

(b) Requests for procurement of advertising shall be accompanied by written authority to advertise or publish which sets forth justification and includes the names of newspapers or journals concerned, frequency and dates of proposed advertisements, estimated cost, and other pertinent information.

(c) Paid advertisements shall be limited to publication of essential details of invitations for bids and requests for proposals including those for the sale of personal property and for the recruitment of employees.

(d) Optional Form 347, Order for Supplies or Services, or an approved agency form, shall be used for procurement and payment of paid advertising. Procedures for payment of vouchers are contained in title 7, chapter 5-25.2, General Accounting Office Policy and Procedures Manual for Guidance of Federal Agencies.

[50 FR 4455, Jan. 30, 1985, as amended at 56 FR 26341, June 7, 1991]

## PART 2806—COMPETITION REQUIREMENTS

### Subpart 2806.3—Other Than Full and Open Competition

Sec.

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2806.501 Requirement.

2806.502 Duties and responsibilities.

AUTHORITY: 28 U.S.C. 510; 40 U.S.C. 486(e); 28 CFR 0.75(j) and 0.76(j).

### Subpart 2806.3—Other Than Full and Open Competition

**2806.302 Circumstances permitting other than full and open competition.**

**2806.302-7 Public interest.**

**2806.302-70 Determination and findings.**

(a) *Procedure.* The determination and findings (D&F) required by FAR 6.302-

7(c)(1) shall be prepared in the format provided in paragraph (b) below. The original and two copies of the D&F and documentation supporting the use of this exception to the requirement for full and open competition shall be submitted to the Office of the Procurement Executive for concurrence and coordination up to the Attorney General for signature.

(b) *Format.* The following format shall be used for the D&F:

Department of Justice, Washington, DC 20530.

Determination and Findings.

Authority To Use Other Than Full and Open Competition

Upon the basis of the following findings and determination, which I hereby make pursuant to the authority of 41 U.S.C. 253(c)(7) as implemented by FAR 6.302-7, it is in the public interest to provide for other than full and open competition in the contract action described below.

#### FINDINGS

1. The (1) proposes to enter into a contract for the acquisition of (2).

2. Use of the authority cited above is necessary and in the public interest for the following reasons: (3).

#### DETERMINATION

For the reasons described above, it is necessary and in the public interest to use procedures other than competitive procedures in the proposed acquisition.

Date \_\_\_\_\_

#### Notes:

- (1) Name of contracting activity.
- (2) Brief description of supplies or services.
- (3) Explain the need for use of the authority.

[56 FR 26341, June 7, 1991]

### 2806.303-2 Content.

In addition to the information required by FAR 6.303-2, justifications over \$10,000,000 shall contain the following documents:

(a) A written Acquisition Plan as required by FAR 7.102 and DOJ Order 2300.5A. If a plan was not prepared, explain why planning was not feasible or accomplished.

(b) A copy of the CBD announcement or proposed announcement in accordance with the requirements of FAR 5.203.

(c) As part of the description of the supplies or services required in FAR 6.303-2, the justification should include the statement of need as submitted by the requiring activity and any subsequent changes or revisions to the specifications.

(d) Any additional documentation that may be unique to the proposed procurement and is relevant to the justification.

[57 FR 24557, June 10, 1992]

#### **2806.304 Approval of the justification.**

(a) All justifications for contract actions over \$100,000 shall be submitted to the chief of the contracting activity for concurrence before being forwarded to the procuring activity competition advocate for approval. Justifications over \$10,000,000 shall be further submitted for the concurrence of the procuring activity competition advocate and the head of the contracting activity, before being forwarded to the Procurement Executive for approval.

(b) The original and one copy of the justification shall be forwarded to the Office of the Procurement Executive. After approval by the Procurement Executive, the signed original will be returned to the contracting activity and one copy will be retained in the Office of the Procurement Executive.

[57 FR 24557, June 10, 1992, as amended at 58 FR 68778, Dec. 29, 1993]

### **Subpart 2806.5—Competition Advocates**

#### **2806.501 Requirement.**

As required by section 20 of the Office of Federal Procurement Policy Act, each executive agency must appoint an agency competition advocate and a competition advocate in each procuring activity of the executive agency. Accordingly:

(a) The competition advocate for DOJ will be located in the Office of the Procurement Executive, Justice Management Division.

(b) The agency head will appoint in each bureau an official to be the procuring activity competition advocate. The procuring agency competition advocates shall be vested with the overall responsibility for competition activi-

ties within their respective procuring activity. No individual in the contracting office at or below the level of chief of the contracting office may serve as the procuring activity competition advocate. An individual at any level in the supervisory chain above the chief of the contracting office may serve as procuring activity competition advocate.

[50 FR 29801, July 22, 1985, as amended at 52 FR 42295, Nov. 4, 1987; 53 FR 49666, Dec. 9, 1988; 56 FR 26341, June 7, 1991; 58 FR 68779, Dec. 29, 1993]

#### **2806.502 Duties and responsibilities.**

(a) The Procurement Executive shall:

(1) Provide guidance to competition advocates in formulating plans, goals, and procedures to achieve the goals of enhancing competition and challenging barriers to full and open competition; and,

(2) Review and approve justifications for other than full and open competition for contract requirements over \$10 million in accordance with JAR 2806.303-2.

(b) The DOJ Competition Advocate is responsible for the duties and responsibilities described in FAR 6.502.

(c) The Procuring Activity Competition Advocate shall:

(1) Actively enforce the Department's Competition Advocacy Program within the procuring activity. Ensure that systems are established for the effective internal control of procuring activity functions and activities which implement the Department's Competition Advocacy Program.

(2) Review specifications for unnecessary detail and statements of need for undue restrictions which have not been successfully tested in the marketplace. Should the procuring activity competition advocate challenge that the specifications are not conducive to full and open competition or that the statement of need is unduly restrictive, corrective action shall be taken as the chief of the contracting office determines necessary.

(3) Review and approve justifications for other than full and open competition for contract requirements over \$100,000 but not exceeding \$1 million. Justifications submitted to the procuring activity competition advocate shall