PGI Part 206 - COMPETITION REQUIREMENTS

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Parent topic: PGI Defense Federal Acquisition Regulation

PGI 206.000 Scope of part.

For information on various approaches that may be used to competitively fulfill DoD requirements, see the Office of the Under Secretary of Defense for Acquisition and Sustainment Guidelines for Creating and Maintaining a Competitive Environment for Supplies and Services in the Department of Defense.

PGI 206.001 Reserved

PGI 206.001-70 Exception for prototype projects for follow-on production contracts.

(b) The following documents provide additional information on other transaction agreements:

(1) The DoD Other Transaction Guide (https://aaf.dau.edu/aaf/ot-guide/);

(2) USD(A&S) Memorandum, titled Authority for Use of Other Transactions for Prototype Projects Under 10, United States Code, Section 2371b, dated November 20, 2018 (https://aaf.dau.edu/wp-content/uploads/2018/11/Authority-for-Use-of-Other-Transactions-for-Prototype-Projects-Under-10_....pdf); and

(3) USD Joint Memorandum, titled Definitions and Requirements for Other Transactions Under Title 10, United States Code, Section 2371b, dated November 20, 2018 (https://aaf.dau.edu/wp-content/uploads/2018/11/Definitions-and-Requirements-for-Other-Transactions-Under-Title-10_USC_S....pdf).

PGI 206.1 - FULL AND OPEN COMPETITION

PGI 206.102 Use of competitive procedures.

PGI 206.102-70 Other competitive procedures.

(b) Approval of the Under Secretary of Defense for Research and Engineering is required prior to the award of a contract resulting from a prize competition that exceeds $10,000 (see 10 U.S.C. 4025(c)(3)). The contracting officer shall obtain the approval from the program office and include it in the contract file.

PGI 206.2 - FULL AND OPEN COMPETITION AFTER EXCLUSION OF SOURCES

PGI 206.202 Establishing or maintaining alternative sources.

(b)(i) Include the following information, as applicable, and any other information that may be pertinent, in the supporting documentation:

(A) The acquisition history of the supplies or services, including sources, prices, quantities, and dates of award.

(B) The circumstances that make it necessary to exclude the particular source from the contract action, including—

(*1*) The reasons for the lack of or potential loss of alternative sources; e.g., the technical complexity and criticality of the supplies or services; and

(*2*) The current annual requirement and projected needs for the supplies or services.

(C) Whether the existing source must be totally excluded from the contract action or whether a partial exclusion is sufficient.

(D) The potential effect of exclusion on the excluded source in terms of loss of capability to furnish the supplies or services in the future.

(E) When FAR 6.202(a)(1) is the authority, the basis for—

(*1*) The determination of future competition; and

(*2*) The determination of reduced overall costs. Include, as a minimum, a discussion of start-up costs, facility costs, duplicative administration costs, economic order quantities, and life cycle cost considerations.

(F) When FAR 6.202(a)(2) is the authority—

(*1*) The current annual and mobilization requirements for the supplies or services, citing the source of, or the basis for, the data;

(*2*) A comparison of current production capacity with that necessary to meet mobilization requirements;

(*3*) An analysis of the risks of relying on the present source; and

(*4*) A projection of the time required for a new source to acquire the necessary facilities and achieve the production capacity necessary to meet mobilization requirements.

(ii) The following is a sample format for Determination and Findings citing the authority of FAR 6.202(a):

Determination and Findings

Authority to Exclude a Source

In accordance with 10 U.S.C. 3203(a)(1), it is my determination that the following contract action may be awarded using full and open competition after exclusion of _____*:

(Describe requirement.)

Findings

The exclusion of _____*

Alternate 1: will increase or maintain competition for this requirement and is expected to result in a reduction of $_____ in overall costs for the present and future acquisition of these supplies or services. (Describe how estimate was derived.)

Alternate 2: is in the interest of national defense because it will result in having a supplier available for furnishing these supplies or services in case of a national emergency or industrial mobilization. (Explain circumstances requiring exclusion of source.)

Alternate 3: is in the interest of national defense because it will result in establishment or maintenance of an essential engineering, research or development capability to be provided by an educational or other nonprofit institution or a federally funded research and development center. (Explain circumstances requiring exclusion of source.)

* Identify source being excluded.

PGI 206.3 - OTHER THAN FULL AND OPEN COMPETITION

PGI 206.302 Circumstances permitting other than full and open competition.

PGI 206.302-1 Only one responsible source and no other supplies or services will satisfy agency requirements.

(d) *Limitations.* When utilizing the authority at FAR 6.302-1, the contracting officer shall post a request for information or a sources sought notice, and shall include the results of this inquiry in the justification required by FAR 6.303. This requirement to post may be waived by the Head of the Contracting Activity, or designee. The waiver authority may not be delegated lower than a general or flag officer or a member of the Senior Executive Service.

PGI 206.302-2 Unusual and compelling urgency.

(b) *Application*. The circumstances under which use of this authority may be appropriate include, but are not limited to, the following:

(i) Supplies, services, or construction needed at once because of fire, flood, explosion, or other

disaster.

(ii) Essential equipment or repair needed at once to—

(A) Comply with orders for a ship;

(B) Perform the operational mission of an aircraft; or

(C) Preclude impairment of launch capabilities or mission performance of missiles or missile support equipment.

(iii) Construction needed at once to preserve a structure or its contents from damage.

(iv) Purchase requests citing an issue priority designator under DoD Manual 4140.01, Volume 5, DoD Supply Chain Materiel Management Procedures: Delivery of Material, of 4 or higher, or citing "Electronic Warfare QRC Priority."

PGI 206.303 Justifications.

PGI 206.303-2 Content.

(b)(i) Justifications citing the authority at FAR 6.302-1 to permit the use of other than full and open competition, shall—

(A) Include the results of the request for information or sources sought notice posted in accordance with PGI 206.302-1 (unless the requirement to post has been waived); and

(B) For non-competitive follow-on acquisitions of supplies or services previously awarded on a non-competitive basis, include a copy of the previous justification to assist the approval authority in determining whether the planned actions to remove any barriers to competition cited on the previous justification were completed.

PGI 206.304 Approval of the justification.

(a)(S-70) For a non-competitive follow-on to a previous award for the same supply or service supported by a justification for other than full and open competition citing the authority at FAR 6.302-1—

(i) The justification shall include a copy of the previous justification to assist the approval authority in determining whether the planned actions to remove any barriers to competition cited on the previous justification were completed; and

(ii) The approval authority shall determine whether the planned actions were completed. If the actions were not completed, the justification for the follow-on acquisition shall be approved by the approval authority one-level above the approval authority for the previous justification (see FAR 6.304). If the previous justification was approved by the Senior Procurement Executive (SPE), the approval remains at the SPE level.

PGI 206.305 Availability of the justification.

See OUSD(A&S) DPAP memorandum, “Noncompetitive Contracts Awarded Based on Urgency,” dated April 13, 2015, for further guidance on the justification and approval documents required for contracts awarded using the unusual and compelling urgency exception.