

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 Acquisition Management and Policy (DASAMP) requesting relief from synopsis. The DASAMP shall review the request and decide whether an exception to synopsis is appropriate or reasonable. If it is, the DASAMP shall take the necessary coordinating actions required by FAR 5.202(b). Whatever the decision is on the request, the DSAMP shall promptly notify the contracting office when a determination has been made.

[71 FR 76493, Dec. 20, 2006]

Subpart 305.3—Synopsis of Contract Awards

305.303 Announcement of contract awards.

(a) *Public announcement.* Awards over \$3.5 million, not otherwise exempt under FAR 5.303, shall be reported by

the Contracting Officer to the Office of the 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. Notification may also be accomplished by e-mailing a copy of the contract or award document face page to *grantfax@hhs.gov*, or faxing to (202) 205-2420.

[71 FR 76493, Dec. 20, 2006]

Subpart 305.5—Paid Advertisements

305.502 Authority.

The Contracting Officer may advertise or place notices in newspapers and periodicals to announce that proposals are being sought.

[71 FR 76493, Dec. 20, 2006]

PART 306—COMPETITION REQUIREMENTS

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306.501 Requirement.

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

306.202

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)(iv) 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.* (5) When the head of the program office has determined that only specified makes and models 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.)

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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.

(a)(1) The Program Office must provide a written justification whenever it requests that certain goods or services be obtained without full and open competition. The justification must explain why full and open competition is not feasible and must be submitted with the requisition or request for contract.

(i) 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.

(ii) 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.

(iii) Sole source justifications using the Federal Supply Schedule shall include the content listed in FAR 6.303-2.

(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.

[71 FR 76493, Dec. 20, 2006]

306.303-2 Content.

(a)(1) Each justification shall include the name of the program office; the name, address, and phone number of the Project Officer; and project identification, such as the authorizing program legislation, to include citations or other internal program identification data such as title, contract number, etc.

(2) 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) JOFOCs shall be signed by the Project Officer, the Project Officer's immediate supervisor, the Contracting Officer, and the approving official (if the approving official is not the Contracting Officer).

[71 FR 76494, Dec. 20, 2006]

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 Deputy Assistant Secretary for Acquisition Management and Policy. This designation has been made pursuant to the OFPP Act (41 U.S.C. 414(c)(2)(B)).

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

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Subpart 306.5—Competition Advocates

306.501 Requirement.

The Department's competition advocate is the Director, Strategic Acquisition Service, Program Support Center (PSC). The competition advocates for each of the Department's contracting activities are as follows:

AHRQ—Director, Office of Performance Accountability, Resources and Technology

CDC—Chief Information Officer

CMS—Chief Operating Officer

FDA—Chief, Office of Shared Services

HRSA—Associate Administrator, Office of Administration and Financial Management

IHS—Director, Office of Management Services

NIH—Senior Scientific Advisor for Extramural Research, Office of Extramural Research (R&D) and Senior Advisor to the Director (Other than R&D)

PSC—Director, Strategic Acquisition Service

SAMHSA—Executive Officer

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PART 307—ACQUISITION PLANNING

Subpart 307.1—Acquisition Planning

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307.104 General procedures.

307.105 Contents of written acquisition plans.

307.170 Program training requirements.

307.170-1 Training policy exceptions.

307.170-2 Training course prerequisites.

307.170-3 Earned value training requirement for IT program/project managers and IT CORs/COTRs.

307.170-4 Required training in HHS' portfolio management tool.

307.170-5 Maintenance/refresher training requirement for program/project managers and CORs/COTRs.

307.170-6 Warranting of Other Transaction Officers for Other Transactions.

307.170-7 Training requirements for Other Transaction Officers.

307.170-8 Appointment of an Other Transaction Officer Technical Representative for an Other Transaction.

307.170-9 Training requirement for an Other Transaction Officer Technical Representative.

Subpart 307.70—Considerations in Selecting an Award Instrument

307.7000 Scope of subpart.