Justification in each paragraph in detail (e.g., specific quantity and dollar amounts for each contract; detailed documentation of the circumstances supporting the use of other than full and open competitive procedures for each contracting action)
 - (iii) Must include only those supply or service components that are, and will clearly remain, sole source for the period covered by the Justification.

- b. Class Justifications shall be clearly labeled as such and must be approved in the same manner as individual Justifications with the same approval thresholds.
- c. The approval level shall be determined by the estimated total value of the entire class.

13. Amendments:

- a. The following instances require that a Justification be amended prior to award of the contractual action covered by the justification:
 - i. An increase in the dollar value of the prospective contract beyond the authority of the previous approving official;
 - ii. A change in the competitive strategy that further reduces competition; or
 - iii. A change in requirements that affects the basis for the Justification.
- b. Determine the approval level for an amended Justification by using the new dollar value of the amended Justification.
- c. When an amendment is required, the KO will submit the original Justification, and any justification and approval documents, along with the Amendment Justification and submit it to the original approval authority for signature or concurrence and further staffing if necessary.
 - i. The appropriate J&A template will be used, and the word ‘AMENDMENT’ (in caps) and the sequential number of the amendment will be added immediately before the document title on page 1 of the Justification document (e.g. AMENDMENT 1, AMENDMENT 2, etc.).
 - ii. Include the ‘Contracting Activity’, ‘Description of Action’, and ‘Description of Supplies or Services’ paragraphs from the original submission, and revise those paragraphs as necessary.
 - iii. Use the ‘Other Facts’ paragraph to explain the reason for the amendment and to give any additional information that would help the reader understand the changes made.
 - iv. For the remaining paragraphs either state ‘No Change’ to indicate that the original paragraph continues to be true, or update the paragraph as needed.
 - v. Place a vertical line in the right hand margin to mark lines containing changes from the original text (was editing text from the original document).
- d. For all amendments, include new certifications by the customer and the KO.

14. Tracking and Reporting.

- a. Each 409th CSB Contracting Office shall maintain a log and assign a control number to all Justifications utilizing the spreadsheet provided at Attachment 1 to the Policy Letter. This log shall be kept in an accessible office file in the PD2 library. All Justifications and related documentation shall be filed as part of the official contract file. Contracting Offices shall provide their log quarterly to the PARC office no later than the last business day of January, April, July, and October.
- b. The PARC Office will maintain a separate log of the Justifications that are approved by the SCA or Higher level during each fiscal year using the control number assigned by the Contracting Office.

Annex 1- Market Research

Market research is a key element in the acquisition planning process. Once a need is identified, market research is then conducted to determine how best to meet that need. Market research is formally defined as “collecting and analyzing information about capabilities within the market to satisfy agency needs.” Further information about market research can be found in FAR Part 10.

Purposes For Market Research

1. Ascertain whether needs can be met by items or services available in the commercial marketplace:
 - Determine if there are sources capable of satisfying requirements.
 - Determine if commercial items or services are available to:
 - Meet requirements;
 - Could be modified to meet requirements; or
 - Could meet requirements if requirements are modified to a reasonable extent.
 - If commercial items are not available, determine if non-developmental items are available that:
 - Meet requirements;
 - Could be modified to meet requirements; or
 - Could meet requirements if requirements are modified to a reasonable extent.
 - Determine the extent to which commercial items or non-developmental items could be incorporated at the component level.
2. Identify commercial practices regarding customizing, modifying or tailoring items to meet customer needs.
3. Identify customary industry terms and conditions.
 - Warranties
 - Acceptance
 - Inspection
 - Maintenance support
 - Packaging and marking
4. Identify normal distribution and logistics support capabilities of the commercial market.
5. Ensure maximum and effective use of competitive market forces.
 - Identify level of market competition.
 - Identify sources potentially capable of satisfying requirements in the areas of:
 - Price
 - Quality
 - Features
 - Speed of technological improvement
 - Energy efficiency

- Service
- Support

6. Ensure maximum practicable use of recovered materials and promote energy conservation and efficiency.

- Identify extent of recovered materials used in market products.
- Identify efficiency standards in the marketplace.
- Identify extent of market pressures on energy conservation and efficiency.

Techniques For Collecting Information.

Begin with a description of need sufficient to allow the conduct of market research.

- Contact knowledgeable individuals to inquire about:
 - Market capabilities to meet requirements;
 - Successful acquisition strategies;
 - Industry best practices;
 - Pitfalls to avoid; and
 - Successful incentives.
- Review procurement history or recent results of market research undertaken to meet similar requirements.
- Participate in interactive, on-line communication among industry, acquisition personnel, and/or customers.
- Review catalogs and other generally available product literature published by manufacturers, distributors, and dealers or that are available on-line.
- Obtain source lists for the same or similar items from other contracting activities, agencies, trade associations, and/or other sources.
- Attend trade shows, industry conferences, or other types of expositions where product and market information can be obtained.
- Conduct interchange meetings, hold pre-solicitation conferences, industry days, or publish Requests for Information (RFIs) to involve potential offerors early in the acquisition process.

NOTE: Market research is not a source selection process. Personnel conducting market research activities are free to engage potential sources one-on-one in order to gather relevant data about the marketplace, however, during those discussions it shall be made clear that they do not intend, nor do they have the authority, to obligate government resources. It is imperative that personnel conducting market research advise potential sources that they are contacting them for market research purposes only and that their actions are not meant to convey that a contract award will be made as a result of the information exchanged. Furthermore, personnel should not provide information regarding a specific requirement (e.g. PWS) to contractors to avoid unfairly impacting the competitive nature of the acquisition, unless that information is made available openly to all prospective contractors. In no instance shall personnel conducting market research receive proposals or official quotes. If a proposal or quote is received, it shall be given to the cognizant contracting officer for appropriate disposition.

Annex 2 - Brand Name and Brand Name Or Equal

A basic tenet of government contracting is competition. Contracting officers should therefore be vigilant to ensure that requirements are written in such a way that potential vendors can reasonably compete for government work. In situations where a brand name product is specified, competition is restricted to that particular brand, and brand names are among the most restrictive types of specification. FAR Part 11.105 expressly states that agency requirements shall not be written so as to require a particular brand-name, product, or a feature of a product peculiar to one manufacturer, thereby precluding consideration of a product manufactured by another company, unless the brand name requirement can be justified. When limiting competition by specifying a brand name, a justification document must be approved at the appropriate levels and the justification must be posted with the solicitation.

An option available to the government that does not place the same restrictions on competition or require additional documentation and approvals is a 'Brand Name or Equal' specification. The benefit of 'Brand Name or Equal' specifications is that, instead of writing a separate and unique performance specification, the government can identify its need by stating a brand name and then identifying all salient characteristics of that brand name product (or products) which have been determined to be essential to meeting the Government's minimum requirements.

Salient characteristics are those qualities of an item that are essential to ensuring that the intended use of the item can be satisfactorily realized. When including a brand name or equal description, the salient characteristic should set forth the required physical, functional, or other characteristics of the referenced product that an equal product must have in order to meet the agency's needs. The standard of performance applicable to the 'or equal' product(s) is that it must be functionally equivalent to the brand name product, but not necessarily the same in every detail. When providing for a 'Brand Name or Equal' specification, a justification document is not required.

FAR Part 11 further describes the use of Brand Name or Equal and provides for the ability to utilize a particular Brand Name when justified.

Annex 3 – Competition Exception Authorities

KOs will decide which authority to cite when preparing the Justification. The correct authority depends on the circumstances of the acquisition, so the KO must have accurate supporting information to make the correct decision. Additional information on the reasons for limiting competition is included in Annex 4 below.

- a. For Sole Source Justifications under FAR 13.106, cite *FAR 13.106-1(b)* as the authority. In addition to citing the authority, the KO must include the reason that the procurement is sole source (e.g. only one source, urgency, etc.).
- b. For Limited Source Justifications under FAR 8.405-6, cite *Title III of the Federal Property and Administrative Services Act of 1949 (41U.S.C. 251, et. Seq) and Title 40 U.S.C 501, Services for Executive Agencies, as implemented by FAR 8.4.* In addition to citing the authority, the KO must include the reason that the procurement is limiting competition (e.g. urgent and compelling need, unique or highly specialized, logical follow-on, etc.).
- c. For Exceptions to Fair Opportunity Justifications under FAR 16.505(b)(2), cite *10 U.S.C 2304C as implemented by FAR 16.505(b)(2).* In addition to citing the authority, the KO must include the reason for limiting the source(s) within the multiple award contract (e.g. urgency, unique or highly specialized, logical follow-on, meeting minimum guarantee, statute expressly authorizes or requires a specified source, etc.).
- d. For J&As that are under the Test Program for Certain Commercial Items, cite *Section 4202 of the Clinger-Cohen Act of 1996 as implemented by FAR 13.5.* In addition to citing the authority, the KO must include the reason that the procurement is sole source.
- e. For exceptions to full and open competition that are under FAR Part 6, choose from the below options based on your unique circumstances:
 - i. When preparing a J&A for 6.302-1 -- Only One (or a Limited Number of) Responsible Source(s) and No Other Supplies or Services Will Satisfy Agency Requirements, cite *10 U.S.C. 2304(c)(1) as implemented by FAR Part 6.302-1 -- Only One Responsible Source and No Other Supplies or Services Will Satisfy Agency Requirements.*
 - ii. When preparing a J&A for 6.302-2 -- Unusual and Compelling Urgency, cite *10 U.S.C. 2304(c)(2) as implemented by FAR Part 6.302-2 -- Unusual and Compelling Urgency.*

- iii. When preparing a J&A for 6.302-3 -- Industrial Mobilization; Engineering, Developmental, or Research Capability; or Expert Services, cite *10 U.S.C. 2304(c)(3) as implemented by FAR Part 6.302-3 -- Industrial Mobilization; Engineering, Developmental, or Research Capability; or Expert Services.*
- iv. If you are in a situation where 6.302-4 -- International Agreement applies, seek legal counsel, obtain documentation supporting the International Agreement, and document the contract file as directed. A J&A may or may not be required depending on the situation. See also DFARS 206.302-4. The authority associated with this situation is *10 U.S.C. 2304(c)(4) as implemented by FAR Part 6.302-4 -- International Agreement.*
- v. If you believe that 6.302-5 -- Authorized or Required by Statute applies to your situation, prepare a J&A citing *10 U.S.C. 2304(c)(5) as implemented by FAR Part 6.302-5 -- Authorized or Required by Statute* unless the following exceptions apply:
 - 1. A statute expressly requires that the acquisition be made through another agency or from a specified source.
 - 2. A procurement is being made through Qualified Nonprofit Agencies for the Blind or other Severely Disabled.
 - 3. A sole source 8(a) procurement equal to or less than \$20M. (Note: Sole Source 8(a) exceeding \$20M requires an approved J&A.)

If an exception to having a J&A applies, document the file as to the circumstances with a memorandum for record and cite the applicable statute and explain the specific situation.

- vi. When preparing a J&A for 6.302-6 -- National Security, cite *10 U.S.C. 2304(c)(6) as implemented by FAR Part 6.302-6 -- National Security.*
- vii. If you believe that 6.302-7 -- Public Interest applies to your procurement, a Determination and Findings (D&F) must be prepared and approved by the Assistant Secretary of the Army (Acquisition, Logistics and Technology) (ASA(ALT)). The authority associated with this situation is *10 U.S.C. 2304(c)(7) as implemented by FAR Part 6.302-7 -- Public Interest.*

Annex 4 – Reasons for Limiting Competition

NOTE: Procuring activities are reminded that a lack of advance planning and/or concerns regarding the availability of funds do not justify contracting without providing for full and open competition.

(1) Only One Source Can Satisfy the Agency Requirements.

This exception to competition may be used in the following situations:

- (a) When there is a reasonable basis to conclude that the agency's minimum needs can only be satisfied by unique and/or highly specialized supplies or services available from only one or a limited number of sources.
- (b) When the supplies or services are deemed to only be available from the original source in the case of a follow-on contract, when it is likely that award to any other source would result in:
 - Substantial duplication of cost to the Government that is not expected to be recovered through competition, or
 - Unacceptable delays in fulfilling the agency's requirements. (10 U.S.C. 2304(d)(1)(B)).

If there is an overlap between exceptions 1 (Only One Responsible Source) and 2 (Unusual and Compelling Urgency), it is most appropriate to select exception 1, unless the customer's needs are of an unusual and compelling urgency and the government would be seriously injured unless the number of sources from which it solicits offers can be limited.

USAGE:

- For orders placed using FAR Part 8.405, 12, 13.1, 13.5, 15, and 16.505 procedures.
- For logical follow-on orders under FAR Part 8.405 – Federal Supply Schedules provided that the original order was placed competitively using the applicable Federal Supply Schedule ordering procedures.
- For logical follow-on orders under FAR Part 16.505 when an order is issued on a sole source basis in the interest of economy and efficiency because it is a logical follow-on to an order already issued under a multiple award contract, provided that all awardees were given a fair opportunity to be considered for the original order.

EXAMPLES:

- ✓ This exception shall NOT be used when any other exception is applicable.
- ✓ The existence of limited rights in data, patent rights, copyrights, or secret processes; the control of basic raw material; or similar circumstances, make the supplies and services

available from only one source (however, the mere existence of such rights or circumstances does not in and of itself justify the use of this exception).

- ✓ When acquiring utility services, circumstances may dictate that only one supplier can furnish the service; or when the contemplated contract is for construction of a part of a utility system and the utility company itself is the only source available to work on the system.
- ✓ When the agency head has determined, in accordance with the agency's standardization program, that only specified makes and models of technical equipment and parts will satisfy the agency's needs for additional units or replacement items, and only one source is available.

(2) Urgency.

This exception to competition can be used when the agency's need for the supplies or services is of such an unusual and/or compelling urgency that the government would be seriously injured, financially or otherwise, unless the agency is permitted to limit the number of sources from which it solicits.

This exception does not grant a license to ignore the potential for competition. Procuring activities are still required to request offers from as many potential sources as is practical under the circumstances.

Normally, the total period of performance of a contract awarded using this exception will not exceed the time necessary:

- To meet the unusual and compelling requirements of the work to be performed under the contract.
- For the agency to enter into another contract for the required goods and services through the use of competitive procedures.

USAGE:

- For orders placed using FAR Part 8.405, 12, 13.1, 13.5, 15 and 16.505 procedures.

EXAMPLES:

- ✓ Supplies, services, or construction needed at once because of fire, flood, explosion, or other disaster.
- ✓ Essential equipment or repair needed at once to comply with orders for a ship, perform the operational mission of an aircraft; or preclude impairment of launch capabilities or mission performance of missiles or missile support equipment.
- ✓ Construction needed at once to preserve a structure or its contents from damage.

(3) Industrial Mobilization; Engineering, Developmental, or Research Capability; or Expert Services.

This exception may be used when it is necessary to award the contract to a particular source or sources in order to:

- Maintain a facility, producer, manufacturer, or other supplier available for furnishing supplies or services in case of a national emergency or to achieve industrial mobilization.
- Establish or maintain 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.
- Acquire the services of an expert or neutral person for any current or anticipated litigation or dispute.

USAGE:

- For orders placed using FAR Part 12, 13.1, 13.5, and 15 procedures.

EXAMPLES:

- ✓ Keep vital facilities or suppliers in business or make them available in the event of a national emergency.
- ✓ Train a selected supplier in the furnishing of critical supplies or services; prevent the loss of a supplier's ability and employees' skills; or maintain active engineering, research, or development work.
- ✓ Maintain properly balanced sources of supply for meeting the requirements of acquisition programs in the interest of industrial mobilization (when the quantity required is substantially larger than the quantity that must be awarded in order to meet the objectives of this authority, that portion not required to meet such objectives will be acquired by providing for full and open competition, as appropriate, under this part).
- ✓ Limit competition for current acquisition of selected supplies or services approved for production planning under the Department of Defense Industrial Preparedness Program to planned producers with whom industrial preparedness agreements for those items exist, or limit award to offerors who agree to enter into industrial preparedness agreements.
- ✓ Create or maintain the required domestic capability for production of critical supplies by limiting competition to items manufactured in the United States, its outlying areas, or Canada.
- ✓ Continue in production, contractors that are manufacturing critical items, when there would otherwise be a break in production.
- ✓ Divide current production requirements among two or more contractors to provide for an adequate industrial mobilization base.
- ✓ Establish or maintain an essential capability for theoretical analyses, exploratory studies, or experiments in any field of science or technology.

- ✓ Establish or maintain an essential capability for engineering or developmental work calling for the practical application of investigative findings and theories of a scientific or technical nature.
- ✓ Obtain the services of an expert for any litigation or dispute (including any reasonably foreseeable litigation or dispute) involving the Government in any trial, hearing, or proceeding before any court, administrative tribunal, or agency, whether or not the expert is expected to testify. Examples of such services include, but are not limited to:
 - assisting the Government in the analysis, presentation, or defense of any claim or request for adjustment to contract terms and conditions, whether asserted by a contractor or the Government, which is in litigation or dispute, or is anticipated to result in dispute or litigation before any court, administrative tribunal, or agency.
 - participating in any part of an alternative dispute resolution process, including but not limited to evaluators, fact finders, or witnesses, regardless of whether the expert is expected to testify.
- ✓ Obtain the services of a neutral person, *e.g.*, mediators or arbitrators, to facilitate the resolution of issues in an alternative dispute resolution process.

(4) International Agreement.

Full and open competition need not be provided for when precluded by the terms of an international agreement or a treaty between the United States and a foreign government or international organization, or the written directions of a foreign government reimbursing the agency for the cost of the acquisition of the supplies or services for such government.

USAGE:

- For orders placed using FAR Part 12, 13.1, 13.5, and 15 procedures.

EXAMPLES:

- ✓ When a contemplated acquisition is to be reimbursed by a foreign country that requires that the product be obtained from a particular firm as specified in official written direction such as a Letter of Offer and Acceptance.
- ✓ When a contemplated acquisition is for services to be performed, or supplies to be used, in the sovereign territory of another country and the terms of a treaty or agreement specify or limit the sources to be solicited.

(5) Authorized or Required by Statute.

A statute expressly authorizes or requires that the acquisition be made through another agency or from a specified source, or the agency's need is for a brand name commercial item for authorized resale.

USAGE:

- For orders placed using FAR Part 8.405, 12, 13.1, 13.5, 15, and 16.505 procedures.

EXAMPLES:

- ✓ Federal Prison Industries (UNICOR) -- 18 U.S.C. 4124 (see [Subpart 8.6](#));
- ✓ Qualified Nonprofit Agencies for the Blind or other Severely Disabled -- 41 U.S.C. 46-48c (see [Subpart 8.7](#));
- ✓ Government Printing and Binding -- 44 U.S.C. 501-504, 1121 (see [Subpart 8.8](#)).
- ✓ Sole source awards under the 8(a) Program -- 15 U.S.C. 637 (see [Subpart 19.8](#)). (Not applicable overseas or for those orders < \$20M.)
- ✓ Sole source awards under the HUBZone Act of 1997—15 U.S.C. 657a (see [19.1306](#)). (Not applicable overseas.)
- ✓ Sole source awards under the Veterans Benefits Act of 2003 (15 U.S.C. 657f). (Not applicable overseas.)
- ✓ This authority may be used for purchases of brand-name commercial items for resale through commissaries or other similar facilities. Ordinarily, these purchases will involve articles desired or preferred by customers of the selling activities.

(6) National Security.

Full and open competition need not be provided for when the disclosure of the agency's needs would compromise the national security unless the agency is permitted to limit the number of sources from which it solicits bids or proposals.

This authority may be used for any acquisition when disclosure of the Government's needs would compromise the national security (*e.g.*, would violate security requirements); it shall not be used merely because the acquisition is classified, or merely because access to classified matter will be necessary to submit a proposal or to perform the contract.

USAGE:

- For orders placed using FAR Part 12, 13.1, 13.5, and 15 procedures.

EXAMPLES:

- ✓ When the effort will support military operations that cannot be publicized due to security concerns or classification level.

- ✓ In situations where there are political sensitivities surrounding an operation or the efforts supported in a particular country.
- ✓ Requirements that support reconnaissance programs.
- ✓ Non-combatant evacuation operations (NEO) or similar programs.
- ✓ Emergent missions.

(7) Public Interest.

Full and open competition need not be provided for when the agency head determines (through a Determination and Findings) that it is not in the public interest in the particular acquisition concerned. No Justification is required to use this exception.

Other stipulations for using this exception are as follows:

- Congress must be notified in writing of this type of determination not less than 30 days before award of the contract.
- The D&F cannot be made on a class basis.

USAGE:

- For orders placed using FAR Part 12, 13.1, 13.5, and 15 procedures.

EXAMPLES:

- ✓ National disaster reconstruction projects.

Annex 5 - Common Errors Found in Justifications

- Type and year funding was not included.
- The exception to synopsis was not documented.
- The requirement for Cost or Pricing Data, the exception to Cost or Pricing Data, and/or the information to supporting a price fair and reasonableness determination were not addressed.
- The type of pricing arrangement was not indicated.
- The incorrect authority was cited.
- The synopsis publication date in FedBizOpps was not indicated in the J&A.
- Market Research was inadequate or not included.
- Procurement History was not included or not adequately discussed.
- The Option to Extend Services Clause (FAR 52.217-8 or CCE 217-4000) estimated values were not included.
- The synopsis information that was included in the J&A only discussed the follow-on effort. The synopsis information for the effort covered under the J&A was not included.
- A statement about whether cost/price data would be requested as a part of the fair and reasonable determination was not included in the document.
- Rationale and analysis for the authority cited were not provided in sufficient detail to make the case.
 - When FAR 6.302-1 was cited for follow-on acquisitions, an estimate of the duplicated time & cost the Government would incur, and how the estimate was derived, was not reflected in the J&A.
 - When Unusual and Compelling Urgency was cited, a discussion of the serious harm to the Government was not included.

TEMPLATES

1. Justification Customer Template
2. Limited Source Template \leq Simplified Acquisition Threshold – FAR Part 8.4
3. Limited Source Template $>$ Simplified Acquisition Threshold – FAR Part 8.4
4. Sole Source Template – FAR Part 13.1
5. Sole Source Template – FAR Part 13.5
6. Other than Full and Open Competition Template – FAR Part 12 and 15
7. Exception to Fair Opportunity \leq Simplified Acquisition Threshold – FAR Part 16.505
8. Exception to Fair Opportunity $>$ Simplified Acquisition Threshold – FAR Part 16.505

Justification Customer Template

Instructions for Justification Customer Template

- **Please complete all blocks of this template.**
- **Do not modify this template by deleting sections. Any sections that are deemed not applicable should be annotated as such.**
- **Provide succinct and complete information about your requirement and the impact to your organization, to reduce confusion and assist the contracting office to better meet your timelines.**
- **Ensure that any template areas providing sample language or instructions (e.g. italicized and/or blue language) are deleted prior to submitting a completed document. Also ensure that this coversheet is deleted.**
- **For questions about this template or assistance with completing this document, contact your local contracting office.**

Justification Customer Template

1. Background:

Introduce your organization and its purpose, and how this sole source or brand name procurement is important to fulfilling your organization's mission.

2. Description of Requirement:

Describe the requirement, with heavy focus on the critical portions of the work or why the specific commodity is required and how it will be implemented. If there are multiple items and/or multiple quantities, specify those. If it is a long list of small components, summarize the list in logical groupings, and separately identify options items/quantities.

3. Estimated Dollar Value and Length of Contract:

Services must begin NLT OR order must be made NLT OR delivery must be made NLT
Any special time limitations (either internal or market driven):

Actions without Options:

Period of Performance: to or completion date

Total Value: \$

Actions with Options:

Base Period:	to	or completion date	Value: \$
Option Period 1:	to	or completion date	Value: \$
Option Period 2:	to	or completion date	Value: \$
Option Period 3:	to	or completion date	Value: \$
Option Period 4:	to	or completion date	Value: \$
Option Period 5:	to	or completion date	Value: \$
52.217-8 option:	to	or completion date	Value: \$ _____
			Total: \$ _____

Provide a rationale for the time period specified. If the action is for a bridge effort, while a competitive procurement is developed or competed, describe where that procurement is in the process and the anticipated completion date if it has not yet reached the contracting office.

4. Funding:

FY _____ Operations and Maintenance, Army (OMA) FY_____ Other Procurement, Army (OPA) FY_____ Construction Other Funds: state the types/years of funds and/or mixture of funds that will be used

The effort will be: fully funded incrementally funded: state the increments in which funding will be provided

5. History:

First time buy Previously purchased

Originally procured: Competitively Sole Source

Procured through the use of: 409th CSB contract GSA schedule
 other organization’s contract: state the organization name if known
 Other: explain

Total value of original contract: \$

Contractor Name:

Period of Performance: to

Contract Number (if known):

If the procurement was previously competed, describe the circumstances that have changed to make it sole source now. If there is historical data or unique information about the nature of the requirement in its current state, that would bolster the Justification, provide that here.

6. Market Research Conducted (must have been completed within the last 12 months to be considered relevant):

Market research was conducted using the following methods (can be multiple):

Contacted knowledgeable individuals in the government and/or industry regarding market capabilities to meet requirement: state agency/company name(s) and POCs if available.

Held meetings/discussions with other government offices and/or industry: state agency/company name(s) and POCs if available.

Reviewed results of recent market research, or other contracts recently awarded, for similar or identical requirements.

- Published formal Request(s) for Information (RFI): released by state name or organization using state method .
- Queried Government, scientific, and/or business search engines: state the name of the search engine
- Participated in interactive, on-line communications with industry: explain scenario
- Obtained source lists of similar items from other contracting activities, agencies, trade associations, and/or other sources: state source and what was received
- Reviewed catalogs and other generally available product literature published by manufacturers, distributors, dealers, etc.: state what was reviewed
- Attended trade shows, Industry Conferences, etc. state what was attended

Dates market research was conducted: provide the dates or timeframes
 Conducted by: provide name(s)

State here the findings of the market research (e.g. through our market research, indicated above, we found three companies who could provide servers but only one had XYZ capability and could deliver within three weeks as required for our exercise). Attach any supporting market research documentation (e.g. minutes from Industry Days, webpage information, memorandums documenting phone conversations, etc). Additionally, simply stating that it was not conducted is not sufficient.

7. Suggested Source(s):

Company and POC
 Name:
 Street Address:
 City, State, Zip:
 Phone:

Company and POC
 Name:
 Street Address:
 City, State, Zip:
 Phone:

Company and POC
 Name:
 Street Address:

City, State, Zip:
Phone:

If alternative sources are identified, provide an explanation for why each can or cannot meet the requirement. Provide specific information in the response, e.g. they cannot meet the required delivery date because of a backlog in orders for this product.

8. Select the appropriate reason for limiting competition: See “Reasons for Limiting Competition” for explanations and examples of each. Select the one you believe to be the most appropriate for your acquisition and explain the circumstances that support the selection.

- Only one responsible source and no other supplies or services will satisfy the agency requirements
- Only one source is capable of providing the supplies or services required at the level of quality required because the supplies or services are unique or highly specialized (for GSA Federal Supply Schedule (FSS) buys only)
- Unusual and Compelling urgency (and following the normal procedures would result in unacceptable delays) NOTE: this exception is used to meet a minimum need for a short duration
- Industrial mobilization, engineering, development, or research capability
- International Agreement: identify the agreement and number/document
- Authorized or required by statute: identify the statute
- National Security
- Public Interest
- In the interest of economy and efficiency, the new work is a logical follow-on to a previously awarded GSA FSS order or BPA that was awarded in accordance with that schedule’s ordering procedures. The original order or BPA must not have been previously issued under sole-source or limited-source procedures (for GSA Federal Supply Schedule (FSS) buys only).

9. Explain why a brand name is required (for commodities only):

Describe the circumstances that required a particular brand. Highlight the features or unique specifications of the requested product and explain why they are essential to meeting the organization’s requirements. HELPFUL HINT: instead of stipulating a specific brand, identify the salient characteristics and require a brand name or equal product. Soliciting brand name or equal does not require a justification. But, if only the required brand can meet the need, a brand name justification (BNJ) will be required. The contracting office will develop the BNJ based upon the information provided in this document and subsequent discussions (if needed).

10. Impact if action is not completed using sole source or limited sources procedures:

Provide specific information regarding the impact to the organization if the action is not awarded as requested. Quantify the impact in terms of dollars, timelines, personnel, and/or mission.

COST: Include an estimate of the cost to the government that would be duplicated if this procurement is competed, and provide an explanation of how the estimate was derived. Include information about any set-up costs, transition costs, etc., and those costs can be based upon historical information, actual, or estimates. The point here is to provide a traceable basis for drawing the conclusion that the estimated cost is so high that it could not be recouped through competition.

TIME: Include an estimate of the length of the delay expected if this procurement is competed, and explain how the estimate was derived, and why a delay of this length is unacceptable. The point here is to demonstrate that the timeframe required to competitively source the requirement is detrimental to the organization and will not support the requirement/organizational mission.

REMINDER: a lack of advance planning is not sufficient to justify limiting competition.

11. Plans for procurement of the same service or commodity in the future:

One-time buy Recurring need

If this is a recurring need, state how the knowledge gained during execution of this acquisition will assist the organization to better define the requirement so that it can be competitively sourced in the future.

12. Other Facts:

Provide any other relevant facts that support the request to limit competition.

13. Points of Contact (identify POCs who can be contacted by the contracting office to clarify answers or to obtain additional information if needed):

POC Name:

Phone:

Email:

POC Name:

Phone:

Email:

POC Name:

Phone:

Email:

Limited Source Template ≤ Simplified Acquisition Threshold – FAR Part 8.4

- Limited source justification required for any order where competition is limited > micro-purchase threshold.
- Limited source justification ≤ the SAT is not required to be posted.
- For Brand Name Justifications, use this format and ensure that the completed and approved document is posted with the solicitation.

NOTE: If you need to complete a sole source action under a multiple award BPA, please review the prescriptions provided in DFARS 208.405-70 (regarding Fair Opportunity) and contact the PARC office for assistance.

Ensure that any template areas providing sample language or instructions (e.g. italicized and/or red language) are deleted prior to submitting a completed Justification. Also ensure that this coversheet is deleted.

Do not modify this template by deleting sections or signature blocks. Any sections that are deemed not applicable should be annotated as such.

For Amendments, fill out the appropriate boxes above Section 1 and follow the procedures described in the Justifications Guide paragraph 13.

For justifications to exercise the Option to Extend Services clause (FAR 52.217-8 or CCE 217-4000), ensure that in the 'Authority Cited and Rationale' section it states that the clause was included in the contract. In addition, explain the current acquisition situation and the need and use for the extension of services.

This template is ONLY for Federal Supply Schedules (GSA Schedules) orders and Blanket Purchase Agreements (BPAs) issued under FSSs ≤ the SAT.

Limited Source Justification ≤ SAT

- Original
- Amendment

Amendment Number

Original estimated total contract value \$

New total estimated contract value (if amended) \$

1. Contracting Activity: The United States Army, 409th Contracting Support Brigade (CSB)

- | | | |
|---|---|---|
| <input type="checkbox"/> RCO Benelux | <input type="checkbox"/> Bamberg (sub-office) | <input type="checkbox"/> Ansbach (sub-office) |
| <input type="checkbox"/> RCO Grafenwohr | <input type="checkbox"/> Stuttgart (sub-office) | |
| <input type="checkbox"/> RCO Schwetzingen | <input type="checkbox"/> Livorno (sub-office) | |
| <input type="checkbox"/> RCO Vicenza | | |
| <input type="checkbox"/> RCO Wiesbaden | | |
| <input type="checkbox"/> Theater Contracting Center (TCC) | | |

2. Description of Supplies/Services:

(1) Describe the supplies/services that are required. Summarize long lists of items or organize items by generic or logical groupings. Optional items should be separately identified.

3. Identification of Source:

Name of Proposed Contractor:
 Street Address:
 City, State, Zip:
 Phone:

4. Authority Cited and Rationale:

Title III of the Federal Property and Administrative Services Act of 1949 (41U.S.C. 251, et. Seq) and Title 40 U.S.C 501, Services for Executive Agencies, as implemented by FAR 8.4. and substantiated by the following:

- An urgent and compelling need exists, and following normal procedures would result in unacceptable delays.
- Only one source is capable of providing the supplies or services required at the level of quality required because the supplies or services are unique or highly specialized.
- In the interest of economy and efficiency, the new work is a logical follow-on to an original Federal Supply Schedule order provided that the original order was placed in accordance with

the applicable Federal Supply Schedule ordering procedures. The original order or BPA must not have been previously issued under sole-source or limited-sources procedures.

(1) Provide additional facts surrounding the contract action and further expand upon the selected option.
(2) If applicable, specifically identify that this action is to exercise the Option to Extend Services clause, and explain the current acquisition situation and the need and use for the extension of services.

5. Market Research:

(1) Describe the extent and the results of the market research conducted among schedule holders. List all the sources identified.
(2) Provide the timeframe the market research was completed and who compiled the data. (Research must be meaningful and have been conducted within the previous 12 months.)

6. Other Facts:

Previously procured under FSS? Yes No
If yes, awarded: Competitively Sole Source
Total value of original contract: \$
Contract Number (if known):

Discuss any other facts supporting this Justification.

7. Contracting Officer Certification: *This certification should be made by the contracting officer who will sign the contract resulting from this Justification.*

I certify that this Justification is accurate and complete to the best of my knowledge and belief, and that completing this purchase as a sole source is in the best interest of the Government.

Typed Name:

Date:

Title:

Signature: _____

Limited Source Template > Simplified Acquisition Threshold – FAR Part 8.4

- Limited source justification required for any order where competition is limited > micro-purchase threshold.
- Posting of completed Justifications:
 - o Required within 14 days after contract award on the GPE and on the website of the ordering activity agency (which may provide a link to the GPE).
 - o Required within 30 days after contract award for Justifications based on an urgent and compelling need.
 - o Justifications must be posted for a minimum of 30 days.
- For Brand Name Justifications, use this format, and ensure that the completed and approved document is posted with the solicitation.

NOTE: If you need to complete a sole source action under a multiple award BPA, please review the prescriptions provided in DFARS 208.405-70 (regarding Fair Opportunity) and contact the PARC office for assistance.

REMINDER: Evidence of Justification postings must be included in the file.

REMINDER: On orders > the SAT, a completed/approved Non-DoD Certification is required from the customer and must be documented in the file in accordance with AFARS 5117.7802.

Ensure that any template areas providing sample language or instructions (e.g. italicized and/or red language) are deleted prior to submitting a completed Justification. Also ensure that this coversheet is deleted.

Do not modify this template by deleting sections or signature blocks. Any sections that are deemed not applicable should be annotated as such.

For Amendments, fill out the appropriate boxes above Section 1 and follow the procedures described in the Justifications Guide paragraph 13.

For justifications to exercise the Option to Extend Services clause (FAR 52.217-8 or CCE 217-4000), ensure that in the 'Authority Cited and Rationale' section it states that the clause was included in the contract. In addition, explain the current acquisition situation and the need and use for the extension of services.

This template is ONLY for Federal Supply Schedules (GSA Schedules) orders and Blanket Purchase Agreements (BPAs) issued under FSSs > the SAT.

Justification Review Document (Limited Source > SAT)

Program/Equipment: *In one sentence, specify the customer and what the effort will procure. For example, "USAREUR G2 HUMINT analyst support for Operation Baladi in Poland."*

Authority: Title III of the Federal Property and Administrative Services Act of 1949 (41U.S.C. 251, et. Seq) and Title 40 U.S.C 501, Services for Executive Agencies, as implemented by FAR 8.4.

Amount: \$ *Provide the total estimated cost of the effort to include options and the Option to Extend Services Clause value.*

Prepared by:

Typed Name:

DSN:

Title:

Date:

E-mail:

Contracting Officer:

Typed Name:

DSN:

Title:

Date:

E-mail:

Technical Representative: *(if this POC is the same as the Requirement's Representative only one completed block is required simply annotate in the unsigned block, 'see above' or 'see below')*

Typed Name:

DSN:

Title:

Date:

E-mail:

Requirements Representative:

Typed Name:

DSN:

Title:

Date:

E-mail:

Reviews: I have reviewed this Justification and find it adequate to support a limitation to competition.

NOTE: *Do not delete the signature block for any higher level reviews required; simply annotate the signature block with N/A.*

Program Manager: *(required for all Justifications)*

Typed Name:

DSN:

Signature: _____ Date: _____

Legal Counsel: *(local legal counsel required for all Justifications)*

Typed Name:

DSN:

Signature: _____ Date: _____

Special Competition Advocate: *(required for all Justifications) > \$12.5M)*

Typed Name:

DSN:

Signature: _____ Date: _____

Principal Assistant Responsible for Contracting: *(required for all Justifications > \$12.5M)*

Typed Name:

DSN:

Signature: _____ Date: _____

Head of Contracting Activity: *(required for all Justifications > \$85.5M)*

Typed Name:

DSN:

Signature: _____ Date: _____

Limited Source Justification > SAT

Original

Amendment

Amendment Number

Original estimated total contract value \$

New total estimated contract value (if amended) \$

1. Contracting Activity: The United States Army, 409th Contracting Support Brigade (CSB)

RCO Benelux

RCO Grafenwohr

Bamberg (sub-office)

Ansbach (sub-office)

RCO Schwetzingen

Stuttgart (sub-office)

RCO Vicenza

Livorno (sub-office)

RCO Wiesbaden

Theater Contracting Center (TCC)

2. Description of Action:

New Contract

Modification

Previously procured under FSS?

Yes

No

If yes, awarded:

Competitively

Sole Source

Total value of original contract: \$

Contract Number (if known):

Proposed Type of Contract:

Firm-Fixed-Price (FFP)

Time-and- Materials (T&M)/Labor-Hour

Hybrid,

explain: provide the percentage of each type of contract that makes up the hybrid

Type of Funds:

FY _____ Operations and Maintenance, Army (OMA)

FY _____ Other Procurement,

Army (OPA) FY _____ Construction

Other Funds: state the types/years of funds

and/or mixture of funds that will be used

3. Description of Supplies/Services:

(1) Describe the supplies/services that are required. Summarize long lists of items or organize items by generic or logical groupings. Optional items should be separately identified.

Actions without Options:
Period of Performance: to or completion date
Total Value: \$

Actions with Options:
Base Period: to or completion date Value: \$
Option Period 1: to or completion date Value: \$
Option Period 2: to or completion date Value: \$
Option Period 3: to or completion date Value: \$
Option Period 4: to or completion date Value: \$
Option Period 5: to or completion date Value: \$
52.217-8 option: to or completion date Value: \$ _____
Total: \$ _____

4. Authority Cited and Rationale:

Title III of the Federal Property and Administrative Services Act of 1949 (41U.S.C. 251, et. Seq) and Title 40 U.S.C 501, Services for Executive Agencies, as implemented by FAR 8.4. and substantiated by the following:

An urgent and compelling need exists, and following normal procedures would result in unacceptable delays.

Only one source is capable of providing the supplies or services required at the level of quality required because the supplies or services are unique or highly specialized.

In the interest of economy and efficiency, the new work is a logical follow-on to an original Federal Supply Schedule order provided that the original order was placed in accordance with the applicable Federal Supply Schedule ordering procedures. The original order or BPA must not have been previously issued under sole-source or limited-sources procedures.

- (1) Provide additional facts surrounding the contract action and further expand upon the selected option.*
- (2) If applicable, identify the proposed or potential contractor, their address or CAGE code, and include a discussion of the proposed contractor’s unique qualifications for fulfilling the contract requirements.*
- (3) Describe the basis for attributing those unique qualifications to the contractor.*
- (4) Provide the basis for how it was determined that the proposed contractor can satisfy the requirement and/or the required delivery schedule.*
- (5) If applicable, specifically identify that this action is to exercise the Option to Extend Services clause, and explain the current acquisition situation and the need and use for the extension of services.*

5. Market Research:

(1) Describe the extent and the results of the market research conducted among schedule holders. List all the sources identified.
(2) Provide the timeframe the market research was completed and who compiled the data. (Research must be meaningful and have been conducted within the previous 12 months.)

6. Other Facts:

Discuss any other facts supporting this Justification.

7. Actions to Increase Competition:

(1) Include a statement of the actions that may be taken to remove or overcome any barriers that led to the restricted consideration before any subsequent acquisition for supplies or services is made.
(2) If no steps are being taken to seek competition, explain the basis not to be proactive. If your decision is based upon unsupportable time constraints, duplication of investment costs, or a negative economical analysis, provide the supporting rationale for that conclusion.

8. Requirements Certification:

I certify that the supporting data under my cognizance which are included in the Justification are accurate and complete to the best of my knowledge and belief. I also certify that this requirement meets the organization's minimum needs for this item, and/or schedule requirements, at this time.

Typed Name:

Date:

Title:

Signature: _____

9. Contracting Officer Determination: *This certification should be made by the contracting officer who will sign the contract resulting from this Justification.*

I hereby determine that the anticipated price to the Government for this contract action represents the best value consistent with 8.404(d). This determination will be made using the following: price analysis IGCE other: identify the methodology or combination of methodologies that will be used

I also certify that this Justification is accurate and complete to the best of my knowledge and belief.

Typed Name:

Date:

Title:

Signature: _____

Approval

Based on the foregoing Justification, I hereby approve the procurement of (*state equipment/services being procured*) under limited sources conditions pursuant to the authority of Title III of the Federal Property and Administrative Services Act of 1949 (41U.S.C. 251, et. Seq) and Title 40 U.S.C 501, Services for Executive Agencies, as implemented by FAR 8.4., subject to availability of funds, and provided that the services and property herein described have otherwise been authorized for acquisition.

Typed Name:

Date:

Title:

Signature: _____

Sole Source Template – FAR Part 13.1

- There is no requirement to post sole source justifications to the GPE.
- For Brand Name Justifications, use this format, and ensure that the completed and approved document is posted with the solicitation.

Ensure that any template areas providing sample language or instructions (e.g. italicized and/or red language) are deleted prior to submitting a completed Justification. Also ensure that this coversheet is deleted.

Do not modify this template by deleting sections or signature blocks. Any sections that are deemed not applicable should be annotated as such.

For Amendments, fill out the appropriate boxes above Section 1 and follow the procedures described in the Justifications Guide paragraph 13.

This template is NOT for use for acquisitions > the SAT or for acquisitions under FAR 13.5 or for orders to be placed under FAR Part 8.4 and FAR Part 16.5.

SOLE SOURCE JUSTIFICATION

Original

Amendment

Amendment Number

Original estimated total contract value \$

New total estimated contract value (if amended) \$

1. Contracting Activity: The United States Army, 409th Contracting Support Brigade (CSB)

RCO Benelux

RCO Grafenwohr

RCO Schwetzingen

RCO Vicenza

RCO Wiesbaden

Theater Contracting Center (TCC)

Bamberg (sub-office)

Stuttgart (sub-office)

Livorno (sub-office)

Ansbach (sub-office)

2. Description of Supplies/Services:

(1) Describe the supplies/services that are required. Summarize long lists of items or organize items by generic or logical groupings. Optional items should be separately identified.

3. Sole Source Justification Rationale: In accordance with FAR 13.106, a sole source acquisition is justified on the following basis:

Only responsible source.

Unusual and compelling urgency.

Other. provide rationale below

(1) Provide the reason for the rationale selected. Select one of the options above and provide all supporting details. You must be specific and explain why no other supplies or services can be used as it relates to unique features, function of the item, etc.

(2) If 'unusual and compelling urgency' rationale is selected, state the critical delivery or performance date and describe the impact on government operations, financial or otherwise, if the required delivery or performance dates are not met.

(3) State when awareness of the requirement occurred.

Examples Include:

(a) The material or service must be compatible in all aspects (form, fit, and function) with existing systems presently installed. The equipment and the new item/service must coordinate, connect, or interface with the existing system.

(b) A patent, copyright, or proprietary data limits competition.

(c) These are "direct replacement" parts/components for existing equipment.

(d) Other information to support a sole-source buy. (Provide additional information below)

4. Identification of Source:

Name of Proposed Contractor:

Street Address:

City, State, Zip:

Phone:

5. Market Research:

Synopsized on .

Other Market Research: .

(1) Describe any inquiries or results from the synopsis, if applicable.

(2) Describe market research completed to identify qualified sources (must be meaningful and have been completed within the last 12 months to be considered relevant).

(3) Identify the possible sources revealed through market research.

(4) Describe what will be done for future acquisitions of the same products or services to overcome barriers to competition.

6. Other:

(1) Discuss any other factors which support the use of a sole source for this effort.

7. Contracting Officer Certification: *This certification should be made by the contracting officer who will sign the contract resulting from this Justification.*

I certify that this Justification is accurate and complete to the best of my knowledge and belief, and that completing this purchase as a sole source is in the best interest of the Government.

Typed Name:

Date:

Title:

Signature: _____

Sole Source Template – FAR Part 13.5 Test Program

- Posting of completed Justifications:
 - o Required within 14 days after contract award on the GPE and on the website of the ordering activity agency (which may provide a link to the GPE).
 - o Required within 30 days after contract award for Unusual and Compelling Urgency Justifications.
 - o Justifications must be posted for a minimum of 30 days.
- For Brand Name Justifications, use this format, and ensure that the completed and approved document is posted with the solicitation.

NOTE: Template shall be used as long as authority for the Test Program is available in accordance with FAR 13.500(d).

REMINDER: Evidence of Justification postings must be included in the file.

Ensure that any template areas providing sample language or instructions (e.g. italicized and/or red language) are deleted prior to submitting a completed Justification. Also ensure that this coversheet is deleted.

Do not modify this template by deleting sections or signature blocks. Any sections that are deemed not applicable should be annotated as such.

For Amendments, fill out the appropriate boxes above Section 1 and follow the procedures described in the Justifications Guide paragraph 13.

For Justifications to exercise the Option to Extend Services clause (FAR 52.217-8 or CCE 217-4000), ensure that in the 'Authority Cited' section it states that the clause was included in the contract. In addition, explain the current acquisition situation and the need and use for the extension of services.

This template is ONLY for use for acquisitions under the Test Program, FAR Part 13.5.

Justification Review Document for Sole Source (FAR 13.5 Test Program)

Program/Equipment: *In one sentence, specify the customer and what the effort will procure. For example, "USAREUR G2 HUMINT analyst support for Operation Baladi in Poland."*

Authority: Test Program for Commercial Items, Section 4202 of the Clinger-Cohen Act of 1996 as implemented by FAR 13.5.

Amount: \$ *Provide the total estimated cost of the effort to include options and the Option to Extend Services Clause value.*

Prepared by:

Typed Name:
DSN:
Title:
Date:
E-mail:

Contracting Officer:

Typed Name:
DSN:
Title:
Date:
E-mail:

Technical Representative: *(if this POC is the same as the Requirement's Representative only one completed block is required simply annotate in the unsigned block, 'see above' or 'see below')*

Typed Name:
DSN:
Title:
Date:
E-mail:

Requirements Representative:

Typed Name:
DSN:
Title:
Date:
E-mail:

Reviews: I have reviewed this Justification and find it adequate to support sole source.

NOTE: Do not delete the signature block for any higher level reviews required; simply annotate the signature block with N/A.

Program Manager: *(required for all Justifications)*

Typed Name:

DSN:

Signature: _____ Date: _____

Legal Counsel: *(local legal counsel required for all Justifications)*

Typed Name:

DSN:

Signature: _____ Date: _____

JUSTIFICATION AND APPROVAL FOR SOLE SOURCE (FAR 13.5 Test Program)

Original

Amendment

Amendment Number

Original estimated total contract value \$

New total estimated contract value (if amended) \$

1. Contracting Activity: The United States Army, 409th Contracting Support Brigade (CSB)

RCO Benelux

RCO Grafenwohr

RCO Schwetzingen

RCO Vicenza

RCO Wiesbaden

Theater Contracting Center (TCC)

Bamberg (sub-office)

Stuttgart (sub-office)

Livorno (sub-office)

Ansbach (sub-office)

2. Description of Action:

A. Requirement:

New Requirement

Follow-on Requirement

Mod to Existing Purchase Order/Contract Number

For modifications or follow-on requirements:

- i. The contract was originally awarded: Competitively Sole Source
- ii. The contract number is: provide the contract number here
- iii. The total value of the contract: \$provide the total value of the contract to include all options

B. Type of Contract/Pricing Arrangement:

Firm-Fixed-Price (FFP) Time-and-Materials (T&M)/Labor-Hour

Hybrid, explain: provide the percentage of each type of contract that makes up the hybrid Other: specify

C. Type of Funds:

FY _____ Operations and Maintenance, Army (OMA) FY_____ Other Procurement, Army (OPA) FY_____ Construction Other Funds: state the types/years of funds and/or mixture of funds that will be used

D. Name of Proposed Contractor:

Street Address:
City, State, Zip:
Phone:

3. Description of Supplies/Services:

(1) Describe the supplies/services that are required. Summarize long lists of items or organize items by generic or logical groupings. Optional items should be separately identified.

Actions without Options:

Period of Performance: to or completion date
Total Value: \$

Actions with Options:

Base Period:	to	or completion date	Value: \$
Option Period 1:	to	or completion date	Value: \$
Option Period 2:	to	or completion date	Value: \$
Option Period 3:	to	or completion date	Value: \$
Option Period 4:	to	or completion date	Value: \$
Option Period 5:	to	or completion date	Value: \$
52.217-8 option:	to	or completion date	Value: \$ _____
			<i>Total: \$ _____</i>

4. Authority Cited: Test Program for Commercial Items, Section 4202 of the Clinger-Cohen Act of 1996 as implemented by FAR 13.5, for the purposes of: unusual and compelling urgency exclusive licensing agreements industrial mobilization other: state the purpose

5. Reason for Authority Cited:

(1) Describe how this action requires the use of the authority cited.

(2) Identify the proposed or potential contractor and include a discussion of the proposed contractor's unique qualifications for fulfilling the contract requirements.

(3) Describe the basis for attributing those unique qualifications to the contractor.

(4) Discuss why no other contractor has or can be made to have the essential qualifications to meet the government's requirements or specified delivery date.

(5) Provide the basis for how it was determined that the proposed contractor can satisfy the requirement and/or the required delivery schedule.

(6) If applicable, include an estimate of the cost to the government that would be duplicated and not recouped through competition (can include actual or estimated set-up costs, transition costs, etc.), how the estimate was derived, and whether the original contract was competitively awarded. NOTE: The purpose for detailing duplicative costs is to provide a traceable basis for drawing the conclusion that the cost is so high that it would not be recouped through competition.

(7) If urgency is the determined basis, include the required delivery schedule and lead-time involved, a basis for the required delivery schedule, in addition to providing a discussion of the serious injury or harm (defined in terms of significant monetary, mission performance degradation, etc.) the Government would endure if award of the contract is delayed. In addition, provide information as to when the requirement was first known. NOTE: The purpose for describing the impact is to demonstrate that the timeframe is prohibitive and would not support program requirements.

(8) If applicable, specifically identify that this action is to exercise the Option to Extend Services clause, and explain the current acquisition situation and the need and use for the extension of services.

6. Efforts to Obtain Competition:

(1) Describe efforts to ensure that offers are solicited from as many potential sources as is practicable.

Synopsized on _____ or is planned to be synopsized on/around _____, and any bids or proposals received shall be considered.

Exception to synopsis applies in accordance with FAR:

5.202(a)(1) Synopsis cannot be worded to preclude disclosure of agency's needs and disclosure would compromise national security .

5.202(a)(2) Contract action made under conditions described in 6.302-2 and the Government would be seriously injured if it complied with the time periods specified in 5.203.

- 5.202(a)(3) Contract action is one for which written direction from a foreign government reimbursing the agency for costs of the acquisition must be made to a specified source, or is made under the terms of an international agreement or treaty.
- 5.202(a)(4) Expressly authorized or required by statute to be made through another Government agency.
- 5.202(a)(5) Utility services and only one source is available (other than telecommunications).
- 5.202(a)(6) Contract action is placed using FAR 16.5
- 5.202(a)(7) Contract action is the result of a proposal accepted under the Small Business Innovation Development Act of 1982 (SBIR Program).
- 5.202(a)(8) Contract action is the result of accepting an unsolicited research proposal with a unique and innovative concept that if solicited would disclose the originality of innovativeness or would disclose proprietary information associated with the proposal.
- 5.202(a)(9) Contract action if for perishable subsistence supplies and advance notice is not appropriate or reasonable.
- 5.202(a)(10) Contract action is made under conditions described in 6.302-3, or 6.302-5 with regard to brand name commercial items for authorized resale, or 6.302-7, and advance notice is not appropriate or reasonable.
- 5.202(a)(11) Contract action is made under terms of an existing contract previously synopsisized in sufficient detail to comply with requirements of 5.207.
- 5.202(a)(12) Contract action is by a Defense agency and will be made and performed OCONUS and only local sources will be solicited. Does not apply to actions covered by the World Trade Organization Government Procurement Agreement (WTOGPA) or Free Trade Agreement (FTA) (see FAR 25.4).
- 5.202(a)(13) Contract action is expected not to exceed the SAT, will be made through the GPE, and permits the public to respond electronically.
- 5.202(a)(14) Contract action is made under conditions described in 6.302-3 with respect to the services of an expert to support the Federal Government in a current or anticipated litigation or dispute.
- 5.202(b) Head of the Agency has determined in writing that advance notice is not appropriate or reasonable.

7. Market Research:

- (1) Describe the extent and the results of the market research (FAR Part 10) conducted to identify all qualified sources. Research must be meaningful and have been conducted within the previous 12 months.*
- (2) Provide the timeframe the market research was completed and who compiled the data.*
- (3) Describe the techniques used, the sources of the information, and the results.*
- (4) Identify all current and potential sources revealed through market research.*

8. Interested Sources:

(1) Include a listing of the sources that have expressed an interest in the acquisition. If applicable, clearly state that “To date, no other sources have expressed an interest.”

9. Actions to Increase Competition:

*(1) Include a statement of the actions taken, or to be taken, to increase competition before any subsequent acquisition of the supplies or services.
(2) If no steps are being taken to seek competition, explain the basis not to be proactive. If your decision is based upon unsupportable time constraints, duplication of investment costs, or a negative economical analysis, provide the supporting rationale for that conclusion.*

10. Other Facts:

(1) Discuss any other facts supporting the use of other than full and open competition.

11. Technical Certification: *If this POC is the same as the Requirement's Representative only one completed block is required, simply annotate in the unsigned block, 'see above' or 'see below'.*

I certify that the supporting data under my cognizance which are included in the Justification are accurate and complete to the best of my knowledge and belief. I also certify that this requirement meets the organization's minimum needs for this item, and/or schedule requirements, at this time.

Typed Name:

Date:

Title:

Signature: _____

12. Requirements Certification:

I certify that the supporting data under my cognizance which are included in the Justification are accurate and complete to the best of my knowledge and belief. I also certify that this requirement meets the organization's minimum needs for this item, and/or schedule requirements, at this time.

Typed Name:

Date:

Title:

Signature: _____

13. Fair and Reasonable Cost/Price Determination:

I hereby determine that the anticipated price to the Government for this contract action will be fair and reasonable.

This determination will be made using the following: price analysis IGCE
 other: identify the methodology or combination of methodologies that will be used

As a part of this basis, certified cost or pricing data is not required because the item and/or services being acquired are considered commercial.

I also certify that this Justification is accurate and complete to the best of my knowledge and belief.

Typed Name:

Date:

Title:

Signature: _____

Approval

Based on the foregoing Justification, I hereby approve the procurement of (*state equipment/services being procured*) on an other than full and open competition basis pursuant to the authority of the Test Program for Commercial Items, Section 4202 of the Clinger-Cohen Act of 1996 as implemented by FAR 13.5, subject to availability of funds, and provided that the services and property herein described have otherwise been authorized for acquisition.

Typed Name:

Date:

Title:

Signature: _____

Other Than Full and Open Competition Template – FAR Part 12 and 15

- Posting of completed Justifications:
 - o Required within 14 days after contract award on the GPE and on the website of the ordering activity agency (which may provide a link to the GPE).
 - o Required within 30 days after contract award for Unusual and Compelling Urgency Justifications.
 - o Justifications must be posted for a minimum of 30 days.
- For Brand Name Justifications, use this format, and ensure that the completed and approved document is posted with the solicitation.

NOTE: This is the approved format for any J&A's for FAR Parts 12 or 15 at the local Special Competition Advocate level. If higher level approval is required, this format may be edited in coordination with the PARC office.

REMINDER: Evidence of Justification postings must be included in the file.

Ensure that any template areas providing sample language or instructions (e.g. italicized and/or red language) are deleted prior to submitting a completed Justification. Also ensure that this coversheet is deleted.

Do not modify this template by deleting sections or signature blocks. Any sections that are deemed not applicable should be annotated as such.

For Amendments, fill out the appropriate boxes above Section 1 and follow the procedures described in the Justification Guide paragraph 13.

For Justifications to exercise the Option to Extend Services clause (FAR 52.217-8 or CCE 217-4000), ensure that in the 'Authority Cited' section it states that the clause was included in the contract. In addition, explain the current acquisition situation and the need and use for the extension of services.

This template is NOT for use for acquisitions ≤ SAT, under FAR 8.4, FAR 13.5 or FAR 16.505.

Justification Review Document for Other Than Full and Open Competition

Program/Equipment: *In one sentence, specify the customer and what the effort will procure. For example, "USAREUR G2 HUMINT analyst support for Operation Baladi in Poland."*

Authority: *Select the appropriate authority from below and delete the remaining authorities:*

10 U.S.C. 2304(c)(1) as implemented by FAR Part 6.302-1 -- Only One Responsible Source and No Other Supplies or Services Will Satisfy Agency Requirements.

10 U.S.C. 2304(c)(2) as implemented by FAR Part 6.302-2 -- Unusual and Compelling Urgency.

10 U.S.C. 2304(c)(3) as implemented by FAR Part 6.302-3 -- Industrial Mobilization; Engineering, Developmental, or Research Capability; or Expert Services.

10 U.S.C. 2304(c)(4) as implemented by FAR Part 6.302-4 -- International Agreement.

10 U.S.C. 2304(c)(5) as implemented by FAR Part 6.302-5 -- Authorized or Required by Statute. (Refer to FAR Part 6.302-5(b) for specific US Code authorities for purchasing from mandatory sources identified in FAR Part 8 or 19.)

10 U.S.C. 2304(c)(6) as implemented by FAR Part 6.302-6 -- National Security.

Amount: \$ *Provide the total estimated cost of the effort to include options and the Option to Extend Services Clause value.*

Prepared by:

Typed Name:

DSN:

Title:

Date:

E-mail:

Contracting Officer:

Typed Name:

DSN:

Title:

Date:

E-mail:

Technical Representative: *(if this POC is the same as the Requirement's Representative only one completed block is required simply annotate in the unsigned block, 'see above' or 'see below')*

Typed Name:

DSN:

Control No:

Title:
Date:
E-mail:

Requirements Representative:

Typed Name:
DSN:
Title:
Date:
E-mail:

Reviews: I have reviewed this Justification and find it adequate to support other than full and open competition.

NOTE: Do not delete the signature block for any higher level reviews required; simply annotate the signature block with N/A.

Program Manager: *(required for all Justifications)*

Typed Name:

DSN:

Signature: _____ Date: _____

Legal Counsel: *(local legal counsel required for all Justifications)*

Typed Name:

DSN:

Signature: _____ Date: _____

Special Competition Advocate: *(required for all Justifications > \$12.5M)*

Typed Name:

DSN:

Signature: _____ Date: _____

Principal Assistant Responsible for Contracting: *(required for all Justifications > \$12.5M)*

Typed Name:

DSN:

Signature: _____ Date: _____

Head of Contracting Activity: *(required for all Justifications > \$85.5M)*

Typed Name:

DSN:

Signature: _____ Date: _____

**JUSTIFICATION AND APPROVAL
FOR OTHER THAN FULL AND OPEN COMPETITION**

Original

Amendment

Amendment Number

Original estimated total contract value \$

New total estimated contract value (if amended) \$

1. Contracting Activity: The United States Army, 409th Contracting Support Brigade (CSB)

RCO Benelux

RCO Grafenwohr

Bamberg (sub-office)

Ansbach (sub-office)

RCO Schwetzingen

Stuttgart (sub-office)

RCO Vicenza

Livorno (sub-office)

RCO Wiesbaden

Theater Contracting Center (TCC)

2. Description of Action:

New Contract

Modification

Estimated Value of Action: \$

Proposed Type of Contract:

Firm-Fixed-Price (FFP) Cost Plus Fixed Fee (CPFF) Time-and-Materials

(T&M)/Labor-Hour Hybrid, explain: provide the percentage of each type of contract that makes up the hybrid Other: specify

If Fixed Price Incentive or Cost Plus Incentive, estimated share and ceiling arrangement, and fee or profit (as applicable):

Type of Funds:

FY _____ Operations and Maintenance, Army (OMA) FY _____ Other Procurement,

Army (OPA) FY _____ Construction Other Funds: state the types/years of funds and/or mixture of funds that will be used

3. Description of Supplies/Services:

(1) Describe the supplies/services that are required. Summarize long lists of items or organize items by generic or logical groupings. Optional items should be separately identified.

Actions without Options:

Period of Performance: to or completion date

Total Value: \$

Actions with Options:

Base Period:	to	or completion date	Value: \$
Option Period 1:	to	or completion date	Value: \$
Option Period 2:	to	or completion date	Value: \$
Option Period 3:	to	or completion date	Value: \$
Option Period 4:	to	or completion date	Value: \$
Option Period 5:	to	or completion date	Value: \$
52.217-8 option:	to	or completion date	Value: \$ _____
			Total: \$ _____

4. Authority Cited:

*Choose one of the statutory authorities permitting other than full and open competition identified from the list below and delete the remaining authorities. **NOTE: If there is more than one possible statutory authority that applies, choose the one that provides the strongest argument, avoid duplicate information, be short, precise, and to the point. Only one authority should be cited. Any other supporting information available to strengthen the Justification can be included in Section 10 Other Facts.***

10 U.S.C. 2304(c)(1) as implemented by FAR Part 6.302-1 -- Only One Responsible Source and No Other Supplies or Services Will Satisfy Agency Requirements.

10 U.S.C. 2304(c)(2) as implemented by FAR Part 6.302-2 -- Unusual and Compelling Urgency.

10 U.S.C. 2304(c)(3) as implemented by FAR Part 6.302-3 -- Industrial Mobilization; Engineering, Developmental, or Research Capability; or Expert Services.

10 U.S.C. 2304(c)(4) as implemented by FAR Part 6.302-4 -- International Agreement.

10 U.S.C. 2304(c)(5) as implemented by FAR Part 6.302-5 -- Authorized or Required by Statute. (Refer to FAR Part 6.302-5(b) for specific US Code authorities for purchasing from mandatory sources identified in FAR Part 8 or 19.)

10 U.S.C. 2304(c)(6) as implemented by FAR Part 6.302-6 -- National Security.

5. Reason for Authority Cited:

- (1) Describe how this action requires the use of the authority cited.*
- (2) If applicable, identify the proposed or potential contractor, their address or cage code, and include a discussion of the proposed contractor's unique qualifications for fulfilling the contract requirements.*
- (3) Describe the basis for attributing those unique qualifications to the contractor.*
- (4) Discuss why no other contractor has or can be made to have the essential qualifications to meet the government's requirements or specified delivery date.*
- (5) Provide the basis for how it was determined that the proposed contractor can satisfy the requirement and/or the required delivery schedule.*
- (6) Provide a statement as to why no other type of supply or service can satisfy the government's need.*
- (7) In addition, if:
 - the authority at FAR 6.302-1 is cited for follow-on acquisitions, include an estimate of the cost to the government that would be duplicated and not recouped through competition (can include actual or estimated set-up costs, transition costs, etc.), how the estimate was derived, and whether the original contract was competitively awarded. NOTE: The purpose for detailing duplicative costs is to provide a traceable basis for drawing the conclusion that the cost is so high that it would not be recouped through competition.*
 - the authority at FAR 6.302-2 is cited, include the required lead time and delivery schedule, a basis for the required lead time and delivery schedule, in addition to providing a discussion of the serious injury or harm (defined in terms of significant monetary, mission performance degradation, etc.) the Government would endure if award of the contract is delayed. In addition, provide information as to when the requirement was first known and an explanation for any delays in initiating the procurement action. Conclude with how this information provides evidence that full and open competition is not a viable alternative. NOTE: The purpose for describing the impact is to demonstrate that the timeframe is prohibitive and would not support program requirements. Invoking this exception normally precludes the issuance of a long-term contract or inclusion of options. If the action does require a long term contract or a contract with options, provide an explanation for how the action is in line with the intent of the exception.**
- (8) If applicable, specifically identify that this action is to exercise the Option to Extend Services clause, and explain the current acquisition situation and the need and use for the extension of services.*

6. Efforts to Obtain Competition:

- (1) Describe efforts to ensure that offers are solicited from as many potential sources as is practicable. Also describe the competition anticipated for this acquisition.*
- (2) Describe what has been done to maximize possible competition for this acquisition.*

7. Actions to Increase Competition:

- (1) There may be instances when it is not possible to compete the current acquisition. Include a statement of the actions taken, or to be taken, to increase competition before any subsequent acquisition of the supplies or services.*
- (2) If this J&A is for an end item or major item, describe action to increase competition for its spare/repair parts as well.*
- (3) If no steps are being taken to seek competition, explain the basis not to be proactive. If your decision is based upon unsupported time constraints, duplication of investment costs, or a negative economical analysis, provide the supporting rationale for that conclusion.*
- (4) As applicable, discuss steps taken by the government to ensure that the prime contractor obtains as much competition as possible in its subcontracting.*

8. Market Research:

- (1) Describe the extent and the results of the market research (FAR Part 10) conducted to identify all qualified sources. Research must be meaningful and have been conducted within the previous 12 months.*
- (2) Provide the timeframe the market research was completed and who compiled the data.*
- (3) Describe the techniques used, the sources of the information, and the results.*
- (4) Identify all current and potential sources revealed through market research.*

9. Interested Sources:

- (1) Include a listing of the sources that have expressed an interest in the acquisition and consider any bids or proposals received. If applicable, clearly state that "To date, no other sources have expressed an interest."*

- Synopsized on _____ or is planned to be synopsized on/around _____
- Exception to synopsis applies in accordance with FAR:
- 5.202(a)(1) Synopsis cannot be worded to preclude disclosure of agency's needs and disclosure would compromise national security.
 - 5.202(a)(2) Contract action made under conditions described in 6.302-2 and the Government would be seriously injured if it complied with the time periods specified in 5.203.
 - 5.202(a)(3) Contract action is one for which written direction from a foreign government reimbursing the agency for costs of the acquisition must be made to a specified source, or is made under the terms of an international agreement or treaty.

- 5.202(a)(4) Expressly authorized or required by statute to be made through another Government agency.
- 5.202(a)(5) Utility services and only one source is available (other than telecommunications).
- 5.202(a)(6) Contract action is placed using FAR 16.5
- 5.202(a)(7) Contract action is the result of a proposal accepted under the Small Business Innovation Development Act of 1982 (SBIR Program).
- 5.202(a)(8) Contract action is the result of accepting an unsolicited research proposal with a unique and innovative concept that if solicited would disclose the originality of innovativeness or would disclose proprietary information associated with the proposal.
- 5.202(a)(9) Contract action if for perishable subsistence supplies and advance notice is not appropriate or reasonable.
- 5.202(a)(10) Contract action is made under conditions described in 6.302-3, or 6.302-5 with regard to brand name commercial items for authorized resale, or 6.302-7, and advance notice is not appropriate or reasonable.
- 5.202(a)(11) Contract action is made under terms of an existing contract previously synopsisized in sufficient detail to comply with requirements of FAR 5.207.
- 5.202(a)(12) Contract action is by a Defense agency and will be made and performed OCONUS and only local sources will be solicited. Does not apply to actions covered by the World Trade Organization Government Procurement Agreement (WTOGPA) or Free Trade Agreement (FTA) (see FAR 25.4).
- 5.202(a)(13) Contract action is expected not to exceed the SAT, will be made through the GPE, and permits the public to respond electronically.
- 5.202(a)(14) Contract action is made under conditions described in 6.302-3 with respect to the services of an expert to support the Federal Government in a current or anticipated litigation or dispute.
- 5.202(b) Head of the Agency has determined in writing that advance notice is not appropriate or reasonable.

10. Other Facts:

Discuss any other facts supporting the use of other than full and open competition, such as the following:

a. Procurement history.

(1) Contract numbers and dates of the last several awards.

(2) Competitive status of these actions.

(3) Authority previously used for other than full and open competition.

(4) If any prior award was accomplished by full and open competition, a detailed explanation of the changed circumstances.

(5) An explanation of any unusual patterns which may be revealed by the history, e.g., several consecutive urgent buys.

(6) If a Justification was prepared to support the procurement made before this one, briefly describe the circumstances justifying the buy and whether there have been any significant changes. Also, describe the results of any actions taken to increase competition as stated in the previous Justification.

b. Acquisition data availability. Explain why technical data packages, specifications, engineering descriptions, statements of work or purchase descriptions suitable for full and open competition have not been developed or are not available. Describe actions taken or planned to remedy this situation.

11. Technical Certification: *If this POC is the same as the Requirement's Representative only one completed block is required, simply annotate in the unsigned block, 'see above' or 'see below'.*

I certify that the supporting data under my cognizance which are included in the Justification are accurate and complete to the best of my knowledge and belief.

Typed Name:

Date:

Title:

Signature: _____

12. Requirements Certification:

I certify that the supporting data under my cognizance which are included in the Justification are accurate and complete to the best of my knowledge and belief.

Typed Name:

Date:

Title:

Signature: _____

13. Fair and Reasonable Cost/Price Determination:

I hereby determine that the anticipated cost/price to the Government for this contract action will be fair and reasonable.

This determination will be made using the following: cost analysis price analysis should cost IGCE audit: identify the audit type other: identify the methodology or combination of methodologies that will be used

As a part of this basis, certified cost or pricing data:

will be required.

will not be required and the following exception applies (FAR 15.403):

Prices that will be agreed upon are based on adequate price competition.

Prices that will be agreed upon are based on prices set by law or regulation.

A commercial item is being acquired.

A waiver has been granted by the head of the contracting activity (HCA) in accordance with PGI 215.403-1.

- The contract action is a modification to a contract or subcontract for commercial item(s).
- The estimated cost of the contract action is less than the threshold for certified cost or pricing data.

I also certify that this Justification is accurate and complete to the best of my knowledge and belief.

Typed Name:

Date:

Title:

Signature: _____

Approval

Based on the foregoing Justification, I hereby approve the procurement of (*state equipment/services being procured*) on an other than full and open competition basis pursuant to the authority of 10 U.S.C.2304(c)(1), (2), (3), (4), (5), or (6) as implemented by FAR 6.302-1, -2, -3, -4, -5, or -6, subject to availability of funds, and provided that the services and property herein described have otherwise been authorized for acquisition.

Typed Name:

Date:

Title:

Signature: _____

Exception to Fair Opportunity Template \leq Simplified Acquisition Threshold – FAR Part 16.505

- Template applies to orders under multiple award contracts \leq the SAT.
- Exception to Fair Opportunity Justification \leq the SAT is not required to be posted.

Ensure that any template areas providing sample language or instructions (e.g. italicized and/or red language) are deleted prior to submitting a completed Justification. Also ensure that this coversheet is deleted.

Do not modify this template by deleting sections or signature blocks. Any sections that are deemed not applicable should be annotated as such.

For Amendments, fill out the appropriate boxes above Section 1 and follow the procedures described in the Justifications Guide paragraph 13.

This template should ONLY be used to award task or delivery orders under multiple award contracts for procurements \leq the SAT.

Justification for an Exception to Fair Opportunity ≤ SAT

- Original
- Amendment

Amendment Number

Original estimated total contract value \$

New total estimated contract value (if amended) \$

1. Contracting Activity: The United States Army, 409th Contracting Support Brigade (CSB)

- RCO Benelux
- RCO Grafenwohr Bamberg (sub-office) Ansbach (sub-office)
- RCO Schwetzingen Stuttgart (sub-office)
- RCO Vicenza Livorno (sub-office)
- RCO Wiesbaden
- Theater Contracting Center (TCC)

2. Description of Action:

Previously procured? Yes No

If yes, awarded: Competitively Sole Source

Total value of original contract: \$

Contract Number (if known):

3. Description of Supplies/Services:

(1) Describe the supplies/services that are required. Summarize long lists of items or organize items by generic or logical groupings. Optional items should be separately identified.

4. Identification of Source:

Name of Proposed Contractor:

Street Address:

City, State, Zip:

Phone:

5. Authority Cited and Rationale:

Pursuant to 10 U.S.C. 2304C as implemented by FAR 16.505(b)(2) and substantiated by the following:

- 16.505(b)(2)(i)(A): The agency need for the supplies or services is so urgent that providing a fair opportunity would result in unacceptable delays.

16.505(b)(2)(i)(B): 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.

16.505(b)(2)(i)(C): The order must be issued on a sole-source basis in the interest of economy and efficiency because it is a logical follow-on to an order already issued under the contract, provided that all awardees were given a fair opportunity to be considered for the original order.

16.505(b)(2)(i)(D): It is necessary to place an order to satisfy a minimum guarantee.

*(1) Provide supporting rationale that: (a) demonstrates that the proposed contractor's unique qualifications, or (b) the nature of the acquisition, requires the use of the exception cited.
(2) Describe why the relationship between the initial order and the follow-on is logical (e.g. in terms of scope, period of performance, or value).*

6. Other Facts:

Discuss any other facts supporting this Justification.

7. Contracting Officer Certification: *This certification should be made by the contracting officer who will sign the contract resulting from this Justification.*

I certify that this Justification is accurate and complete to the best of my knowledge and belief, and that an exception to fair opportunity is in the best interest of the Government.

Typed Name:

Date:

Title:

Signature: _____

Exception to Fair Opportunity Template > Simplified Acquisition Threshold – FAR Part 16.505

- Template applies to orders under multiple award contracts > the SAT.
- Posting of completed Justifications:
 - o Required within 14 days after contract award on the GPE and on the website of the ordering activity agency (which may provide a link to the GPE).
 - o Required within 30 days after contract award for Unusual and Compelling Urgency Justifications.
 - o Justifications must be posted for a minimum of 30 days.

REMINDER: Evidence of Justification postings must be included in the file.

Ensure that any template areas providing sample language or instructions (e.g. italicized and/or red language) are deleted prior to submitting a completed Justification. Also ensure that this coversheet is deleted.

Do not modify this template by deleting sections or signature blocks. Any sections that are deemed not applicable should be annotated as such.

For Amendments, fill out the appropriate boxes above Section 1 and follow the procedures described in the Justifications Guide paragraph 13.

This template should ONLY be used to award task or delivery orders under multiple award contracts for procurements > the SAT.

Justification Review Document (Exception to Fair Opportunity > SAT)

Program/Equipment: *In one sentence, specify the customer and what the effort will procure. For example, "USAREUR G2 HUMINT analyst support for Operation Baladi in Poland."*

Authority: 10 U.S.C. 2304C as implemented by FAR 16.505(b)(2)

Amount: \$ *Provide the total estimated cost of the effort to include options and the Option to Extend Services Clause value.*

Prepared by:

Typed Name:

DSN:

Title:

Date:

E-mail:

Contracting Officer:

Typed Name:

DSN:

Title:

Date:

E-mail:

Technical Representative: *(if this POC is the same as the Requirement's Representative only one completed block is required simply annotate in the unsigned block, 'see above' or 'see below')*

Typed Name:

DSN:

Title:

Date:

E-mail:

Requirements Representative:

Typed Name:

DSN:

Title:

Date:

E-mail:

Reviews: I have reviewed this Justification and find it adequate to support an exception to fair opportunity.

NOTE: *Do not delete the signature block for any higher level reviews required; simply annotate the signature block with N/A.*

Program Manager: *(required for all Justifications)*

Typed Name:

DSN:

Signature: _____ Date: _____

Legal Counsel: *(local legal counsel required for all Justifications)*

Typed Name:

DSN:

Signature: _____ Date: _____

Special Competition Advocate: *(required for all Justifications > \$12.5M)*

Typed Name:

DSN:

Signature: _____ Date: _____

Principal Assistant Responsible for Contracting: *(required for all Justifications > \$12.5M)*

Typed Name:

DSN:

Signature: _____ Date: _____

Head of Contracting Activity: *(required for all Justifications > \$85.5M)*

Typed Name:

DSN:

Signature: _____ Date: _____

Justification for an Exception to Fair Opportunity

 Original Amendment

Amendment Number

Original estimated total contract value \$

New total estimated contract value (if amended) \$

1. Contracting Activity: The United States Army, 409th Contracting Support Brigade (CSB) RCO Benelux RCO Grafenwohr Bamberg (sub-office) Ansbach (sub-office) RCO Schwetzingen Stuttgart (sub-office) RCO Vicenza Livorno (sub-office) RCO Wiesbaden Theater Contracting Center (TCC)**2. Description of Action:** New Order ModificationPreviously procured? Yes NoIf yes, awarded: Competitively Sole Source

Total value of original contract: \$

Contract Number (if known):

Proposed Type of Contract:

 Firm-Fixed-Price (FFP) Cost Plus Fixed Fee (CPFF) Time-and-Materials(T&M)/Labor-Hour Hybrid, explain: provide the percentage of each type of contract that makes up the hybrid Other: specify

If Fixed Price Incentive or Cost Plus Incentive, estimated share and ceiling arrangement, and fee or profit (as applicable):

Type of Funds:

 FY _____ Operations and Maintenance, Army (OMA) FY _____ Other Procurement,Army (OPA) FY _____ Construction Other Funds: state the types/years of funds and/or mixture of funds that will be used**3. Description of Supplies/Services:**

(1) Describe the supplies/services that are required. Summarize long lists of items or organize items by generic or logical groupings. Optional items should be separately identified.

5. Actions to Increase Competition:

(1) Include a statement of the actions that may be taken to remove or overcome any barriers that led to the exception to fair opportunity before any subsequent acquisition for supplies or services is made.

(2) If no steps are being taken to seek competition, explain the basis for the determination not to be proactive. If the determination is based upon unsupportable time constraints, duplication of investment costs, or a negative economical analysis, provide the supporting rationale for that conclusion.

6. Other Facts:

Discuss any other facts supporting this Justification.

7. Requirements Certification:

I certify that the supporting data under my cognizance which are included in the Justification are accurate and complete to the best of my knowledge and belief. I also certify that this requirement meets the organization's minimum needs for this item, and/or schedule requirements, at this time.

Typed Name:

Date:

Title:

Signature: _____

8. Contracting Officer Determination: *This certification should be made by the contracting officer who will sign the contract resulting from this Justification.*

I hereby determine that the anticipated cost/price to the Government for this contract action will be fair and reasonable.

This determination will be made using the following: cost analysis price analysis should cost IGCE audit: identify the audit type other: identify the methodology or combination of methodologies that will be used

As a part of this basis, certified cost or pricing data:

will be required.

will not be required and the following exception applies (FAR Part 15.403):

Prices that will be agreed upon are based on adequate price competition.

Prices that will be agreed upon are based on prices set by law or regulation.

A commercial item is being acquired.

A waiver has been granted by the head of the contracting activity (HCA) in accordance with PGI 215.403-1.

The contract action is a modification to a contract or subcontract for commercial item(s).

The estimated cost of the contract action is less than the threshold for certified cost or pricing data.

Control No:

I also certify that this Justification is accurate and complete to the best of my knowledge and belief.

Typed Name:

Date:

Title:

Signature: _____

Approval

Based on the foregoing Justification, I hereby approve the procurement of (*state equipment/services being procured*) using the stated exception to fair opportunity, pursuant to the authority of 10 U.S.C. 2304C as implemented by FAR 16.505(b)(2), subject to availability of funds, and provided that the services and property herein described have otherwise been authorized for acquisition.

Typed Name:

Date:

Title:

Signature: _____

JUSTIFICATIONS FY XX

Control Number *RCOX-FY-XXX or TCCX-FY-XXX	Date Justification Received	Customer	Type of Item/Service	Delivery Date/Period of Performance	Estimated Total Value (including all options and -8)	Contracting Officer Assigned	Legal Review Date	Additional Reviews	Approval Date	Approved By	Statutory Authority	Remarks
--	-----------------------------------	----------	----------------------	--	--	---------------------------------	-------------------	--------------------	---------------	-------------	------------------------	---------