FROM: Kelly L. Moore  
Head of Contracting Activity Designee

SUBJECT: AOP No. 5: Justifications and Approvals - Other than Full and Open Competition

◆ PURPOSE: This Acquisition Operating Procedure (AOP) provides guidance for the preparation of Justifications and Approvals (J&A) when acquiring goods and services without providing for full and open competition as prescribed in the Federal Acquisition Regulation (FAR). Obtaining full and open competition when acquiring goods and services increases the Government’s buying power, as competition can drive down costs and potentially heighten performance, innovation and overall value. Contracting without providing for full and open competition or full and open competition after exclusion of sources is prohibited unless the contracting officer (CO) determines that an exception to competition applies. In these circumstances, the use of other than full and open competition for a proposed contract action must be justified in writing and approved in accordance with FAR procedures.

◆ EFFECTIVE DATE: This AOP is effective on July 21, 2017.

◆ REVISIONS: Subject: Deleted Limited Source and Other than Full and Open Competition. Purpose: Revised/added paragraph. Authorities: Changed memo date and signed by; deleted “OPPM, Chief Procurement Policy (PPD), MS/POD, MS/Procurement Analyst and Dollar;” changed amounts, and deleted “up to,” “exceeding” and “* (asterisk) note.” FAR Applicability: Added. Considerations to Increase Competition: Added. Review Process: Renumbered and revised paragraphs 1 and 2, and deleted “OPPM Chief of PPD”. Attachment: Replaced in its entirety.

This AOP replaces AOP No. 5, dated January 19, 2011, and AOP No. 10, Justification and Approvals - Simplified Acquisition Procedures, dated January 19, 2011.

◆ AUTHORITIES: FAR 6.3, 6.5, 8.405-6; Agriculture Acquisition Regulation 406.5 and “Delegation of Competition Advocate Authority” memo dated August 30, 2016, by Head of Contracting Activity Designee.

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<td>Senior Procurement Executive (SPE)</td>
<td>over $68M</td>
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<td>Head Contracting Activity Designee</td>
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<td>POD Competition Advocate</td>
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<tr>
<td>Contracting Officer (CO)</td>
<td>up to 700,000</td>
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◆ FAR APPLICABILITY

1. Subpart 6.302, Other Than Full and Open Competition, Circumstances Permitting Other Than Full and Open Competition (Attachment 1)

2. Subpart 8.405-6, Federal Supply Schedules, Limited Source Under Simplified Acquisition Procedures (SAP) threshold, (Attachment 2)

3. Subpart 8.405-6, Federal Supply Schedules, Limited Source Over SAP threshold (Attachment 3)

4. Subpart 13.106-1(b)(1), Simplified Acquisition Procedures (Attachment 4)

5. Subpart 13.501, Simplified Procedure for Certain Commercial Items (Attachment 5)

6. Subpart 16.505, Indefinite-Delivery Contracts, Ordering (Attachment 6)

◆ CONSIDERATIONS TO INCREASE COMPETITION

The USDA Vendor Communication Plan at https://www.dm.usda.gov/procurement/vendor_communication/ discusses efforts to reduce barriers and promote vendor engagement. Additional competition techniques to consider, where practicable:

1. **Requirements Development** - Ensure work statement is not unduly restrictive and specifications are not unnecessarily detailed, and ensure commercial items are acquired to the maximum extent practicable. The acquisition team will work collaboratively to apply their respective skill sets to understand the market, how industry is structured, potential cost drivers, and the competition state;

2. **Performance Based Acquisition** - Allow vendors the opportunity to offer innovative solutions to meet the Government’s performance needs and to offer market-tested commercial solutions at competitive pricing with risks that can be reasonably managed under a fixed-price contract;

3. **Strategic Sourcing** - Use an existing Departmental or Federal Strategic Sourcing Initiative when the requirement can be satisfied under the contract vehicle(s); and

4. **Task and Delivery Orders** - Ensure acquisitions has meaningful competition. State significant technical factors and subfactors and the relative importance of the factors when conducting the “fair opportunity process.”
REVIEW PROCESS:

1. The CO will ensure the program official (e.g., COR/technical contact) has completed and approved the J&A. After the appropriate approvals are obtained, the CO will submit the J&A to the appropriate level Approving Official for review and in accordance with AOP No. 8, Preaward and Postaward File Review process for pre-solicitation, if applicable.

2. The SPE, HCAD or POD Competition Advocate will review the J&A and if approved, will be returned. If the Justification is disapproved, comments will be provided. At the Approving Official’s discretion, discussions may be needed with the CO and/or Branch Chiefs to discuss any additional information needed.

EXPIRATION DATE: This AOP will remain in effect until canceled.
1. **Identification of the agency and the contracting activity.**
Choose an address of the agency/contracting activity from drop down list below.

2. **The nature and/or description of the action being approved.**
Describe the type of action being proposed, e.g., negotiated sole source contract, contract modification, etc. Include the contractor’s name and identify the type of contract contemplated, e.g., firm fixed-price, time and materials, etc. If an existing contract is being modified, include the contractor’s name, contract number, and modification number. For example: The USDA proposes to enter into a contract on a basis other than full and open competition, negotiate a sole source, firm fixed-price contract with XYZ Company.

3. **A description of the supplies or services required to meet the agency’s needs (including the estimated value).**
Provide a concise description of the supplies or services required, and include the estimated value. If the contract includes option periods, include the estimated value for the base period and each option period and the total estimated value of the base and all option periods.

4. **The statutory authority permitting other than full and open competition.**
Choose appropriate statutory authority from drop down list below.

5. **A statement demonstrating the unique qualifications of the proposed contractor or the nature of the action requiring the use of the authority.**
If 6.302-1 is the proposed authority, describe the unique capabilities or qualifications of the proposed contractor, or why the particular brand name product, or features of the product can only satisfy the specialized nature of the Government’s requirement, and why no other contractor or product/service can meet the Government’s need. List other similar products (if applicable) and explain why the products lack the particular feature, do not meet, or cannot be modified to satisfy the Government’s requirement, e.g., limited data rights, proprietary data or processes, etc.

If 6.302-2 is the proposed authority, explain the nature of the urgency and the extent of serious harm or injury to the Government if the award is delayed.

If 6.302-3 is the proposed authority, explain how the use of the proposed source is needed to maintain: a) A facility, producer, manufacturer in case of national emergency or achieve industrial mobilization; b) Engineering, research or development by an educational or nonprofit organization, federally funded center, etc.; and c) Services of an expert or neutral person for litigation or disputes involving a trial, hearing, court proceeding, etc.

If 6.302-4 is the proposed authority, attach a copy of the agreement between the United States and Foreign organization requiring one specific contractor for the acquisition.
If 6.302-5 is the proposed authority, list the statute authorizing or requiring that the acquisition be made from a specified source or through another Agency, e.g., Federal Prison Industries (UNICOR – 18 U.S.C. 4124); Qualified nonprofit agencies for the blind or other severely disabled (Committee for Purchase from People Who are Blind or Severely Disabled – 41 U.S.C. chapter 85); sole source awards under the 8(a) program (15 U.S.C. 637) greater than $22 million; sole source awards under the HUBZone Act of 1997 (15 U.S.C. 657a); sole source awards under the Veterans Benefits Act of 2003 (15 U.S.C. 657f); or sole source awards under the WOSB Program (15 U.S.C. 637(m)).

If 6.302-6 is the proposed authority, explain the need for secrecy when disclosure of the action would compromise national security.

If 6.302-7 is the proposed authority, attach a copy of the Agency Head’s determination explaining why competing this acquisition is not in the public interest.

6. **A description of efforts made to ensure offers are solicited from as many potential sources as is practicable.**

Describe efforts used to ensure offers were/will be solicited from as many sources as practicable. Include whether or not a Federal Business Opportunities (FedBizOps) announcement (FAR 5.2) was made and what response, if any, was received. Include the exception under FAR 5.202 if not synopsized. Describe whether any additional or similar requirements are anticipated in the future. *(This must be included in the body of the JOFOC.)*

7. **A determination by the Contracting Officer that the anticipated cost to the Government will be fair and reasonable.**

Provide information as to how the anticipated cost to the Government will be determined fair and reasonable.

8. **A description of the market research conducted and the results or a statement of the reason Market Research was not conducted.**

Describe market research conducted and the results or the reason why no market research was conducted. Include responses received from FedBizOps announcement if used. **Note:** FAR Part 10.001 requires agencies to conduct market research appropriate to the circumstances: (a) before developing new requirements documents for an agency acquisition; (b) before soliciting offers for acquisitions with an estimated value in excess of the Simplified Acquisition Threshold (SAT) ($150K); (c) before soliciting offers for acquisitions that could lead to a bundled contract; (d) before awarding a task or delivery order under an indefinite-delivery/indefinite-quantity (IDIQ) contract for a noncommercial item in excess of the SAT; and (e) on an ongoing basis, take advantage of commercially available market research methods in order to effectively identify the capabilities of small businesses and new entrants into the market.

9. **Any other facts supporting the use of other than full and open competition.**

Include information such as: a) Explanation of why technical data packages, specifications, engineering descriptions, statements of work or purchase descriptions suitable for full and open competition have not been developed or are not available; b) when follow-on action for continued development or production of highly specialized equipment is cited as the basis for other than full and open competition, include the estimated cost to the Government that would be duplicated, and...
how the estimate was derived; or c) when unusual and compelling urgency is cited as the basis for other than full and open competition, include the estimated cost, or other rationale for the extent and nature of the harm to the Government if normal procedures and timeframes were followed.

10. **A listing of the sources, if any, that expressed a written interest in the acquisition.**
List sources, if any, that expressed an interest in the acquisition.

11. **A statement of actions, if any, the agency may take to remove or overcome any barriers to competition if subsequent acquisitions are anticipated.**
State actions that may or can be taken to remove any barriers to competition if subsequent acquisition are anticipated.
Certifications & Approvals

Supporting data that form the basis for and included in this justification are certified accurate and complete.

__________________________________________________
Insert Name of Program or Technical Personnel
Insert Title of Program/Technical Personnel

The information contained in this Justification for Other Than Full and Open Competition is certified accurate and complete to the best of my knowledge and belief.

__________________________________________________
Insert Name of Contracting Officer
Contracting Officer

In accordance with FAR 6.304(a)(2) and agency procedures, proposed actions exceeding $700,000, but not exceeding $1 million, must be approved by the Procuring Activity Competition Advocate. This authority is not delegable.

__________________________________________________
Insert Name of the Agency Competition Advocate
Competition Advocate

In accordance with FAR 6.304(a)(3) and agency procedures, proposed actions exceeding $1 million, but not exceeding $68 million, must be approved by the Head of the Contracting Activity Designee (HCAD).

__________________________________________________
Insert Name of Head of Contracting Activity Designee
Head of Contracting Activity Designee

In accordance with FAR 6.304(a)(4), proposed actions exceeding $68 million must be approved by the Senior Procurement Executive. This authority is not delegable.

__________________________________________________
Insert Name of Senior Procurement Executive
Senior Procurement Executive
United States Department of Agriculture
Notes and Guidance:

Acquisitions for commercial items/services with a value exceeding $7 million, and acquisition for non-commercial items/services with a value exceeding $150,000 are subject to the competition requirements of FAR Part 6.

Program personnel are advised to work with contracting personnel early on in order to promote and provide for full and open competition to the maximum extent practicable. In circumstances permitting other than full and open competition, program personnel shall provide necessary information to contracting personnel to support and document the circumstances limiting competition through the use of this form. Contracting without providing for full and open competition or full and open competition after exclusion of sources is a violation of statute, unless permitted by one of the exceptions permitted in FAR 6.302.

Advance planning. Contracting without providing for full and open competition shall not be justified on the basis of (1) a lack of advance planning by the requiring activity or (2) concerns related to the amount of funds available to the agency or activity for the acquisition of supplies or services.

Brand Name. Items peculiar to one manufacturer can be a particular brand name, product, or feature of a product, peculiar to one manufacturer. A brand name item, whether available on one or more schedule contracts, is an item peculiar to one manufacturer. Brand name specifications shall not be used unless the particular brand name, product or feature is essential to the Government’s requirements and market research indicates other companies’ similar products, or products lacking the particular feature, do not meet, or cannot be modified to meet the Agency’s needs. See below for posting requirements.

Posting. Contracting Officers shall make justifications (excluding brand name) publicly available within 14 days after contract award in accordance with the procedures at FAR 6.305(d),(e), and (f). In the case of unusual and compelling urgency, justifications shall be made publicly available within 30 days after contract award in accordance with the procedures at FAR 6.305(b), (d), (e), and (f). Brand name justifications shall be posted with the solicitation in accordance with FAR 6.305(c) and 5.102(a)(6).

Screening. Before posting this Justification, in accordance with FAR 6.305(e) and 24.202, the Contracting Officer is responsible to redact any information that is exempt from disclosure under Freedom of Information Act or information proprietary to the contractor.

Sole Source 8(a) over $22 million. As a minimum, each justification for a sole source 8(a) contract over $22 million shall include the information required by FAR 6.303(d)(1) through (5).

Signatures. After review and completion by the Program Office and Contracting Officer, the Word document shall be converted to an Adobe PDF file, and routed for digital electronic signatures using Adobe’s e-signature functionality. Signature blocks shall dates.

Delete these notes prior to finalizing document for signature
Limited-Sources Justification
United States Department of Agriculture
FAR 8.405 Federal Supply Schedules
Multiple Award Schedule Program

1. **Identification of the agency and the contracting activity.**
   Choose an address of the agency/contracting activity from drop down list below.

2. **Description of supplies or services required to meet the agency’s needs.**
   Provide a concise description of the supplies or services required, and include the estimated value. If the order will include option periods, include the estimated value for the base period and each option period as well as the total estimated value for the base and all option periods.

3. **The circumstances and rationale for limiting competition.**
   Choose one of the circumstance(s) and rationale (from list (a) through (d) below) that justify restricting consideration of Schedule Contractors. The only circumstances that may justify limiting competition/restricting consideration of schedule contractors include: (a) **FAR 8.405-6(a)(1)(i)(A) - an urgent and compelling need exists**, and following ordering procedures would result in unacceptable delays (explain the nature of the urgency and the extent of injury or harm to the Government if the award is delayed); (b) **FAR 8.405-6(a)(1)(i)(B) - only one source capable due to unique nature of work** (explain contractor's unique qualifications to provide the supplies or services; c) **FAR 8.405-6(a)(1)(i)(C) - in the interest of economy and efficiency**, the new work is follow on to GSA order that was originally competed (explain why only the original source can provide the necessary supplies or services, such as substantial duplication of cost to the Government that is not expected to be recovered through competition, or unacceptable delays in fulfilling the Government's need); or (d) **FAR 8.405-6(b) Brand Name** – an item peculiar to one manufacturer is required (identify manufacturer/service provider/software developer and explain why the particular brand name or feature is the only one that can satisfy the Government's need. Provide names of other companies' similar products and explain why they lack the particular feature(s) or cannot be modified to meet the Government's need).

4. **A description of the market research conducted among schedule holders and the results or a statement of the reason market research was not conducted.**
   Describe results of market research conducted amongst schedule holders or a statement as to why market research was not conducted. **Note:** FAR Part 10.001 requires agencies to conduct market research appropriate to the circumstances: (a) before developing new requirements documents for an acquisition by the agency; (b) before soliciting officers for acquisitions with an estimated value less than the Simplified Acquisition Threshold when adequate information is not available and the circumstances justify the cost; and (c) on an ongoing basis, take advantage of commercially available market research methods in order to effectively identify the capabilities of small businesses and new entrants into the market.

5. **Recommended source(s).**
   List proposed source or sources, and include any sources, that expressed an interest in the acquisition.
Supporting data which form the basis for and included in this justification are certified accurate and complete.

_________________________________________________
Insert Name of Program or Technical Personnel
Insert Title of Program/Technical Personnel

The information contained in this Limited Sources Justification is certified accurate and complete to the best of my knowledge and belief.

_________________________________________________
Insert Name of Contracting Officer
Contracting Officer
Notes and Guidance:

Pursuant to FAR 8.405-6, Orders/BPAs under Federal Supply Schedule Contracts are exempt from the competition requirements of FAR Part 6; however, ordering activities may restrict consideration of Schedule Contractors. Circumstances justifying limiting the sources include:

a) An urgent and compelling need exists and following the procedures would result in unacceptable delays;

b) Only one source is capable of providing the supplies or services required because they are unique or highly specialized; or

c) In the interest of economy and efficiency, the new work is a logical follow-on to an original Federal Supply Schedule order, provide the original order was place in accordance with applicable Federal Supply Schedule procedures (e.g. competed).

Brand Name. Items peculiar to one manufacturer can be a particular brand name, product, or feature of a product, peculiar to one manufacturer. A brand name item, whether available on one or more schedule contracts, is an item peculiar to one manufacturer. Brand name specifications shall not be used unless the particular brand name, product or feature is essential to the Government’s requirements and market research indicates other companies’ similar products, or products lacking the particular feature, do not meet, or cannot be modified to meet the Agency’s needs. See below for posting of brand name requirements.

Program personnel are advised to work with contracting personnel early on in order to promote and provide for full and open competition amongst schedule holders to the maximum extent practicable. In circumstances that permit restricting the consideration of Schedule Contractors, program personnel shall provide necessary information to contracting personnel to support and document the circumstances limiting competition, including use of brand name specifications, through the use of this form.

Posting. For proposed Orders/BPAs with an estimated value exceeding $25,000 that restrict competition to items peculiar to one manufacturer, i.e., Brand Name, this form shall be posted along with the Request for Quotation (RFQ) to GSA’s e-Buy. This form is not required to be posted with the solicitation when restricting consideration due to urgency, unique source, or logical follow-on as described in the first paragraph above.

Screening. Before posting this Justification, in accordance with FAR 8.406-6 and 24.2, the Contracting Officer is responsible to redact any information that is exempt from disclosure under Freedom of Information Act or information proprietary to the contractor.

Signatures. After review and completion by the Program Office and Contracting Officer, the Word document shall be converted to an Adobe PDF file, and then signed. Signature blocks shall include dates.

Delete these Notes prior to finalizing document for signature
Limited Sources Justification
United States Department of Agriculture
FAR 8.405 Federal Supply Schedules
Multiple Award Schedule Program

1. **Identification of the agency and the contracting activity.**
Choose an address of the agency/contracting activity from drop down list below.

2. **The nature and/or description of the action being approved.**
Describe the type of action being proposed – e.g., brand name/limited source/sole source Federal Supply Schedule (FSS) order or blanket purchase agreement (BPA) for supplies/services. Also, identify the contemplated type of order – such as a firm fixed-price, time and materials, etc., and the name of the proposed contractor(s). *Example: The USDA proposes to issue a brand name Federal Supply Schedule (FSS) order on a firm fixed-price basis with XYZ Corporation.*

3. **A description of the supplies or services required to meet the agency’s needs (including the estimated value).**
Provide a concise description of the supplies or services required, and include the estimated value. If the order includes option periods, include the estimated value for the base and each option period and the total estimated value of the base and all option periods.

4. **The authority and supporting rationale.**
Choose one of the authorities and rationale (in list a) through d) below) that justify restricting consideration of Schedule Contractors. *The only authorities that justify limiting competition/restricting consideration amongst schedule holders include:* a) **FAR 8.405-6(a)(1)(i)(A) - An urgent and compelling need exists,** and following ordering procedures would result in unacceptable delays (explain the nature of the urgency and the extent of injury or harm to the Government if the award is delayed); b) **FAR 8.405-6(a)(1)(i)(B) - Only one source capable due to the unique or specialized nature of work (explain the contractor's unique qualifications or specialized experience to provide the supplies or services that are not available elsewhere on the schedules);** c) **FAR 8.405-6(a)(1)(i)(C) - In the interest of economy and efficiency,** the new work is follow on to GSA order that was originally competed (explain why only the original source can provide the necessary supplies or services, such as substantial duplication of cost to the Government that is not expected to be recovered through competition, or unacceptable delays in fulfilling the Government's need); or d) **FAR 8.405-6(b) - Brand Name** – an item peculiar to one manufacturer is required (identify manufacturer/service provider/software developer and explain why the particular brand name or feature is the only one that can satisfy the Government's need. Provide names of other companies' similar products and explain why they lack the particular feature(s) or cannot be modified to meet the Government's need).

5. **A determination by the ordering activity Contracting Officer (CO) that the order represents the best value consistent with FAR 8.404(d).**
When ordering services that require a statement of work, the ordering activity contracting officer needs to determine, after considering the level of effort and the mix of skills available for the tasks...
needed, that the proposed order or BPA represents a reasonable total price and will be the best value for the Government, price and other factors considered.

6. **A description of the market research conducted among schedule holders and the results or a statement of the reason market research was not conducted.**

   Describe results of market research conducted amongst schedule holders or a statement as to why market research was not conducted. **Note:** FAR Part 10.001 requires agencies to conduct market research appropriate to the circumstances: (a) before developing new requirements documents for an acquisition by the agency; (b) before soliciting offers for acquisitions with an estimated value in excess of the Simplified Acquisition Threshold (SAT) ($150K); (c) before soliciting offers for acquisitions that could lead to a bundled contract; and (d) on an ongoing basis, take advantage of commercially available market research methods in order to effectively identify the capabilities of small businesses and new entrants into the market.

7. **Any facts supporting the justification.**

   Include any other supporting facts. For example, why specifications have not been developed or are not available; if a follow-on order, provide estimates of cost that would be duplicated if competed. If an urgency exists-explain the extent of harm if immediate action is not taken.

8. **A statement of actions the agency may take to remove or overcome any barriers to competition if subsequent acquisitions are anticipated.**

   Describe actions that may or can be taken to remove any barriers to competition if subsequent acquisition/orders are anticipated, including challenges to restrictive data markings, data rights, preparation of a performance based work statement, etc.
Certifications & Approval

Supporting data which form the basis for and included in this justification are certified accurate and complete.

__________________________________________________
Insert Name of Program or Technical Personnel
Insert Title of Program/Technical Personnel

The information contained in this Limited Sources Justification is certified accurate and complete to the best of my knowledge and belief.

__________________________________________________
Insert Name of Contracting Officer
Contracting Officer

In accordance with FAR 8.405-6(d)(2) and agency procedures, proposed orders/BPAs exceeding $700,000, but not exceeding $1 million must be approved by the Procuring Activity Competition Advocate. This authority is not delegable.

__________________________________________________
Insert Name of the Agency Competition Advocate
Competition Advocate

In accordance with FAR 8.405-6(d)(3) and agency procedures, proposed orders/BPAs exceeding $1 million, but not exceeding $68 million must be approved by the Head of the procuring activity placing the order.

__________________________________________________
Insert Name of Head of Contracting Activity Designee
Head of Contracting Activity Designee

In accordance with FAR 8.405-6(d)(4), proposed orders/BPAs exceeding $68 million must be approved by the Senior Procurement Executive of the agency placing the order. This authority is not delegable.

__________________________________________________
Insert Name of Senior Procurement Executive
Senior Procurement Executive
United States Department of Agriculture
Notes and Guidance

Pursuant to FAR 8.405-6, orders/BPAs under Federal Supply Schedule Contracts are exempt from the competition requirements of FAR Part 6; however, ordering activities may restrict consideration of Schedule Contractors. Circumstances justifying limiting the sources include:

a) An urgent and compelling need exists and following the procedures would result in unacceptable delays;
b) Only one source is capable of providing the supplies or services required because they are unique or highly specialized; or
c) In the interest of economy and efficiency, the new work is a logical follow-on to an original Federal Supply Schedule order, provide the original order was place in accordance with applicable Federal Supply Schedule procedures (e.g. competed).

Brand Name. Items peculiar to one manufacturer can be a particular brand name, product, or feature of a product, peculiar to one manufacturer. A brand name item, whether available on one or more schedule contracts, is an item peculiar to one manufacturer. Brand name specifications shall not be used unless the particular brand name, product or feature is essential to the Government’s requirements and market research indicates other companies’ similar products, or products lacking the particular feature, do not meet, or cannot be modified to meet the Agency’s needs. See below for posting of brand name requirements.

Program personnel are advised to work with contracting personnel early on in order to promote and provide for full and open competition amongst schedule holders to the maximum extent practicable. In circumstances permitting limited sources, program personnel shall provide necessary information to contracting personnel to support and document the circumstances limiting competition, including use of brand name specifications, through the use of this form.

Posting. Contracting Officers shall make justifications publicly available (excluding brand name) within 14 days after award, in accordance with FAR 8.405-6(a)(2) and FAR 5.301. In the case of unusual and compelling urgency, justifications shall be made publicly available within 30 days after contract award in accordance with FAR 8.405-6(a)(2)(ii). Brand name justifications shall be posted with the solicitation to GSA’s e-Buy in accordance with FAR 8.405-6(b)(3)(B).

Screening. Before posting this Justification, in accordance with FAR 8.406-6 and 24.2, the Contracting Officer is responsible to redact any information that is exempt from disclosure under Freedom of Information Act or information proprietary to the contractor.

Signatures. After review and completion by the Program Office and Contracting Officer, the Word document shall be converted to an Adobe PDF file, and then routed for signatures in Adobe. Signature blocks shall include dates.

Delete these notes prior to finalizing document for signature
Limited Source/Brand Name Justification  
United States Department of Agriculture  
FAR 13.106-1(b)(1) – Simplified Acquisitions

1. **Identification of the agency and the contracting office.**  
Choose an address of the agency/contracting activity from drop down list below.

2. **Description of supply or service required to meet the agency’s needs.**  
Provide a description of the supplies or services required.

3. **The rationale or circumstances for limiting competition.**  
Explain the unique qualifications/characteristics of the proposed contractor or product and why no other contractor or product/service can meet the Government's need. For example, equipment that must be compatible in all aspects with existing systems/equipment presently installed; or proprietary data or software licensing agreements that limit competition, etc. In cases of unusual and compelling urgency, state the harm to the Government is normal procedures (e.g., competition) were followed.

4. **A description of the market research conducted and the results or a statement of the reason market research was not conducted.**  
Describe market research conducted and the results or the reason why no market research was conducted. Include responses received from FedBizOps announcement, if used. **Note: FAR Part 10.001 requires agencies to conduct market research appropriate to the circumstances: (a) before developing new requirements documents for an acquisition by the agency; (b) before soliciting officers for acquisitions with an estimated value less than the Simplified Acquisition Threshold when adequate information is not available and the circumstances justify the cost; and (c) on an ongoing basis, take advantage of commercially available market research methods in order to effectively identify the capabilities of small businesses and new entrants into the market.**

5. **Estimated price, including all options, if applicable.**  
Provide the estimated value. If the proposed action includes option periods, include the estimated value for the base period and each option period and the total estimated value of the base and all option periods.

6. **Recommended source(s).**  
List proposed sole source vendor, or vendors, including any sources, that expressed an interest in this acquisition.
Certifications

Supporting data that is the responsibility of technical or requirements personnel and which form the basis for this justification are accurate and complete to the best of my knowledge.

_________________________________________________
Insert Name of Program or Technical Personnel
Insert Title of Program/Technical Personnel

The information contained in this justification is accurate and complete to the best of my knowledge and belief and in accordance with Federal Acquisition Regulation 13.106-1(b)(1), I hereby determine the circumstances described above deem only one source, or limited sources, reasonably available and competition is precluded for the reasons indicated in this document.

_________________________________________________
Insert Name of Contracting Officer
Contracting Officer
Notes and Guidance:

For acquisitions greater than the micro-purchase threshold ($2,000 for construction, $2,500 for services subject to the Service Contract Act, and $3,500 for professional services exempt from the Service Contract Act and commodities) the Contracting Officer may solicit from one source only if the Contracting Officer determines that the circumstances of the contract action deem only one source reasonably available (e.g., urgency, exclusive licensing agreements, brand name, etc.). Contracting Officers must document the rationale for soliciting from a single source, including brand name in accordance with FAR 13.106-1(b)(1)(i) and FAR 13.106-3(b)(3)(i).

Program personnel are advised to work with contracting personnel early on in order to promote and provide for full and open competition to the maximum extent practicable. In circumstances permitting other than full and open competition, program personnel shall provide necessary information to contracting personnel to support and document the circumstances limiting competition through the use of this form.

Advance planning. Contracting without providing for full and open competition shall not be justified on the basis of (1) a lack of advance planning by the requiring activity or (2) concerns related to the amount of funds available to the agency or activity for the acquisition of supplies or services.

Brand Name. Items peculiar to one manufacturer can be a particular brand name, product, or feature of a product, peculiar to one manufacturer. A brand name item, whether available on one or more schedule contracts, is an item peculiar to one manufacturer. Brand name specifications shall not be used unless the particular brand name, product or feature is essential to the Government’s requirements and market research indicates other companies’ similar products, or products lacking the particular feature, do not meet, or cannot be modified to meet the Agency’s needs.

Posting. When an acquisition contains brand name specifications, the Contracting Officer shall include the justification required by FAR 13.103-1(b) with the solicitation when synopsizing in the GPE (actions exceeding $25,000) or displaying in a public place (actions exceeding $15,000 but not expected to exceed $25,000), as required by FAR 5.102(1)(6).

Screening. Before posting the justification, in accordance with FAR 6.305(e) and 24.202, the Contracting Officer is responsible to redact any information that is exempt from disclosure under Freedom of Information Act or information proprietary to the contractor.

Signatures. After review and completion by the Program Office and Contracting Officer, the Word document shall be converted to an Adobe PDF file, and routed for digital electronic signatures using Adobe’s e-signature functionality. Signature blocks shall include dates.

Delete these Notes prior to finalizing document for signature
Justification for Other than Full and Open Competition  
United States Department of Agriculture  
FAR 13.5 – Simplified Procedures for Certain Commercial Items

1. **Identification of the agency and the contracting activity.**  
Choose an address of the agency/contracting activity from drop down list below.

2. **The nature and/or description of the action being approved.**  
Describe the type of action being proposed – such as a negotiated sole source/limited source/brand name, etc.; the contemplated type of contract – such as firm fixed-price, time and materials, etc.; and the name of the proposed contractor(s). *Example: The USDA proposes to enter into a limited source brand-name, firm fixed-price contract with XYZ Corporation, using the simplified procedures for certain commercial items under Federal Acquisition Regulation (FAR) Part 13.5.*

3. **A description of the supplies or services required to meet the agency’s needs (including the estimated value).**  
Provide a concise description of the supplies or services required, and include the estimated value. If the contract will include option period, include the estimated value for the base period and each option period as well as the total estimated value (base plus all option periods).

4. **The statutory authority permitting other than full and open competition.**  
Choose appropriate authority from drop down list below.

5. **A statement demonstrating the unique qualifications of the proposed contractor or the nature of the action requiring the use of the authority.**  
Provide a detailed explanation of the contractor’s unique capabilities or qualifications, or the nature of the acquisition that requires the use of the authority cited. This is the most important part of the justification as it demonstrates that the prospective contractor has **unique qualifications and/or specialized capabilities or expertise that is not prevalent in the marketplace.** Alternatively, for brand name requirements, provide detailed explanation of the unique attributes of the brand name item and explain why no other contractor or product/service can meet the Government’s unique or specialized need. List other similar products (if applicable) and explain why the other similar products lack the particular feature, do not meet, or cannot be modified to meet the Government’s requirement, e.g., limited data rights, proprietary processes or technical data, etc.

If urgency is the rationale for limiting competition, explain the extent of serious harm or injury in financial, data, or other effects to the Government if the award is delayed.

If the rationale for limiting competition is authorized or required by statute, list the statute authorizing or requiring that the acquisition be made from a specified source or through another Agency, e.g., Federal Prison Industries (UNICOR – 18 U.S.C. 4124); Qualified nonprofit agencies for the blind or other severely disabled (Committee for Purchase from People Who are Blind or Severely Disabled – 41 U.S.C. chapter 85); sole source awards under the HUBZone Act of 1997 (15
U.S.C. 657a); sole source awards under the Veterans Benefits Act of 2003 (15 U.S.C. 657f); or sole source awards under the WOSB Program (15 U.S.C. 637(m)).

6. **A description of efforts made to ensure offers are solicited from as many potential sources as is practicable.**
   Describe efforts used to ensure offers were/will be solicited from as many sources as practicable. Include whether or not a Federal Business Opportunities (FedBizOps) announcement (FAR 5.2) was made and what response, if any, was received. Include the exception under FAR 5.202 if not synopsized. Describe whether any additional or similar requirements are anticipated in the future.

7. **A determination by the Contracting Officer that the anticipated cost to the Government will be fair and reasonable.**
   Provide information as to how the anticipated cost to the Government will be determined fair and reasonable.

8. **A description of the market research conducted and the results or a statement of the reason Market Research was not conducted.**
   Describe market research conducted and the results or the reason why no market research was conducted. Include responses received from FedBizOps announcement if used. **Note: FAR Part 10.001 requires agencies to conduct market research appropriate to the circumstances: (a) before developing new requirements documents for an agency acquisition; (b) before soliciting offers for acquisitions with an estimated value in excess of the Simplified Acquisition Threshold (SAT) ($150K); (c) before soliciting offers for acquisitions that could lead to a bundled contract; and (d) on an ongoing basis, take advantage of commercially available market research methods in order to effectively identify the capabilities of small businesses and new entrants into the market.**

9. **Any other facts supporting the use of other than full and open competition.**
   Provide additional information such as an explanation of why technical data packages, specifications, engineering descriptions, statements of work or purchase descriptions suitable for full and open competition have not been developed or are not available. When unusual and compelling urgency is cited as the basis for other than full and open competition, include the estimated cost, or other rationale for the extent and nature of the harm to the Government if normal procedures and timeframes were followed.

10. **A listing of the sources, if any, that expressed a written interest in the acquisition.**
    List sources, if any, that expressed an interest in the acquisition.

11. **A statement of actions, if any, the agency may take to remove or overcome any barriers to competition if subsequent acquisitions are anticipated.**
    Describe actions that may or can be taken to remove any barriers to competition if subsequent acquisition are anticipated, including challenges to restrictive data markings, data rights, preparation of a performance-based work statement, etc.
Certifications & Approvals

Supporting data which form the basis for and included in this justification are certified accurate and complete.

_________________________________________________
Insert Name of Program or Technical Personnel
Insert Title of Program/Technical Personnel

In accordance with FAR 13.501(a)(2)(i), for proposed actions exceeding $150,000, but not exceeding $700,000, the contracting officer’s certification will serve as approval.

The information contained in this Justification for Other Than Full and Open Competition is certified accurate and complete to the best of my knowledge and belief.

_________________________________________________
Insert Name of Contracting Officer
Contracting Officer

In accordance with FAR 13.501(a)(2)(ii) and Agency procedures, proposed actions exceeding $700,000, but not exceeding $1 million, must be approved by the Procuring Activity Competition Advocate. This authority is not delegable.

_________________________________________________
Insert Name of the Agency Competition Advocate
Competition Advocate

In accordance with FAR 13.501(a) (2) (iii) and agency procedures, proposed actions exceeding $1 million must be approved by the Head of the Contracting Activity Designee (HCAD). This authority is not delegable.

_________________________________________________
Insert Name of Head of Contracting Activity Designee
Head of Contracting Activity Designee
Notes and Guidance:

Acquisitions using the procedures in FAR Part 13.5 (e.g., commercial supplies/services valued at more than the Simplified Acquisition Threshold (SAT) of $150,000 but not exceeding $7 million), are exempt from the requirements in FAR Part 6; however, Contracting Officers must conduct sole source acquisitions (including brand name) under FAR 13.501 only if the need to do so is justified in writing and approved at the levels specified in FAR 13.501(a)(2).

Program personnel are advised to work with contracting personnel early on in order to promote and provide for full and open competition to the maximum extent practicable. In circumstances permitting other than full and open competition, program personnel shall provide necessary information to contracting personnel to support and document the circumstances limiting competition through the use of this form.

Advance planning. Contracting without providing for full and open competition shall not be justified on the basis of (1) a lack of advance planning by the requiring activity or (2) concerns related to the amount of funds available to the agency or activity for the acquisition of supplies or services.

Brand Name. Items peculiar to one manufacturer can be a particular brand name, product, or feature of a product, peculiar to one manufacturer. A brand name item, whether available on one or more schedule contracts, is an item peculiar to one manufacturer. Brand name specifications shall not be used unless the particular brand name, product or feature is essential to the Government’s requirements and market research indicates other companies’ similar products, or products lacking the particular feature, do not meet, or cannot be modified to meet the Agency’s needs. See below for posting requirements.

Posting. Contracting Officers shall make justifications publicly available (excluding brand name) within 14 days after contract award, in accordance with FAR 13.501(a)(1)(iii) and the procedures at FAR 6.305(a). In the case of unusual and compelling urgency, justifications shall be made publicly available within 30 days after contract award in accordance with FAR 13.501(a)(1)(iii) and the procedures at 6.305(b), (d), (e), and (f). Brand name justifications shall be posted with the solicitation in accordance with FAR 5.102(a)(6).

Screening. Before posting this Justification, in accordance with FAR 6.305(e) and 24.202, the Contracting Officer is responsible to redact any information that is exempt from disclosure under Freedom of Information Act or information proprietary to the contractor.

Signatures. After review and completion by the Program Office and Contracting Officer, the Word document shall be converted to an Adobe PDF file, and routed for digital electronic signatures using Adobe’s e-signature functionality. Adobe signature blocks shall include name, title and dates.

Delete these notes prior to finalizing document for signature
Select applicable justification from drop down list below.

United States Department of Agriculture
FAR 16.505

1. **Identification of the agency and the contracting activity.**
   Choose an address of the agency/contracting activity from drop down list below.

2. **The nature and/or description of the action being approved.**
   Describe the nature and/or description of the action being proposed, i.e., negotiated sole source/limited source brand name, limited competition, etc.; the type of resultant order, i.e., fixed-price, time and material, etc., and the proposed contractor. *For example: The USDA proposes to issue a sole source order on a firm fixed-price basis with XYZ Corporation.*

3. **A description of the supplies or services required to meet the agency’s needs (including estimated value).**
   Provide a concise description of the supplies or services required, and include the estimated value. If the order includes option periods, include the estimated value for the base and each option period and the total estimated value of the base and all option periods.

4. **Identification of the exception to fair opportunity and supporting rationale.**
   Choose one of the FAR citations and title for the statutory authority for exception to fair opportunity and supporting rationale from the list a) through f) below. *(Example: The statutory exception to fair opportunity is FAR 16.505(b)(2)(i)(D), the order is issued on a sole source basis in order to satisfy a minimum guarantee. The rationale for this exception is due to the fact that Company X has not received any orders and their minimum guarantee has not yet been fulfilled.)*
   The only statutory exceptions to fair opportunity allowed in accordance with FAR 16.505(b)(2)(i) include: a) FAR 16.505(b)(2)(i)(A) - the agency need for supplies or services is so urgent that providing a fair opportunity would result in unacceptable delays (explain the nature of the urgency and the harm to the Government if normal procedures were followed); b) FAR 16.505(b)(2)(i)(B) - only one awardee is capable of providing the supplies or services required at the level of quality required because the supplies or services to be ordered are unique of highly specialized (provide detail of the proposed contractor’s unique qualifications); c) FAR 16.505(b)(2)(i)(C) - the order must be issued as a sole source-basis in the interest of economy and efficiency because it is a logical follow-on to an order already issued, provided that all awardees were given a fair opportunity to be considered for the original order (describe why the relationship between the initial order and the follow-on is logical (e.g., in terms of scope, period of performance, or value)); d) FAR 16.505(b)(2)(i)(D) - it is necessary to place an order to satisfy a minimum guarantee; e) FAR 16.505(b)(2)(i)(E) - for orders exceeding the Simplified Acquisition Threshold (SAT) of $150,000, a statute expressly authorizes or requires that the purchase be made from a specified source; or f) FAR 16.505(b)(2)(i)(F) - in accordance with Section 1331 of Public Law 111-240 (15 U.S.C. 644(r)), contracting officers may, at their discretion set aside orders for any of the small business concerns identified in 19.000(a)(3) *(note: no written justification is needed for this exception)*

*Brand Name* – the statutory exception to fair opportunity for brand name requirements is FAR 16.505(a)(4). Identify the brand name, product, or feature that is essential to the Government’s...
requirements and explain why it is the only one that can satisfy the Government’s needs. Provide detail of other companies’ similar products, or products that lack the particular feature, that do not meet, or cannot be modified to meet the agency’s need.

5. **A determination by the Contracting Officer that the anticipated cost to the Government will be fair and reasonable.**
Provide rationale why the order represents the best value considering price and other factors.

6. **Any other facts to support the justification.**
Include any other supporting facts. For example, why specifications have not been developed or are not available; if a follow-on order provides estimates of cost that would be duplicated if competed. If an urgency exists-explain the extent of harm if immediate action is not taken. A statement of facts, if any, the agency may take to remove or overcome any barriers that led to the restricted consideration.

7. **A statement of actions, if any, the agency may take to remove or overcome any barriers to competition if subsequent acquisitions are anticipated.**
Describe actions that may or can be taken to remove any barriers to competition if subsequent acquisition/orders are anticipated, including challenges to restrictive data markings, data rights, preparation of a performance based work statement, etc.
Certifications & Approval

Supporting data that form the basis for and included in this justification is certified accurate and complete.

__________________________________________________
Insert Name of Program or Technical Personnel
Insert Title of Program/Technical Personnel

The information contained in this Limited Sources Justification is certified accurate and complete to the best of my knowledge and belief.

__________________________________________________
Insert Name of Contracting Officer
Contracting Officer

In accordance with FAR 16.505(b)(2)(ii)(C)(2) and agency procedures, proposed orders exceeding $700,000, but not exceeding $1 million must be approved by the procuring activity Competition Advocate. This authority is not delegable.

__________________________________________________
Insert Name of the Agency Competition Advocate
Competition Advocate

In accordance with FAR 16.505(b)(2)(ii)(C)(3) and agency procedures, proposed orders exceeding $1 million, but not exceeding $68 million must be approved by the Head of the procuring activity placing the order.

__________________________________________________
Insert Name of Head of Contracting Activity Designee
Head of Contracting Activity Designee

In accordance with FAR 16.505(b)(2)(ii)(C)(4), proposed orders exceeding $68 million must be approved by the Senior Procurement Executive of the agency placing the order. This authority is not delegable.

__________________________________________________
Insert Name of Senior Procurement Executive
Senior Procurement Executive
United States Department of Agriculture
Notes and Guidance

Pursuant to FAR 16.505(b)(2)(i), every awardee of a multiple award contract shall be given a fair opportunity to be considered for a delivery/task order exceeding $3,500, unless one of the statutory exceptions at 16.505(b)(2)(i)(A) through (F) applies (see paragraph (4) of the form). Justifications for exception to fair opportunity, including brand name requirements, shall be in writing, unless the exception at 16.505(b)(2)(i)(F) applies.

Brand Name. Items peculiar to one manufacturer can be a particular brand name, product, or feature of a product, peculiar to one manufacturer. A brand name item, whether available on one or more multiple award contracts, is an item peculiar to one manufacturer. Brand name specifications shall not be used unless the particular brand name, product or feature is essential to the Government’s requirements and market research indicates other companies’ similar products, or products lacking the particular feature, do not meet, or cannot be modified to meet the Agency’s needs. Requirement for use of items peculiar to one manufacturer shall be justified and approved in accordance with FAR 16.505(a)(4). See below for posting of brand name requirements.

Program personnel are advised to work with contracting personnel early on in order to promote and provide for full and open competition amongst awardees to the maximum extent practicable. In circumstances where an exception to fair opportunities apply, program personnel shall provide necessary information to contracting personnel to support and document the exception to fair opportunity, including use of brand name specifications, through the use of this form.

Posting. In accordance with FAR 16.505(b)(2)(ii)(D), within 14 days after placing an order exceeding the Simplified Acquisition Threshold ($150K) that does not provide for fair opportunity, the Contracting Officers shall publish a notice in accordance with FAR 5.301, and make publicly available this justification. The justification shall be posted at the GPE (www.fedbizops.gov) and must remain posted for a minimum of 30 days. In the case of unusual and compelling urgency, the justification shall be posted within 30 days of the order. For brand-name requirements in excess of $30,000, the Contracting Officer shall post the justification and supporting documentation on the agency website used (if any) to solicit offers for orders under the contract; or provide the justification and supporting documentation along with the solicitation to all contract awardees.

Screening. Before posting this Justification, in accordance with FAR 16.505(b)(2)(ii)(D)(4) and 24.2, the Contracting Officer is responsible to redact any information that is exempt from disclosure under Freedom of Information Act or information proprietary to the contractor.

Signatures. After review and completion by the Program Office and Contracting Officer, the Word document shall be converted to an Adobe PDF file, and then routed for signatures in Adobe. Signature blocks shall include dates.

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