Subpart 1506.3—Other Than Full and Open Competition

Parent topic: PART 1506—COMPETITION REQUIREMENTS

1506.302-5 Authorized or required by statute.

(a) *Authority.* Section 109(e) of the Superfund Amendments and Reauthorization Act of 1986 (SARA) is cited as authority.

(b) *Application.*

(1) The contracting officer may use other than full and open competition to acquire the services of experts for use in preparing or prosecuting a civil or criminal action under SARA whether or not the expert is expected to testify at trial. The contracting officer need not provide any written justification (e.g., under FAR 6.303, 8.405-6, or 13.501) for the use of other than full and open competitive procedures when acquiring expert services under the authority of section 109(e) of SARA. The contracting officer shall document the official contract file when using this authority.

(2) The contracting officer shall give notice to the Agency's Competition Advocate whenever a contract award is made using other than full and open competitition under this authority. The notice shall contain a copy of the contract and the summary of negotiations.

1506.303-2 Content.

The documentation requirements in this section apply only to acquisitions processed using other than small purchase procedures. (Refer to 1513.170 for documentation for small purchase acquisitions).

(a) The initiating office shall prepare a written justification for other than full and open competition (JOFOC) that documents the facts and circumstances substantiating the infeasibility of full and open competition for each recommended limited sources or sole source acquisition when required by FAR 6.302.

(b) The recommendation shall be entitled “Justification for Other Than Full and Open Competition” and shall be signed at the programmatic Division Director or comparable office level prior to submission with the procurement request. The JOFOC shall contain the information prescribed in FAR 6.303-2 (a) and (b).

(c) If unusual and compelling urgency (see FAR 6.303-2) is a basis for the JOFOC, then the following applies. Explain the circumstances that led to the need for an urgent contractual action. Explain why the requirement could not have been processed in sufficient time to permit full and open competition. It should be noted that the existence of legislation, court order, or Presidential mandate is not, of itself, a sufficient basis for a JOFOC. However, the circumstances necessitating legislation, court order, or Presidential mandate may justify contractual action on an other than full and open competition basis.

(d) If the proposed acquisition has been synopsized in accordance with the applicable requirements in FAR subpart 5.2, the Contracting Officer must incorporate the evaluation of responses to the synopsis in the JOFOC. (See 1506.371(d) for contents of the evaluation document).