

## Department of Veterans Affairs

## 806.304

806.304 do not apply to such contracts or agreements. (38 U.S.C. 8153)

(3) Contracts for health-care resources, negotiated under the authority of 38 U.S.C. 8153, that are not acquired under the authority of paragraph (a)(2) of this section, but only when the procurement is conducted in accordance with part 873. The justification and approval requirements of FAR 6.303 and 806.304 shall apply to such contracts and agreements conducted on a sole-source basis. (38 U.S.C. 8153)

(b) Various sections of title 38 U.S.C. authorize the Secretary to enter into certain contracts and certain types of contracts without regard to any other provisions of law. When the contracting officer enters into a contract without providing full and open competition for any of the following items or services, the contracting officer must cite 41 U.S.C. 253(c)(5) and the following authorities:

(1) For contracts for orthopedic and prosthetic appliances and related services including research, cite 38 U.S.C. 8123. (38 U.S.C. 8123)

(2) For contracts to purchase or sell merchandise, equipment, fixtures, supplies and services for the operation of the Veterans Canteen Service, cite 38 U.S.C. 7802. (38 U.S.C. 7802)

(3) For contracts or leases for the operation of parking facilities established under authority of 38 U.S.C. 8109(b), provided that the establishment, operation, and maintenance of such facilities have been authorized by the Secretary or designee, cite 38 U.S.C. 8109(f). (38 U.S.C. 8109)

(4) For contracts for laundry and other common services, such as the purchase of steam, negotiated with non-profit, tax-exempt, educational, medical, or community institutions,

when specifically approved by the Secretary or designee and when such services are not reasonably available from private commercial sources, cite 38 U.S.C. 8122(c). (38 U.S.C. 8122)

(5) For contracts or agreements with public or private agencies for services of translators, cite 38 U.S.C. 513. (38 U.S.C. 513)

(c) Except for an acquisition under paragraph (a)(2) of this section, the contracting officer must provide a justification under FAR 6.303 and obtain an approval under 806.304 for each acquisition described in this section.

### 806.302-7 Public interest.

(a) When the contracting officer uses 41 U.S.C. 253(c)(7) to support a contract award using other than full and open competition, the contracting officer must prepare a Determination and Finding (D&F) under FAR 1.7 and a justification under FAR 6.303. The D&F must be signed by the Secretary.

(b) The contracting officer must submit the D&F and justification through the HCA to the Agency Competition Advocate for signature by the Secretary. The submission must include the date the contracting officer expects to award the contract.

(c) VA must notify Congress 30 days before the expected award date. The Agency Competition Advocate is responsible for preparing this notice. The contracting officer may not award the contract until notified by the Agency Competition Advocate.

### 806.304 Approval of the justification.

(a) For a justification other than a class justification specified in FAR 6.304(c), Table 806.304-1 provides the authorities who may approve a justification:

TABLE 806.304.1

Proposed contract amount	Approving authority	Alternate approving authority
(1) Not exceeding \$500,000 .....	The contracting officer, as provided in FAR 6.304(a)(1).	Not applicable.
(2) Over \$500,000 but not exceeding \$10 million.	Contracting Activity Competition Advocate (see 806.501(b) and (c)) unless that Advocate is the contracting officer.	The Agency Competition Advocate (see 806.501(a)).
(3) Over \$10 million but not exceeding \$50 million.	Agency Competition Advocate .....	Not applicable.
(4) Over \$50 million .....	Senior Procurement Executive (see 802.100).	Not applicable.