



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 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

Limited Source Justification Template United States Department of Agriculture

In accordance with the Federal Acquisition Regulation (FAR), with certain limited exceptions, Contracting Officers **are required** to promote and provide for full and open competition in soliciting offers and awarding Government contracts. As prescribed in the FAR and Procurement Operations Division (POD) Acquisition Operating Procedure (AOP) Number 5, use of other than full and open competition is prohibited, unless permitted by one of the limited exceptions.

The most common exceptions and guidance are listed below. If your requirement meets one of these exceptions, complete the template on the following page and submit it with your procurement package. If you believe your requirement does not fit in one of these exceptions, reach out to your Contracting Officer.

- **Sole Source/Only One Responsible Source:**
 - When the supplies or services required are available from only one responsible source and no other type of supplies or services will satisfy agency requirements; the supplies or services required are unique or highly specialized or the existence of limited rights in data, patent rights, or copyrights make the supplies or services available from only one source. *Note:* This is not the same as brand name. A sole source exception is only used when a single contractor is able to meet the requirement.
- **Urgent/Unusual and Compelling Need:**
 - When the agency's need for the supplies or services is of such an unusual and compelling urgency that the Government would be seriously injured unless the agency is permitted to limit the number of sources from which it solicits bids or proposals.
- **Logical Follow On:**
 - Supplies or services may be deemed to be available only from the original source in the case of a follow-on contract for the continued development or production of a system or highly specialized equipment, when it is likely that award to any other source would result in substantial duplication of cost or unacceptable delays in fulfilling agency requirements
- **Brand name:**
 - An acquisition or portion of an acquisition that uses a brand-name description to specify a particular brand-name, product, or feature of a product, peculiar to one manufacturer. A brand name item available from multiple sources is still an item peculiar to one manufacturer. Brand name should 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.

1. A description of the supplies or services required to meet the agency's needs (including the estimated dollar value).

Provide a concise description of the supplies or services required.

Include the estimated dollar value. If the contract includes option periods, include the estimated dollar value for the base period and each option period and the total estimated dollar value of the base and all option periods.

2. Identify the exception to competition.

Choose the exception to competition from the drop-down list using the exceptions and guidance shown on page 1. Supporting information must be provided in paragraphs 3 through 8 below.

3. Rationale or circumstances for limiting competition.

Explain, in detail, the unique qualifications/characteristics of the proposed contractor or product and why no other contractor or product/service can meet the Government's need. **Note: 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.** 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.

For Brand name:

Describe the unique capabilities or qualifications of the proposed contractor or product. Identify the feature(s) that are essential to the Government's requirements and explain why it is the only one that can satisfy the Government's need and why no other contractor or product/service can meet the Government's need.

Important: List other companies' similar products found during your market research and explain why the products lack the brand-name feature, does not meet, or cannot be modified to satisfy the Government's requirement, e.g., limited data rights, proprietary data or processes, etc.

4. Other facts supporting the use of other than full and open competition.

Include additional information as follows:

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 requirement is for a follow-on action/order include the estimated cost to the Government that would be duplicated, and how the estimate was derived;
- c) when the limited source is based on unusual and compelling urgency provide the estimated cost and nature of the urgency and harm to the Government if normal procedures and timeframes were followed; or
- d) any other fact that support the use of other than full and open competition.

5. 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. *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); (c) before soliciting offers for acquisitions that could lead to a bundled contract; (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.

6. Provide a statement of actions, if any, that can be taken to remove or overcome 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.

7. Recommended Source(s).

List proposed sources. Include sources, if any, that expressed an interest in the acquisition.

8. Identification of Program or Technical Personnel that will sign final Limited Source J&A:

Name of Program or Technical Personnel*: _____

Title of Program or Technical Personnel: _____

*Program/Technical Individual listed above will be required to sign the final justification document.

**Justification for Other than Full and Open Competition
United States Department of Agriculture
Federal Acquisition Regulation (FAR) Part 6.3**

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 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 synopsisized.

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); (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 (6.302-1), 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 (6.302-2), 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 acquisitions 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

Additional Reviews & Approvals

Signatures are required at each threshold up to the total estimated dollar value of the acquisition

Procurement Operations Division (POD) Branch Chief (if not the Contracting Officer) (if over \$700,000). I have reviewed this justification and find it to be accurate and complete to the best of my knowledge and belief.

Insert Name of the POD Branch Chief

Branch Chief, Procurement Operations Division

POD Competition Advocate (if over \$700,000). I have reviewed this justification and find it to be accurate and complete to the best of my knowledge and belief.

Insert Name of the POD Competition Advocate

Competition Advocate, Procurement Operations Division

POD Senior Procurement Analyst (if over \$700,000). I have reviewed this justification and find it to be accurate and complete to the best of my knowledge and belief.

Insert Name of the Senior Procurement Analyst

Senior Procurement Analyst, Procurement Operations Division

POD Deputy Chief (if over \$700,000). I have reviewed this justification and find it to be accurate and complete to the best of my knowledge and belief.

Insert Name of the POD Deputy Chief
Deputy Chief, Procurement Operations Division

Advocate for competition for the procuring activity (if over \$700,000, but not exceeding \$13.5 million). I have reviewed this justification and find it to be accurate and complete to the best of my knowledge and belief. Therefore, unless additional approvals are required as prescribed below, as advocate for competition for the procuring activity, I hereby approve this justification.

Insert Name of the Procuring Activity Competition Advocate
Chief, Procurement Operations Division
Procuring Activity Advocate for Competition

Head of the procuring activity (if over \$13.5 million, but not exceeding \$68 million). I have reviewed this justification and find it to be accurate and complete to the best of my knowledge and belief. Therefore, unless additional approvals are required as prescribed below, as Head of the Procuring Activity, I hereby approve this justification.

Insert Name of the Head of the Procuring Activity
Head of the Procuring Activity
United States Department of Agriculture

Senior Procurement Executive of the Agency (if over \$68 million). I have reviewed this justification and find it to be accurate and complete to the best of my knowledge and belief. Therefore, as the Senior Procurement Executive, I hereby approve this justification.

Insert Name of the Senior Procurement Executive
Senior Procurement Executive
United States Department of Agriculture

Notes and Guidance. Delete these notes prior to finalizing document for signature

Acquisitions for commercial items/services with a value exceeding \$7 million, and acquisitions for non-commercial items/services with a value exceeding the Simplified Acquisition Threshold (SAT) 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. Signature blocks shall include dates.

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 the authority below that justifies restricting consideration of Schedule Contractors. Provide the additional detail for the applicable authority as noted below:

If 8.405-6(a)(1)(i)(A) is the authority, explain the nature of the urgency and the extent of injury or harm to the Government if the award is delayed.

If 8.405-6(a)(1)(i)(B) is the authority, explain the contractor's unique qualifications or specialized experience to provide the supplies or services that are not available elsewhere on the schedules.

If 8.405-6(a)(1)(i)(C) is the authority, 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.

If 8.405-6(b) is the authority, 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. Note that an item 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.

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 offers 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.

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

Notes and Guidance. Delete these Notes prior to finalizing document for signature.

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 electronically signed. Signature blocks shall include dates.

**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 order type– 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 the authority below that justifies restricting consideration of Schedule Contractors. Provide the additional detail for the applicable authority as noted below:

If 8.405-6(a)(1)(i)(A) is the authority, explain the nature of the urgency and the extent of injury or harm to the Government if the award is delayed.

If 8.405-6(a)(1)(i)(B) is the authority, explain the contractor's unique qualifications or specialized experience to provide the supplies or services that are not available elsewhere on the schedules.

If 8.405-6(a)(1)(i)(C) is the authority, 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.

If 8.405-6(b) is the authority, 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. Note that an item 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.

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); (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 the Contracting Officer

Contracting Officer

Additional Reviews & Approvals

Signatures are required at each threshold up to the total estimated dollar value of the acquisition

Procurement Operations Division (POD) Branch Chief (if not the Contracting Officer) (if over \$700,000). I have reviewed this justification and find it to be accurate and complete to the best of my knowledge and belief.

Insert Name of the POD Branch Chief

Branch Chief, Procurement Operations Division

POD Competition Advocate (if over \$700,000). I have reviewed this justification and find it to be accurate and complete to the best of my knowledge and belief.

Insert Name of the POD Competition Advocate

Competition Advocate, Procurement Operations Division

POD Senior Procurement Analyst (if over \$700,000). I have reviewed this justification and find it to be accurate and complete to the best of my knowledge and belief.

Insert Name of the Senior Procurement Analyst

Senior Procurement Analyst, Procurement Operations Division

POD Deputy Chief (if over \$700,000). I have reviewed this justification and find it to be accurate and complete to the best of my knowledge and belief.

Insert Name of the POD Deputy Chief
Deputy Chief, Procurement Operations Division

Advocate for competition for the procuring activity (if over \$700,000, but not exceeding \$13.5 million). I have reviewed this justification and find it to be accurate and complete to the best of my knowledge and belief. Therefore, unless additional approvals are required as prescribed below, as advocate for competition for the procuring activity, I hereby approve this justification.

Insert Name of the Procuring Activity Competition Advocate
Chief, Procurement Operations Division
Procuring Activity Advocate for Competition

Head of the procuring activity (if over \$13.5 million, but not exceeding \$68 million). I have reviewed this justification and find it to be accurate and complete to the best of my knowledge and belief. Therefore, unless additional approvals are required as prescribed below, as Mission Area-Senior Contracting Official, I hereby approve this justification.

Insert Name of the Head of the Procuring Activity
Head of the Procuring Activity
United States Department of Agriculture

Senior Procurement Executive of the Agency (if over \$68 million). I have reviewed this justification and find it to be accurate and complete to the best of my knowledge and belief. Therefore, as the Senior Procurement Executive, I hereby approve this justification.

Insert Name of Senior Procurement Executive
Senior Procurement Executive
United States Department of Agriculture

Notes and Guidance. Delete these notes prior to finalizing document for signature.

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 electronic signatures. Signature blocks shall include dates.

**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 if 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 offers 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. Delete these Notes prior to finalizing document for signature

For acquisitions greater than the micro-purchase threshold but less than the Simplified Acquisition Threshold (SAT) 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 synopsis 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 electronic signatures. Signature blocks shall include dates.

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 periods, 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 synopsisized. 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); (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 acquisitions 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

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

Additional Reviews & Approvals

Signatures are required at each threshold up to the total estimated dollar value of the acquisition

Procurement Operations Division (POD) Branch Chief (if not the Contracting Officer) (if over \$700,000). I have reviewed this justification and find it to be accurate and complete to the best of my knowledge and belief.

Insert Name of the POD Branch Chief

Branch Chief, Procurement Operations Division

POD Competition Advocate (if over \$700,000). I have reviewed this justification and find it to be accurate and complete to the best of my knowledge and belief.

Insert Name of the POD Competition Advocate

Competition Advocate, Procurement Operations Division

POD Senior Procurement Analyst (if over \$700,000). I have reviewed this justification and find it to be accurate and complete to the best of my knowledge and belief.

Insert Name of the Senior Procurement Analyst

Senior Procurement Analyst, Procurement Operations Division

POD Deputy Chief (if over \$700,000). I have reviewed this justification and find it to be accurate and complete to the best of my knowledge and belief.

Insert Name of the POD Deputy Chief
Deputy Chief, Procurement Operations Division

Advocate for competition for the procuring activity (if over \$700,000). I have reviewed this justification and find it to be accurate and complete to the best of my knowledge and belief. Therefore, unless additional approvals are required as prescribed below, as advocate for competition for the procuring activity, I hereby approve this justification.

Insert Name of the Procuring Activity Competition Advocate
Chief, Procurement Operations Division
Procuring Activity Advocate for Competition

Notes and Guidance. Delete these notes prior to finalizing document for signature.

Acquisitions using the procedures in FAR Part 13.5 (e.g., commercial supplies/services valued at more than the Simplified Acquisition Threshold (SAT) but not exceeding \$7 million, including options), 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 electronic signatures. Adobe signature blocks shall include dates.

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 the FAR citation and title for the statutory authority for exception to fair opportunity from the list, and provide additional detail as noted below.

If FAR 16.505(b)(2)(i)(A) is the authority, explain the nature of the urgency and the harm to the Government if normal procedures were followed.

If FAR 16.505(b)(2)(i)(B) is the authority, provide detail of the proposed contractor's unique qualifications.

If FAR 16.505(b)(2)(i)(C) is the authority, 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).

If FAR 16.505(b)(2)(i)(E) is the authority, identify the statute that expressly authorizes or requires that the purchase be made from a specified source.

If FAR 16.505(a)(4) is the authority, 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 justification is certified accurate and complete to the best of my knowledge and belief.

Insert Name of Contracting Officer

Contracting Officer

Additional Reviews & Approvals

Signatures are required at each threshold up to the total estimated dollar value of the acquisition

Contracting Branch Chief (if not the Contracting Officer) (if over \$700,000). I have reviewed this justification and find it to be accurate and complete to the best of my knowledge and belief.

Insert Name of the Contracting Branch Chief

Contracting Branch Chief

POD Competition Advocate (if over \$700,000). I have reviewed this justification and find it to be accurate and complete to the best of my knowledge and belief.

Insert Name of the POD Competition Advocate

Competition Advocate, Procurement Operations Division

POD Procurement Analyst (if over \$1 million). I have reviewed this justification and find it to be accurate and complete to the best of my knowledge and belief.

Insert Name of the Procurement Analyst

Procurement Analyst, Procurement Operations Division

POD Deputy Chief (if over \$1 million). I have reviewed this justification and find it to be accurate and complete to the best of my knowledge and belief.

Insert Name of the POD Deputy Chief
Deputy Chief, Procurement Operations Division

Procuring Activity Competition Advocate (if over \$1 million, but not exceeding \$13.5 million). I have reviewed this justification and find it to be accurate and complete to the best of my knowledge and belief. Therefore, unless additional approvals are required as prescribed below, as advocate for competition for the procuring activity, I hereby approve this justification.

Insert Name of the Procuring Activity Competition Advocate
Chief, Procurement Operations Division
Procuring Activity Advocate for Competition

Head of the Procuring Activity (if over \$13.5 million, but not exceeding \$68 million). I have reviewed this justification and find it to be accurate and complete to the best of my knowledge and belief. Therefore, unless additional approvals are required as prescribed below, as Head of the Procuring Activity, I hereby approve this justification.

Insert Name of the Head of the Procuring Activity
Head of the Procuring Activity
United States Department of Agriculture

Senior Procurement Executive of the Agency (if over \$68 million). I have reviewed this justification and find it to be accurate and complete to the best of my knowledge and belief. Therefore, as the Senior Procurement Executive, I hereby approve this justification.

Insert Name of the Senior Procurement Executive
Senior Procurement Executive
United States Department of Agriculture

Notes and Guidance. Delete these notes prior to finalizing document for signature.

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 that does not provide for fair opportunity, the Contracting Officer shall publish a notice in accordance with FAR 5.301 and make publicly available the justification (except for brand name justifications). 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 electronic signatures. Signature blocks shall include dates.

DECISION MATRIX

Scenario/Situation <i>(examples below include predominantly used justifications to limit competition, and are not all-inclusive)</i>	Attachment to Use:					
	Attachment 2 FAR 6.302	Attachment 3 FAR 8.405 <SAT*	Attachment 4 FAR 8.405 > SAT	Attachment 5 FAR 13.106< SAT	Attachment 6 FAR 13.501 SAT-\$7M	Attachment 7 FAR 16.505
<p>Only one source is capable of meeting Government needs because supplies/services are so unique or highly specialized and no other type of supplies or services will satisfy Government requirements, <u>including</u> requirements for Brand Name supplies/services regardless of the number of sources solicited; <i>or</i></p> <p>Unusual & Compelling Urgency - the Government would be seriously injured (financial or otherwise) unless it is permitted to limit the number of sources from which it solicits quotes or proposals (<i>note: lack of proper planning is not sufficient rationale</i>)</p>	Acquisitions <u>not using</u> : GSA Federal Supply Schedules (FSS), existing USDA BPAs, or other Government-Wide Acquisition Contracts (GWACs) with a total estimated value (including all options) greater than \$7 million	Acquisitions using GSA FSS or USDA multiple-award BPAs and total estimated (including all options) value is less than the SAT	Acquisitions using GSA FSS or USDA multiple-award BPAs and total estimated value is greater than the SAT	Acquisitions <u>not using</u> : GSA FSS, existing USDA contracts/BPAs, or other GWACs with a total estimated value less than the SAT	Acquisitions <u>not using</u> : GSA FSS, existing USDA contracts/BPAs, or other GWACs with a total estimated value greater than the SAT but less than \$7 million	Acquisitions using GWACs (e.g., GSA's Alliant, VETS GWAC, SEWP, or NITAAC solutions) and not providing fair opportunity to all contract holders to compete for the award, including <i>Brand Name</i> and <i>Unusual & Compelling Urgency</i>
In the interest of economy and efficiency order is issued on a sole source basis to one vendor because new work is a logical follow-on to an order already issued, <u>provided that</u> :		In the case of orders against GSA FSS, when the <i>original</i> order/BPA was not issued under sole source or limited source procedures, and the total estimated value of the follow-on order is less than the SAT	In the case of orders against GSA FSS, when the <i>original</i> order/BPA was not issued under sole source or limited source procedures, and the total estimated value of the follow-on order is greater than the SAT			In the case of orders against GWACs, all awardees were given a fair opportunity to be considered for the <i>original</i> order
Authorized by statute to acquire supplies or services from a specified source or through another agency on a sole source basis including awards under the HubZone Act, Veterans Benefits Act or WOSB Program, and to 8(a) Small Businesses over \$22 million:	Awards not using GSA FSS, USDA multiple-award BPAs or other GWACs that are authorized by statute and that are greater than \$7 million, or 8(a) awards over \$22 million					Awards made against existing GWACs that are authorized by statute and that are greater than the SAT.
Necessary to meet a minimum guarantee						Awards made on a sole source basis against existing GWACs necessary to meet a minimum guarantee