

Subchapter 3013.5 Simplified Procedures for Certain Commercial Products and Commercial Services

3013.501 Special documentation requirements.

(a)

(2)(i) The justification and approval requests for the use of sole source (including brand name) as described in FAR 13.501(a)(1) and (2) shall be submitted to the DHS or Component Competition officials designated at HSAM Chapter 3006.

(3) Sole source (including brand name) justifications 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)).

3013.501-70 Revised and postaward sole source justifications.

(a) *Preaward revisions to sole source justifications.*

(1) Contracting officers shall revise sole source 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 sole source justification; 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 sole source 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 sole source justification 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 13.501, HSAM 3004.7003, HSAM 3013.501, and HSAM 3013.501-70.

(3) Revisions to sole source justifications may be made with change pages or by a complete revision of the sole source justification. 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 sole source justifications.*

(1) Contracting officers shall prepare sole source 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) Sole source justifications for each modification shall be prepared and approved in accordance with FAR 13.501, HSAM 3004.7003, HSAM 3013.501, and HSAM 3013.501-70.