6.302-5 Authorized or required by statute.

(a) Authority.

(1) Citations: 10 U.S.C. 3204(a)(5) or 41 U.S.C. 3304(a)(5).

(2) *Full and open competition* need not be provided for when–

(i) A statute expressly authorizes or requires that the *acquisition* be made through another agency or from a specified source; or

(ii) The agency's need is for a brand name *commercial product* for authorized resale.

(b) *Application*. This authority *may* be used when statutes, such as the following, expressly authorize or require that *acquisition* be made from a specified source or through another agency:

(1) Federal Prison Industries (UNICOR) 18 U.S.C. 4124 (see subpart 8.6).

(2) Qualified nonprofit agencies for the blind or other severely disabled 41 U.S.C. chapter 85, Committee for Purchase From People Who Are Blind or Severely Disabled (see subpart 8.7).

(3) Government Printing and Binding 44 U.S.C. 501-504, 1121 (see subpart 8.8).

(4) Sole source awards under the 8(a) Program (15 U.S.C. 637), but see 6.303 for requirements for justification and approval of sole-source 8(a) awards over $30 million. (See subpart 19.8).

(5) Sole source awards under the *HUBZone* Act of 1997-15 U.S.C. 657a (see 19.1306).

(6) Sole source awards under the Veterans Benefits Act of 2003 (15 U.S.C. 657f).

(7) Sole source awards under the WOSB Program– 15 U.S.C. 637(m) (see 19.1506).

(c) Limitations.

(1) This authority *shall* not be used when a provision of law requires an agency to award a new contract to a specified non-Federal Government entity unless the provision of law specifically—

(i) Identifies the entity involved;

(ii) Refers to 10 U.S.C. 3201(e) for armed services *acquisitions* or 41 U.S.C. 3105 for civilian agency *acquisitions*; and

(iii) States that award to that entity *shall* be made in contravention of the merit-based selection procedures in 10 U.S.C. 2304(k) or 41 U.S.C. 3105, as appropriate. However, this limitation does not apply–

(A) When the work provided for in the contract is a continuation of the work performed by the specified entity under a preceding contract; or

(B) To any contract requiring the National Academy of Sciences to investigate, examine, or

experiment upon any subject of science or art of significance to an *executive agency* and to report on those matters to the Congress or any agency of the Federal Government.

(2) Contracts awarded using this authority *shall* be supported by the written justifications and approvals described in 6.303 and 6.304, except for–

(i) Contracts awarded under (a)(2)(ii) or (b)(2) of this section;

(ii) Contracts awarded under (a)(2)(i) of this section when the statute expressly requires that the *procurement* be made from a specified source. (Justification and approval requirements apply when the statute authorizes, but does not require, that the *procurement* be made from a specified source); or

(iii) Contracts less than or equal to $30 million awarded under (b)(4) of this section.

(3) The authority in (a)(2)(ii) of this section *may* be used only for purchases of brand name *commercial products* for resale through commissaries or other similar facilities. Ordinarily, these purchases will involve articles desired or preferred by customers of the selling activities (but see 6.301(d)).

Parent topic: 6.302 Circumstances permitting other than full and open competition.