

Subchapter 3006.3 Other Than Full and Open Competition**3006.302 Circumstances permitting other than full and open competition.****3006.302-1 Only one responsible source and no other supplies or services will satisfy agency requirements.**

(b)(4) The Acquisition Policy and Oversight (APO) Executive Director will make the determination.

3006.302-2 Unusual and compelling urgency.

(d)(1)(ii) The HCA is the approval authority for the written determination.

3006.302-7 Public interest.

(d) The CPO approves any determination and Justification and Approval (J&A) for Other than Full and Open Competition covered under 6.302-7, regardless of dollar amount, prior to review and approval by the Secretary.

3006.303 Justification.**3006.303-1 Requirements.**

(a) The DHS Justification and Approval for Other than Full and Open Competition Guide provides guidance on preparing justifications, including a sample format. All justifications requiring review and approval by the Office of the Chief Procurement Officer (OCPO) shall follow the sample format provided in the guide. The guide is located at <https://dhsconnect.dhs.gov/org/comp/mgmt/ocpo/APL/Pages/Guides&Tools.aspx>.

3006.303-2 Content.

(b)(9)(iii) For a proposed contract where FAR 6.302-2 is cited as the authority, the exceptional circumstances allowing for an award for a period of performance in excess of 150 days (see HSAR 3006.302-270) or one year (see FAR 6.302-2(d)(1)(ii)).

3006.304 Approval of the justification.

(c) Class justifications shall be approved by the same approval authority as for individual justifications (see FAR 6.304(a)). Class determinations and findings and J&As under the authority at FAR 6.302-7, Public Interest, are prohibited. When awarding a contract based on a class justification, a copy of the approved J&A must be included in the contract file.

(e) Justifications and approvals that result in the invocation of the exception to the Buy American statute at FAR 25.103(b)(2) or 25.202(a)(2) shall be reviewed and approved in accordance with HSAM 3025.103(b)(2)(i) or 3025.202(a)(2), as applicable. The justification

and approval shall follow the sample format in the DHS Justification and Approval for Other than Full and Open Competition Guide and be submitted to the CPO for review and approval using the DHS Buy American Reporting Tool (see HSAM 3025.001(c)(74)).

(f) All justifications submitted to the OCPO for approval shall be accompanied by the corresponding legal review and approved acquisition plan. Any previous justification shall also be submitted.

3006.304-71 Revised and postaward justifications.

(a) Preaward revisions to justifications.

(1) Contracting officers shall revise justifications and obtain required approvals before contract award if –

(i) There are changes to the requirement that result in a substantive change to the description of the supplies or services being purchased even if there is no change to the final award amount;

(ii) The final award amount is greater than twenty percent of the estimated value in the original J&A; or

(iii) The increase in the total dollar value of the action now requires higher approvals (*e.g.*, approval by the advocate for competition).

(2) Preaward revisions to justifications shall be reviewed and approved before contract award –

(i) By the original approving authority when there is no impact to the dollar value of the action or the change to the dollar value does not change the approval requirement;

(ii) By a higher approving authority when there is an increase to the dollar value of the action that changes the approval requirement (*e.g.*, the original J&A was approved by the contracting officer, but the final award amount requires approval by the advocate for competition); and

(iii) Be prepared, reviewed, and approved in accordance with FAR 6.303, FAR 6.304, HSAM 3004.7003, HSAM 3006.303, and HSAM 3006.304.

(3) Revisions to justifications may be made with change pages or by a complete revision of the J&A. The revisions must be either highlighted or identified by the use of change bars alongside the revised text to facilitate identification of the changes.

(b) Postaward justifications.

(1) Contracting officers shall prepare justifications after contract award for sole source and competitively awarded actions if the modification makes a material change to the contract.

(2) Contracting officers shall consult legal counsel for modifications that increase the contract value by greater than twenty percent to determine if the modification makes a material change to the contract. Contracting officers shall include their determination, with evidence of legal review, in the contract file.

(3) Justifications for each modification shall be prepared and approved in accordance with FAR 6.303, FAR 6.304, HSAM 3004.7003, HSAM 3006.303, and HSAM 3006.304.

3006.304-72 Legal review.

Legal counsel shall review J&As for legal sufficiency if the contract value, inclusive of options, exceeds the simplified acquisition threshold consistent with the requirement at HSAM 3004.7003.

3006.305 Reserved.