

Attachment B

Interim HHSAR changes related to the HHS JOFOC and LSJ templates 306.303 Justifications.

306.303-1 Requirements.

(b) The responsible Program Office must provide a written justification whenever it requests that goods or services be acquired without obtaining full and open competition. The justification must be submitted with the Acquisition Plan, requisition, or other acquisition request document (see Subpart 307.71). The Project Officer has responsibility for preparing the justification with assistance, as necessary, from the Contract Specialist and Contracting Officer.

(1) Justifications for acquisitions at or below the simplified acquisition threshold may be in the form of a paragraph or paragraphs contained in the requisition or other acquisition request document. Justifications for acquisitions in excess of the simplified acquisition threshold shall be in the form of a separate, self-contained document, prepared in accordance with FAR 6.303 and 306.303, and titled "Justification for Other Than Full and Open Competition" (JOFOC). HHS requires use of a standard format for a JOFOC, which can be accessed at: <http://www.hhs.gov/oamp/policies/>. Additional information may be included in the JOFOC template in accordance with OPDIV procedures.

(2) Regardless of the dollar amount of the acquisition, justifications shall:

(i) fully describe what is to be acquired;

(ii) provide a specific explanation of why it is not feasible to obtain full and open competition;

(iii) be supported by verifiable facts, rather than untested or unsubstantiated opinions or conclusions; and

(iv) be written in a manner to permit an individual without technical knowledge of the requirement to understand the supporting rationale.

(3) Preliminary arrangements with, or verbal or written commitments to, a proposed sole-source contractor shall be avoided given the statutory requirement to obtain full and open competition to the maximum extent practicable.

(4) Justifications for orders to be placed under Federal Supply Schedules that restrict/limit consideration of contractors shall comply with FAR 8.405-6 and 308.405-6.

306.304 Approval of the justification.

Certification, concurrence, and approval requirements. The Project Officer, the Project Officer's immediate supervisor, the head of the sponsoring program office, and the Contracting Officer shall certify that the justification is accurate and complete by signing the JOFOC. For acquisitions in the dollar amount cited in FAR 6.304(a)(2) through (a)(4), the Chief of the Contracting Office, if applicable, and the Head of the Contracting Activity shall indicate their review of, and concurrence with, the justification by signing the JOFOC.

(a) The approving officials for JOFOCs are as follows:

- (1) The Contracting Officer shall exercise this approval authority unless a higher approval level is required by OPDIV procedures.
- (2) The competition advocates are listed in 306.501. This approval authority is not delegable.
- (3) The competition advocate shall exercise this approval authority, except where the individual designated as the competition advocate does not meet the requirements of FAR 6.304 (a)(3)(ii). This approval authority is not delegable.
- (4) The senior procurement executive of the Department is the Deputy Assistant Secretary for Acquisition Management and Policy.

(c) A class justification shall be processed in the same manner as an individual justification. A class justification may consist of contracts/orders for the same or related supplies and services or other contract/order actions that require essentially identical justifications.

PART 308—REQUIRED SOURCES OF SUPPLIES AND SERVICES

308.405-6 Limited source justification and approval.

(g)(1) As required by FAR 8.405-1 or 8.405-2, the responsible Program Office must provide a written justification whenever it requests an acquisition under the Federal Supply Schedule (FSS) program that restricts consideration (i) of the number of schedule contractors or (ii) to an item peculiar to one manufacturer. The justification must be submitted with the Acquisition Plan, requisition, or other acquisition request (see Subpart 307.71). The Project Officer has responsibility for preparing the justification with assistance, as necessary, from the Contract Specialist and Contracting Officer.

(i) Justifications for orders at or below the simplified acquisition threshold may be in the form of a paragraph or paragraphs contained in the requisition or other acquisition request document. Justifications for orders in excess of the simplified acquisition threshold shall be in the form of a separate, self-contained document, prepared in accordance with FAR 8.405-6(g) and 308.405-6(g), and

titled "Limited Source Justification" (LSJ). HHS requires use of a standard format for an LSJ, which can be accessed at: <http://www.hhs.gov/oamp/policies/>. Additional information may be included in the LSJ template in accordance with OPDIV procedures.

(ii) Regardless of dollar amount of the acquisition, justifications shall:

(A) fully describe what is to be acquired;

(B) cite specific reasons that explain why it is necessary to restrict consideration of sources;

(C) be supported by verifiable facts rather than untested or unsubstantiated opinions or conclusions; and

(D) be written in a manner to permit an individual without technical knowledge of the requirement to understand the supporting rationale.

(iii) Preliminary arrangements with, or verbal or written commitments to, a proposed contractor shall be avoided given the requirement to obtain competition for FSS orders using the procedures in FAR Subpart 8.4 – see also FAR 6.102(d)(3).

(iv) Justifications for non-FSS orders to be awarded without full and open competition shall comply with FAR 6.303 and 306.303.

(h) Justification approvals.

Certification, concurrence, and approval requirements. The Project Officer, the Project Officer's immediate supervisor, the head of the sponsoring program office, and the Contracting Officer shall certify that the justification is accurate and complete by signing the LSJ. For acquisitions in the dollar amount cited in FAR 8.405-6(h)(2) through (h)(4), the Chief of the Contracting Office, if applicable, and the Head of the Contracting Activity shall indicate their review of, and concurrence with, the justification by signing the LSJ. The approving officials for LSJs are as follows:

(1) The Contracting Officer shall exercise this approval authority unless a higher approval level is required by OPDIV procedures.

(2) The competition advocates are listed in 306.501. This approval authority is not delegable.

(3) The competition advocate shall exercise this approval authority, except where the individual designated as the competition advocate does not meet the requirements of FAR 8.405-6(h)(3)(ii). This approval authority is not delegable.

(4) The senior procurement executive of the Department is the Deputy Assistant Secretary for Acquisition Management and Policy.

PART 313--SIMPLIFIED ACQUISITION PROCEDURES

Subpart 313.3--Simplified Acquisition

Methods Sec.

313.301 Governmentwide commercial purchase card.

313.303 Blanket purchase agreements (BPAs).

313.303-5 Purchases under BPAs.

313.305 Imprest funds and third party drafts.

313.305-1 General.

313.306 SF 44, Purchase Order--Invoice--Voucher.

313.501 Special documentation requirements

Authority: 5 U.S.C. 301; 40 U.S.C.

486(c). **313.501 Special documentation**

requirements.

(a)

(1)

(i) The justification requirements of 306.303-1(b) and 306.303-1(b)(1) through (b)(4) apply to proposed noncompetitive acquisitions placed under FAR Subpart 13.5.

(ii) The HHS standard format for JOFOCs cited in 306.303-1(b)(1) shall be used to support noncompetitive acquisitions in excess of the simplified acquisition threshold placed under FAR Subpart 13.5.

(iii) The certification, concurrence, and approval requirements cited in 306.304 for JOFOCs apply to applicable noncompetitive acquisitions placed under FAR Subpart 13.5.

(2)

(i) The Contracting Officer shall exercise this approval authority unless a higher approval level is required by OPDIV procedures.

(ii) The competition advocates are listed in 306.501. This approval authority is not delegable.

(iii) The competition advocate shall exercise this approval authority, except where the individual designated as the competition advocate does not meet the requirements of FAR 6.304 (a)(3)(ii). This approval authority is not delegable.

(iv) The senior procurement executive of the Department is the Deputy

Assistant Secretary for Acquisition Management and Policy.