

SUBCHAPTER B—COMPETITION AND ACQUISITION PLANNING

PART 305—PUBLICIZING CONTRACT ACTIONS

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305.502 Authority.

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

SOURCE: 66 FR 4225, Jan. 17, 2001, unless otherwise noted.

Subpart 305.2—Synopsis of Proposed Contract Actions

305.202 Exceptions.

(b) When a contracting office believes that it has a situation where advance notice is not appropriate or reasonable, it shall prepare a memorandum citing all pertinent facts and details and send it, through normal acquisition channels, to the Deputy Assistant Secretary for Grants and Acquisition Management (DASGAM) requesting relief from synopsising. The DASGAM shall review the request and decide whether an exception to synopsising is appropriate or reasonable. If it is, the DASGAM shall take the necessary coordinating actions required by FAR 5.202 (b). Whatever the decision is on the request, the DASGAM shall promptly notify the contracting office when a determination has been made.

Subpart 305.3—Synopsis of Contract Awards

305.303 Announcement of contract awards.

(a) *Public announcement.* Any contract, contract modification, or delivery order in the amount of \$3 million or more shall be reported by the contracting officer to the Office of the

Deputy Assistant Secretary for Legislation (Congressional Liaison), Room 406G, Hubert H. Humphrey Building. Notification shall be accomplished by providing a copy of the contract or award document face page to the referenced office prior to the day of award, or in sufficient time to allow for an announcement to be made by 5 p.m. Washington, DC time on the day of award.

Subpart 305.5—Paid Advertisements

305.502 Authority.

The contracting officer is authorized to publish advertisements, notices, and notices that proposals are being sought in newspapers and periodicals in accordance with the requirements and conditions referenced in FAR subpart 5.5.

PART 306—COMPETITION REQUIREMENTS

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306.501 Requirement.

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

SOURCE: 66 FR 4225, Jan. 17, 2001, unless otherwise noted.

Subpart 306.2—Full and Open Competition After Exclusion of Sources

306.202 Establishing or maintaining alternative sources.

(a) The reference to the agency head in FAR 6.202 (a) shall mean the appropriate competition advocate cited in 306.501.

(b)(1) The required determination and findings (D&F) shall be prepared by the contracting officer based on the data provided by program personnel, and shall be signed by the appropriate competition advocate. The D&F signatory is not delegable.

Subpart 306.3—Other Than Full and Open Competition

306.302 Circumstances permitting other than full and open competition.

306.302-1 Only one responsible source and no other supplies or services will satisfy agency requirements.

(a) (2) (ii) Follow-on contracts for the continuation of major research and development studies on long-term social and health programs, major research studies, or clinical trials may be deemed to be available only from the original source when it is likely that award to any other source would result in unacceptable delays in fulfilling the Department's or OPDIV's requirements.

(b) *Application.* (4) When the head of the program office has determined that a specific item of technical equipment or parts must be obtained to meet the activity's program responsibility to test and evaluate certain kinds and types of products, and only one source is available. (This criterion is limited to testing and evaluation purposes only and may not be used for initial outfitting or repetitive acquisitions. Project officers should support the use of this criterion with citations from their agency's legislation and the technical rationale for the item of equipment required.)

306.302-7 Public interest.

(a) *Authority.* (2) Agency head, in this instance, means the Secretary.

(c) *Limitations.* An "approval package" must be prepared by the contracting officer and staffed through departmental acquisition channels to the Secretary. The package shall include a determination and findings for the Secretary to sign that contains all pertinent information to support justification for exercising the exemption to competition, and a letter for the Secretary to sign notifying Congress of the determination to award a contract under the authority of 41 U.S.C. 253(c)(7).

306.303 Justifications.

306.303-1 Requirements.

(b) Preliminary arrangements or agreements with the proposed contractor shall have no effect on the rationale used to support an acquisition for other than full and open competition.

(f) When a program office desires to obtain certain goods or services by contract without full and open competition, it shall, at the time of forwarding the requisition or request for contract, furnish the contracting office a justification explaining why full and open competition is not feasible. All justifications shall be initially reviewed by the contracting officer.

(1) Justifications 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 called a "JOFOC" (Justification for Other Than Full and Open Competition). Justifications at or below the simplified acquisition threshold may be in the form of a paragraph or paragraphs contained in the requisition or request for contract.

(2) Justifications, whether over or under the simplified acquisition threshold, shall fully describe what is to be acquired, offer reasons which go beyond inconvenience, and explain why it is not feasible to obtain competition. The justifications shall be supported by verifiable facts rather than mere opinions. Documentation in the justification should be sufficient to permit an individual with technical competence in the area to follow the rationale.

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306.303-2 Content.

(a)(1) The program office and name, address, and telephone number of the project officer shall also be included.

(2) This item shall include project identification such as the authorizing program legislation, to include citations or other internal program identification data such as title, contract number, etc.

(3) The description may be in the form of a statement of work, purchase description, or specification. A statement is to be included to explain whether the acquisition is an entity in itself, whether it is one in a series, or part of a related group of acquisitions.

(c) Each JOFOC shall conclude with at least signature lines for the project officer, project officer's immediate supervisor, contracting officer, and approving official.

306.304 Approval of the justification.

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

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

(c) A class justification shall be processed the same as an individual justification.

Subpart 306.5—Competition Advocates

306.501 Requirement.

The Department's competition advocate is the Deputy Assistant Secretary for Grants and Acquisition Management. The competition advocates for the Department's primary contracting officers are as follows:

- ACF*—Director, Office of Management Services
- HCEA*—Director, Office of Internal Customer Support
- OS*—Deputy Assistant Secretary for Grants and Acquisition Management
- PSC*—Director, Administrative Operations Service

- AHRQ*—Executive Officer
- CDCP*—Director, Office of Program Support
- FDA*—Director, Office of Facilities, Acquisition, and Central Services
- HRSA*—Associate Administrator for Operations and Management
- IHS*—Director, Office of Management and Support
- NIH*—(R&D)—Director, Office of Extramural Research (Other than R&D)—Director, Office of Intramural Research
- SAMHSA*—Associate Administrator for Management

PART 307—ACQUISITION PLANNING

Subpart 307.1—Acquisition Plans

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- 307.104 General procedures.
- 307.105 Contents of written acquisition plans.
- 307.170 Program training requirements.
- 307.170-1 Policy exceptions.
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Subpart 307.3—Contractor Versus Government Performance

- 307.302 General.
- 307.303 Determining availability of private commercial sources.
- 307.304 Procedures.
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Subpart 307.70—Considerations in Selecting an Award Instrument

- 307.7000 Scope of subpart.
- 307.7001 Distinction between acquisition and assistance.
- 307.7002 Procedures.

Subpart 307.71—Requests for Contract

- 307.7100 Scope of subpart.
- 307.7101 General.
- 307.7102 Procedures.
- 307.7103 Responsibilities.
- 307.7104 Transmittal.
- 307.7105 Format and content.
- 307.7106 Statement of work.
- 307.7107 Review.

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

SOURCE: 66 FR 4226, Jan. 17, 2001, unless otherwise noted.

Subpart 307.1—Acquisition Planning

307.104 General procedures.

(d) Each contracting activity shall prepare an Annual Acquisition Plan