

# NASA FAR Sup 1806

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PART 1806

**COMPETITION REQUIREMENTS**

*(Revised June 8, 2017)*

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## PART 1806

### COMPETITION REQUIREMENTS

#### Subpart 1806.2—Full and Open Competition After Exclusion of Sources

##### 1806.202 Establishing or maintaining alternative sources.

- (a) The authority of [FAR 6.202](#) is to be used to totally or partially exclude a particular source.
- (b) The supporting data and the D&F must name the source to be excluded and shall include the following information as applicable and any other relevant information:
  - (i) The specific purpose to be served in excluding the source as enumerated in [FAR 6.202](#)(a).
  - (ii) The acquisition history of the supplies or services, including sources, prices, quantities, and dates of award.
  - (iii) The circumstances making it necessary to exclude a particular source from the contract action:
    - (A) Reasons for lack of sources; e.g., the technical complexity and criticality of the item.
    - (B) Current annual requirement and prospective needs for the supplies and services.
    - (C) Projected future requirements.
  - (iv) Whether the existing source must be totally excluded from the action or whether a partial exclusion is sufficient.
  - (v) The potential effect of exclusion on the excluded source in terms of any loss of capability to furnish the supplies or services in subsequent contract actions.
  - (vi) When the authority of [FAR 6.202](#)(a)(1) is cited, the basis for—
    - (A) Assumptions regarding future competition; and
    - (B) The determination that exclusion of a particular source will likely result in reduced overall costs for anticipated future acquisitions, including (as a minimum) discussion of start-up costs, costs associated with facilities, duplicative administration costs (such as for additional inspection or testing), economic order quantities, and life-cycle-cost considerations.
  - (vii) When an additional source or additional sources must be established to provide production capacity to meet current and mobilization requirements—
    - (A) The current annual and the mobilization requirements for the item, citing the source of, or the basis for, the planning data;
    - (B) A comparison of current production capacity with current and mobilization requirements; and
    - (C) The hazards of relying on the present source and the time required for new sources to acquire the necessary facilities and skills and achieve the production capacity necessary to meet requirements.

## **1806.202-70 Formats.**

A sample format for D&Fs citing the authority of [FAR 6.202](#)(a) follows:

**National Aeronautics and Space Administration**  
**Washington, DC 20546**

### **Determination and Findings**

#### **Authority to Exclude a Source**

On the basis of following findings and determination, which I make under the authority of 10 U.S.C. 2304(b)(1) as implemented by [FAR 6.202](#), the proposed contract action described below may be awarded using full and open competition after exclusion of (1).

#### **Findings**

1. It is proposed that the following requirement be acquired using full and open competition after exclusion of the source identified above.
  2. The source identified above can be expected to receive an award for this requirement unless excluded.
  3. It is necessary to establish or maintain an alternative source or sources.
  4. The exclusion of this source will increase or maintain competition and is likely to result in reduction of (2) in overall costs for any anticipated acquisition of the supplies or services being acquired. This estimate is based on (3).
- (See Note 4 for the use of Alternates I and II below.)

**Alternate I:** The exclusion of this source will serve the national defense interest by having an alternative supplier available for furnishing the supplies or services being acquired, in case of a national emergency or industrial mobilization, because (5).

**Alternate II:** The exclusion of this source will serve the national defense interest by establishing or maintaining an essential engineering, research, or development capability of an educational or other nonprofit institution or a federally funded research and development center, because (5).

#### **Determination**

The exclusion of the source identified above will increase or maintain competition and is likely to result in reduced overall costs for any anticipated acquisition of the supplies or services being acquired.

(See Note 4 for the use of Alternates I and II below.)

**Alternate I:** It is in the interest of the national defense to exclude the source identified above in order to have an alternative supplier available for furnishing the supplies or services being acquired, in case of a national emergency or industrial mobilization.

**Alternate II:** It is in the interest of national defense to exclude the source identified above in order to establish or maintain 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.

Date \_\_\_\_\_

**NOTES:**

1. Name of source to be excluded.
2. Description of estimated reduction in overall costs.
3. Description of how estimate was derived.
4. In paragraph 4 and in the Determination, the basic wording is appropriate when FAR 6.202(a)(1) applies; Alternate I is appropriate when [FAR 6.202](#)(a)(2) applies; and Alternate II is appropriate when FAR 6.202(a)(3) applies.
5. Description of circumstances necessitating the exclusion of the identified source.

**Subpart 1806.3—Other Than Full and Open Competition****1806.302 Circumstances permitting other than full and open competition.****1806.302-4 International agreement.**

(c) Pursuant to 10 U.S.C. 2304(f)(2)(E), an individual justification for other than full and open competition under the authority of [FAR 6.302-4](#) is not required when the procurement officer signs a Memorandum for the Record that describes the specific terms of the international agreement or treaty that limit acquisitions in support of, or as a result of, the agreement or treaty to less than full and open competition.

**1806.302-7 Public interest.**

(c)(2) The NASA Headquarters, Office of Legislative and Intergovernmental Affairs is responsible for notifying Congress. The Office of Procurement, Program Operations Division shall request the notice to Congress be made immediately upon approval of a D&F and shall advise the contracting activity of the date upon which the notification period ends.

(3) The contracting officer shall prepare the D&F required by [FAR 6.302-7](#)(c)(1) in any format that clearly documents the determination and the supporting findings.

**1806.303 Justifications.****1806.303-1 Requirements.**

(c) Justifications for using less than full and open competition may be prepared by the technical office initiating the contract action when it is recommending the use of the justification authority, or by the contracting officer if the technical office does not make such a recommendation.

(d) The contracting officer shall send a copy of each approved justification or D&F that cites the authority of [FAR 6.302-7](#) to NASA Headquarters, Office of Procurement, Program Operations Division, unless one of the exceptions at [FAR 25.401](#) applies to the acquisition. The transmittal shall indicate that the justification is being furnished under [FAR 6.303-1](#).

**1806.303-170 Sole-source purchases by contractors.**

The requirements of [FAR Part 6](#) and NFS part **1806** apply if NASA directs a prime contractor (by specifications, drawings, parts lists, or otherwise) to purchase items on a sole-source basis.

Accordingly, procurement officers shall take necessary actions to ensure that such sole-source acquisitions are properly justified.

### **1806.303-2 Content.**

#### **1806.303-270 Use of unusual and compelling urgency authority.**

(a) When using the authority of [FAR 6.302-2](#), the justification required in [FAR 6.303](#) shall describe and provide rationale as to the extent and nature of the harm to the Government by: quantifying the serious injury; estimating the cost and describing the basis for the estimate of the financial injury. If personal injury or loss of life or any other injury is probable, describe the circumstances behind this potential injury/loss and why no other action could avert these conditions. Include a chronological explanation of events that caused the urgent situation. The justification must also explain the extent to which competition is limited and describe the extent to which maximum practicable competition was obtained given the circumstances.

(b) If the authority at [FAR 6.302-2](#) is used for extending the performance period of an existing services contract, the justification shall contain the information required by FAR 6.303-2 and;

- (1) Documentation that the acquisition process for the successor contract was started early enough to allow for adequately planning and conducting a full and open competition, together with a description of the circumstances that prevented award in a timely manner; and
- (2) Documentation of the reasons why no other source could practicably compete for the interim requirement.

### **1806.304 Approval of the justifications.**

(a) Contracting officers shall obtain concurrences and approvals for justifications of contract actions consistent with the dollar values identified in [FAR subparts 6.2](#) and [6.3](#) from the following NASA officials:

(a)(2) The concurring official is the Procurement Officer and the approving official is the Center or Headquarters Competition Advocate.

(a)(3) The concurring officials are the Procurement Officer and the Center or Headquarters Competition Advocate. The approving official is the head of the contracting activity. The approval authority may not be delegated to other than the installation's Deputy Director.

(a)(4) The concurring officials are the Procurement Officer, the Center or Headquarters Competition Advocate, the head of the contracting activity, and the Agency Competition Advocate. The approving official is the Assistant Administrator for Procurement.

(b) For proposed contract actions requiring approval by the Assistant Administrator for Procurement, the justification shall be transmitted electronically to the cognizant analyst of the Headquarters Office of Procurement, Program Operations Division.

(c) Regardless of dollar value, class justifications shall be approved by the Assistant Administrator for Procurement.

## **Subpart 1806.5—Advocates for Competition**

### **1806.501 Requirement.**

(1) The Deputy Assistant Administrator for the Office of Procurement is the agency competition advocate, reporting to the Assistant Administrator for Procurement on issues related to competition of NASA acquisitions.

(2) The Center Deputy Directors or Associate Directors are the competition advocates for their contracting activities.

(3) The Executive Director for Headquarters Operations is the competition advocate for the Headquarters contracting activity.

### **1806.502 Duties and Responsibilities.**

(b) Center competition advocates shall submit annual reports to the agency competition advocate on or before January 15.