Subpart 606.3—Other Than Full and Open Competition

Parent topic: PART 606—COMPETITION REQUIREMENTS

606.302 Circumstances permitting other than full and open competition.

606.302-1 Only one responsible source and no other supplies or services will satisfy agency requirements.

(b)(4) The Procurement Executive is the agency head for the purposes of FAR 6.302–1(b)(4).

606.302-4 International agreement.

(b)(2) In accordance with FAR 6.302–4, guard services shall be acquired from the host government only when it is the sole available source.

606.302-6 National security.

(b) This subsection applies to all acquisitions involving national security information, regardless of dollar amount. In no case shall information be classified in order to restrict competition. Information may be classified only when its authorized disclosure could be expected to cause damage to national security.

(c)

(1) The Chief, Controls Division, Office of Intelligence Liaison, Directorate for Coordination, Bureau of Intelligence and Research, is responsible for reviewing and certifying on any proposed acquisitions derived from or funded or administered by intelligence community agencies that involve sensitive compartmented information and ensuring that the provisions of Executive Order 13526 and FAR 6.302–6 have been met. The Office Director, Office of Information Security, Security Infrastructure Directorate, Bureau of Diplomatic Security (DS/SI/IS) is responsible for reviewing and certifying on all other proposed acquisitions funded by the Department of State that involve national security information and ensuring that the provisions of Executive Order 13256 and FAR 6.302–6 have been met. When disclosure of the Department's needs through full and open competition would compromise national security, the Justification for Other than Full and Open Competition shall include the following specific information:

(i) How national security would be compromised if the Department of State's (or other agencies') needs were disclosed in the GPE;

(ii) Why the GPE notice cannot be worded in such a manner that national security would not be compromised;

(iii) Necessity for access to classified information to prepare technical and/or cost proposal and level of security clearance required;

(iv) Necessity for access to classified information to perform the proposed contract and level of security clearance required;

(v) Number and value of contracts that the justification covers; and

(vi) A statement as follows: “I hereby certify that the national security concerns of the referenced acquisition(s) meet the criteria set forth in Executive Order 12958 and FAR 6.302–6”.

(2) Any acquisition involving national security information shall be publicized in the GPE unless disclosure of the agency's needs would compromise national security.

(3) The contracting officer is responsible for soliciting offers from as many potential sources as is practicable under the circumstances. However, given the sensitivity required for acquisitions involving national security information, it is expected that requirements offices will work closely with the contracting officer in maximizing competition.

606.302-7 Public interest.

The authority to approve the determination prescribed in FAR 6.302–7(c) is reserved to the Secretary of State.

606.303 Justifications.

606.303-1 Requirements.

Justifications for contract actions prescribed in FAR 6.303–1(d) shall be forwarded by the contracting officer to A/OPE for transmittal to the Office of the United States Trade Representative.

606.303-2 Content.

(a) All justifications shall address the requirements of FAR 6.303–2. A sample Justification for Other than Full and Open Competition for acquisitions by both overseas posts and domestic contracting activities is available on the A/OPE Intranet Web site. Use of the format for overseas posts is mandatory; domestic contracting activities may develop their own format based on the sample. In addition, sample formats are provided for posts to justify motor vehicle and household appliance purchases made in accordance with the Department's standardization program (see 606.370(b)). All applicable approvals are as indicated on the formats. The justification must be completed and signed by the appropriate individuals.

(b)(9) All justifications for acquisitions exceeding $5 million shall include a copy of the acquisition plan, as required by 607.103(d).

606.304 Approval of the justification.

(a)(2) The approval authority for a proposed contract within the dollar range set forth in FAR 6.304(a)(2) for domestic contracting activities that do not have an advocate for competition is the Department Advocate for Competition.

606.304-70 Acquisitions by overseas posts.

The Departmental Advocate for Competition is the approval authority for the purposes of FAR 6.304(a)(3). This authority is not redelegable. Any such justification must be transmitted through the Principal Officer at the overseas post.

606.370 Department of State standardization program.

(a) It is the Department's policy to promote full and open competition in all procurement actions. The authority at 41 U.S.C. 3304(a)(1)shall be used with respect to standardization when only specified makes and models of equipment will satisfy the Department's needs and only one source is available. This policy applies to all acquisitions involving standardization, regardless of dollar amount.

(b) Contracts awarded under the authority at 41 U.S.C. 3304(a)(1)shall be supported by the written justification described in FAR 6.303. The contracting officer, requirements office, procuring activity advocate for competition, and the Procurement Executive shall approve all Justifications for Other than Full and Open Competition that cite standardization of technical equipment as justification to restrict competition. The Management Officer at each post is the procuring activity advocate for competition for that post and the requirements office at post is the embassy functional office responsible for identifying the need to contract.

(c) Procurement of specified makes and models of technical equipment and systems, for which there is only one source of supply, is considered other than full and open competition. Such procurements shall be supported by an approved Justification for Other than Full and Open Competition. The justification shall include the content requirements of FAR 6.303–2. The justification shall also address potential cost savings in areas such as inventory, operations, training, maintenance, repairs, and administrative and management support. Areas of consideration for potential cost savings shall be supported by detailed estimates as attachments to the justification. Justifications shall specify an effective period, which shall bear a reasonable relationship to the life of the technical equipment. The effective period shall not exceed six years with a review at the end of the first three years. Periodic reviews shall be made during the standardization period to determine whether the standardization should be continued, revised or canceled.