ACQUISITION OPERATING PROCEDURE (AOP)

FROM: Kelly L. Moore  
Deputy Chief, Procurement Operations Division

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 May 28, 2019.

▶ REVISIONS: Authorities: Added FAR 13.106-1, 13.501 and 16.505; revised approving officials and thresholds in accordance with FAR and USDA Procedures, Guidance and Information, Contracting Deskbook. FAR Applicability: Changed SAP to SAT in accordance with FAR language. Review Process: Modified the process and requirement for signatures at all levels up to the final approving official. Attachments: Attachments modified to update Contracting Office addresses, update signature blocks, remove document protections, and add Attachment 7 - Decision Matrix.

This AOP replaces AOP No. 5, dated July 21, 2017.

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

<table>
<thead>
<tr>
<th>Approving Officials</th>
<th>Threshold</th>
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<tbody>
<tr>
<td>Senior Procurement Executive (SPE)</td>
<td>exceeding $68M</td>
</tr>
<tr>
<td>Head of Procuring Activity</td>
<td>over $13.5M, up to $68M</td>
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<tr>
<td>Procuring Activity Competition Advocate</td>
<td>over $1M, up to $13.5M</td>
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<tr>
<td>Procurement Operations Division Competition Advocate</td>
<td>over $700,000, up to $1M</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 Threshold (SAT), (*Attachment 2*)

3. Subpart 8.405-6, Federal Supply Schedules, Limited Source Over SAT 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](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 acquisition 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 signed the J&A. 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.

2. 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 – Justification for Other than Full and Open Competition FAR 6.302, $7M+
Attachment 2 – Limited Sources Justification FAR 8.405, Under SAT
Attachment 3 – Limited Sources Justification FAR 8.405, Over SAT
Attachment 4 – Limited Sources/Brand Name Justification FAR 13.106, Under SAT
Attachment 5 – Justification for Other than Full and Open Competition FAR 13.5, SAT-$7M
Attachment 6 – Justification for Exception to Fair Opportunity/Brand Name FAR 16.505
Attachment 7 – Decision Matrix