PART 5806PART 5806 - COMPETITION REQUIREMENTS

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SUBPART 5806.2 – FULL AND OPEN COMPETITION AFTER EXCLUSION OF SOURCES

5806.202 Establishing or Maintaining Alternative Sources

(b)(1) Approval authority for determinations and findings (D&Fs) under this subpart follows:

Estimated Value of Justification	Approving Official of D&F
$750K and below	Contracting Officer
Over $750K to $15M	COCO
Over $15M to $100M	HCA
Over $100M	SPE

See DFARS 206.2 for D&F format. Legal Counsel and Procuring Activity Competition Advocate (PACA) or Agency Competition Advocate (ACA) coordination is required before approval. Provide the PACA with a copy of the approved D&F.

SUBPART 5806.3 – OTHER THAN FULL AND OPEN

COMPETITION

5806.302-1 Only One Responsible Source and No Other Supplies or Services Will Satisfy Agency Requirements

(d) Limitations.

(S-90) The HCA has waived the requirement to issue a Request for Information (RFI) or Sources Sought Notice (SSN) as a market research method (see DARS 5810.001 (S-92)) for:

(1) Procurement actions to increase the ceiling amount of a contract/order

(2) Bridge contract actions

(3) Procurement actions as a result of a protest

(S-91) Use of a SS notice meets the requirement at FAR 5.201 for making notices of proposed contract actions, when the SS notice also includes the information required at FAR 5.207(c)(15) and (16) and FAR 6.302-1(d)(2). Use of an RFI does not meet the requirements at FAR 5.207(c)(15), (16) and FAR 6.302-1(d)(2); a separate notice of proposed contract action is required if a sole source procurement will result from the requirement described in an RFI.

5806.302-4 International agreement

(c) Limitations. The waiver of the justifications and approvals made effective by the HCA document described in DFARS 206.302-4(c) shall only suffice in cases when the host country or NATO requests and documents in the agreement the specific company and supplies / services to be procured.

5806.302-7 Public Interest

(c)(1) Follow the format at FAR 1.7 to prepare the D&F.

Required coordination: CoCO and HCO, PACA/ACA, PS2, legal counsel, HCA, and SPE. Provide the PACA with a copy of the approved D&F.

(3) A justification is required to support the determination.

5806.303-1 Requirements

(c) The Technical and Requirement certification may be accomplished by the same certifying official on the OTFAOC Justification.

(S-90) The requirements office, in close coordination with the contracting officer, shall develop the Justification for OTFAOC using the required format located in DARS PGI 5806.303-1(S-90). Templates are updated periodically, therefore a new template must be used for each new J&A.

(S-91) The approval level shall be determined by the estimated total value of the class. For each acquisition covered by a Class J&A, the contract file must include a copy of the Class J&A with signature page, or a statement referring to its location. Only one statutory and associated regulatory authority is permissible to support a Class J&A.

(S-92) Class J&As: Legal Counsel review/coordination is required on all Justifications for OTFAOC over $750K prior to approval by the approving official. The contracting officer can request legal review for justifications at $750K or below. Procedures for signatures and approvals are located at DARS PGI 5806.303-1(S-90)(b).

Legal reviews will be conducted within four (4) business days. PACA/ACA reviews will be conducted within three (3) business days.

(S-93) An amendment to an approved J&A is required if, prior to award of the contract, the approved J&A contents change in any of the following areas:

(1) The dollar value changes (increases) prior to award but remains within the original approving official approval level;

(2) The dollar value of the prospective contract results in a change of the approving official;

(3) The competitive strategy; or,

(4) Requirements that affect the basis for the justification.

If paragraph (1) applies, a new signature page will be routed to the approving official. If paragraphs (2), (3) or (4) apply, a new signature page will be routed in accordance with (S-92).

(S-94) A modification to an approved J&A is required if, after the award of the contract, the value of the contract will increase above the value of the J&A.

The approving official for a modification to an approved J&A shall be based on the value of the modification alone, except if processed within six (6) months of an awarded contract action, which shall then be the cumulative dollar amount.

If the cumulative value requires a higher approving official’s signature, a new signature page will be routed through the initial approving official to the new approving official.

(S-95) Determining contract value.

Proposed out-of-scope contract modifications and new task/delivery orders require a new OTFAOC J&A. The estimated value of the proposed out-of-scope contract modification or new task/delivery order J&A shall be based on the value of the modification or new task/delivery order requirement alone, and not a cumulative contract value, except if processed within six (6) months of an awarded contract action, which shall then be the cumulative dollar amount.

If the cumulative value requires a higher approving official’s signature, a new signature page will be routed through the initial approving official to the new approving official.

5806.303-90 Amendment/Modification Justification Format

(a) The J&A shall clearly reflect the amendment/modification changes in bold text and separate from

the original approved J&A text.

(b) The title of the Justification should read: If prior to award “Amendment Justification”; if after award “Modification Justification”.

(c) The Justification posting requirements remain unchanged from the original Justification posting requirements.