

Panama Canal Commission

3506.304

AUTHORITY: 40 U.S.C. 486(c); Article IX of the Agreement in Implementation of Article III of the Panama Canal Treaty of 1977.

SOURCE: 55 FR 7640, Mar. 2, 1990, unless otherwise noted.

3506.000 Scope of part.

This part implements FAR part 6 and prescribes Commission policies and procedures related to competition requirements.

Subpart 3506.3—Other Than Full and Open Competition

3506.300 Scope of subpart.

This subpart provides guidance on:

(a) The application of the Panama Canal Treaty of 1977 between the United States and Panama as an exemption to the requirement for full and open competition, and

(b) The preparation and approval of individual and class Justifications for Other Than Full and Open Competition (JOFOC's).

3506.302-4 International agreement.

(a) *Authority.* Article IX of the Agreement in Implementation of Article III of the Panama Canal Treaty of 1977 establishes that the Commission shall give preference to Panamanian supplies and services in its procurement activities. Such preference is understood to mean that if supplies or services (including construction) of comparable quality and price are available when required and can be obtained from sources both within and without the Republic of Panama, preference shall be afforded to those sources within the Republic of Panama to the maximum extent possible. When choosing between goods from sources within the Republic of Panama, preference shall be given to those with a larger percentage of components of Panamanian origin. This is not intended to require the purchase of Panamanian supplies and services, as defined herein, where superior quality or lower prices are available from other sources. Part 3570 sets forth specific guidance and policy with respect to the Commission's implementation of Article IX.

(c) *Limitations.* Solicitations above the small purchase limitation that are intended for exclusive acquisition from

sources in Panama shall be supported by a class or individual determination and findings as required by 3570.102(e).

3506.303 Justifications.

3506.303-1 Requirements.

(c) The scope of the actual procurement shall not exceed the scope of the proposed procurement cited in the JOFOC. If a change to the contract exceeds this limitation, the contract change shall not be consummated until an amended JOFOC has been approved.

(d) When contract actions are subject to the Agreement on Government Procurement and the authority of FAR 6.302-3(a)(2)(i) or 6.302-7 is being cited as the basis for not providing full and open competition, a copy of the justification shall be forwarded to the Procurement Executive as the point of contact with the Office of the United States Trade Representative.

3506.303-2 Content.

In addition to the requirements of FAR 6.303-2, the justification shall include—

- (a) The type of contract;
- (b) A statement of delivery requirements;
- (c) The total estimated dollar value, including options, for the acquisitions covered by the justification; and
- (d) A copy of the approved Acquisition Plan when the acquisitions meet the criteria for a written Acquisition Plan under subpart 3507.1.

3506.304 Approval of the justification.

(a) Except as noted at FAR 6.304(b), the approval of a justification for other than full and open competition shall be in writing and at the levels given below—

(1) For a proposed contract not exceeding \$100,000, the HCA is the approval authority. This approval is not required when the contract is one of those cited in FAR 6.304(a)(1) (i) through (iv).

(2) For a proposed contract over \$100,000, but not exceeding \$1,000,000, the Competition Advocate is the approval authority.

(3) For a proposed contract over \$1,000,000, but not exceeding \$5,000,000,