



February 26, 2020

United States Department of Agriculture

Office of the Assistant Secretary for Administration

Office of Contracting and Procurement

Procurement Operations Division

301 S. Howes Street, Suite 321 Fort Collins, CO 80521

ACQUISITION OPERATING PROCEDURE (AOP)

FROM: Richard R. Jiron Mission Area-Senior Contracting Official

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 February 26, 2020 .

REVISIONS: Authorities: Added USDA Contracting Desk Book, Subpart 406.3 and 406.5. Considerations to Increase Competition: Revised #3. Process: Revised to provide use of the Limited Source Justification Template. Attachments: Renumbered Attachments 1 through 7 to Attachments 2 through 8, and added a new Attachment 1, Limited Source Justification Template.

This AOP replaces AOP No. 5, dated May 28, 2019.

AUTHORITIES: FAR 6.3, 6.5, 8.405-6, 13.106-1, 13.501 and 16.505; Agriculture Acquisition Regulation 406.5; USDA Contracting Desk Book Subpart 406.3 and 406.5; and “Delegation of Competition Advocate Authority” memo dated August 30, 2016, by Head of Contracting Activity Designee.

Approving Officials

Senior Procurement Executive (SPE)
Head of Procuring Activity
Procuring Activity Competition Advocate
Procurement Operations Division Competition Advocate
Contracting Officer (CO)

Threshold

exceeding \$68M
over \$13.5M, up to \$68M
over \$1M, up to \$13.5M
over \$700,000, up to \$1M
up to \$700,000

## ◆ FAR APPLICABILITY

1. Subpart 6.302, Other Than Full and Open Competition, Circumstances Permitting Other Than Full and Open Competition (*Attachment 2*)
2. Subpart 8.405-6, Federal Supply Schedules, Limited Source Under Simplified Acquisition Threshold (SAT), (*Attachment 3*)
3. Subpart 8.405-6, Federal Supply Schedules, Limited Source Over SAT threshold (*Attachment 4*)
4. Subpart 13.106-1(b)(1), Simplified Acquisition Procedures (*Attachment 5*)
5. Subpart 13.501, Simplified Procedure for Certain Commercial Items (*Attachment 6*)
6. Subpart 16.505, Indefinite-Delivery Contracts, Ordering (*Attachment 7*)

## ◆ CONSIDERATIONS TO INCREASE COMPETITION

The USDA Vendor Communication Plan at [https://www.dm.usda.gov/procurement/vendor\\_communication](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. Category Management/Strategic Sourcing - Use an existing Federal or Departmental solution when the requirement can be satisfied under the contract vehicle(s) (See USDA Contracting Desk Book Subpart 416.70); and
4. Task and Delivery Orders - Ensure acquisition has meaningful competition. State significant technical factors and subfactors and the relative importance of the factors when conducting the "fair opportunity process."

◆ **PROCESS:**

1. The Program Official (e.g., COR/technical contact) shall complete Attachment 1, Limited Source Justification Template. The completed template shall be included with the procurement package when a limited source acquisition is anticipated.
2. The CO will ensure the template contains all required and pertinent information to fully detail and establish the justification for a limited source acquisition.
3. Once the CO has determined that all information provided is complete, an acquisition approach will be established by the CO. The CO will transcribe the information received on the justification template to the applicable justification and approval template (Attachments 2-7) for the chosen acquisition approach.
4. The CO will convert the template to a PDF document and send to the program office for signature by the identified program official. Program official will return the signed document to the CO.
5. The CO will conduct a final review and sign the J&A document. If additional approvals are required above the CO, the CO will submit the J&A through all reviewing and approving officials up to the appropriate level required for the dollar value threshold. If the procurement action requires a pre-solicitation review, the J&A shall be submitted with the pre-solicitation review package in accordance with AOP No. 8, Pre-solicitation and Pre-award Review. Signatures of approving officials are required at all levels up to the final Approving Official.
6. The SPE, Head of Procuring Activity, and/or Procuring Activity Competition Advocate will review the J&A and if approved, it 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 Chief to discuss any additional information needed.

◆ **EXPIRATION DATE:** This AOP will remain in effect until canceled.

[END]

## AOP No. 5: Attachments

The following documents are attached separately:

Attachment 1 – Limited Source Justification Template

Attachment 2 – Justification for Other than Full and Open Competition FAR 6.302, \$7M+

Attachment 3 – Limited Sources Justification FAR 8.405, Under SAT

Attachment 4 – Limited Sources Justification FAR 8.405, Over SAT

Attachment 5 – Limited Sources/Brand Name Justification FAR 13.106, Under SAT

Attachment 6 – Justification for Other than Full and Open Competition FAR 13.5, SAT-\$7M

Attachment 7 – Justification for Exception to Fair Opportunity/Brand Name FAR16.505

Attachment 8 – Decision Matrix