

## Panama Canal Commission

3506.304

AUTHORITY: 40 U.S.C. 486(c); Article IX of the Agreement in Implementation of Article III of the Panama Canal Treaty of 1977.

SOURCE: 55 FR 7640, Mar. 2, 1990, unless otherwise noted.

### 3506.000 Scope of part.

This part implements FAR part 6 and prescribes Commission policies and procedures related to competition requirements.

### Subpart 3506.3—Other Than Full and Open Competition

#### 3506.300 Scope of subpart.

This subpart provides guidance on:

(a) The application of the Panama Canal Treaty of 1977 between the United States and Panama as an exemption to the requirement for full and open competition, and

(b) The preparation and approval of individual and class Justifications for Other Than Full and Open Competition (JOFOC's).

#### 3506.302-4 International agreement.

(a) *Authority.* Article IX of the Agreement in Implementation of Article III of the Panama Canal Treaty of 1977 establishes that the Commission shall give preference to Panamanian supplies and services in its procurement activities. Such preference is understood to mean that if supplies or services (including construction) of comparable quality and price are available when required and can be obtained from sources both within and without the Republic of Panama, preference shall be afforded to those sources within the Republic of Panama to the maximum extent possible. When choosing between goods from sources within the Republic of Panama, preference shall be given to those with a larger percentage of components of Panamanian origin. This is not intended to require the purchase of Panamanian supplies and services, as defined herein, where superior quality or lower prices are available from other sources. Part 3570 sets forth specific guidance and policy with respect to the Commission's implementation of Article IX.

(c) *Limitations.* Solicitations above the small purchase limitation that are intended for exclusive acquisition from

sources in Panama shall be supported by a class or individual determination and findings as required by 3570.102(e).

#### 3506.303 Justifications.

##### 3506.303-1 Requirements.

(c) The scope of the actual procurement shall not exceed the scope of the proposed procurement cited in the JOFOC. If a change to the contract exceeds this limitation, the contract change shall not be consummated until an amended JOFOC has been approved.

(d) When contract actions are subject to the Agreement on Government Procurement and the authority of FAR 6.302-3(a)(2)(i) or 6.302-7 is being cited as the basis for not providing full and open competition, a copy of the justification shall be forwarded to the Procurement Executive as the point of contact with the Office of the United States Trade Representative.

##### 3506.303-2 Content.

In addition to the requirements of FAR 6.303-2, the justification shall include—

- (a) The type of contract;
- (b) A statement of delivery requirements;
- (c) The total estimated dollar value, including options, for the acquisitions covered by the justification; and
- (d) A copy of the approved Acquisition Plan when the acquisitions meet the criteria for a written Acquisition Plan under subpart 3507.1.

##### 3506.304 Approval of the justification.

(a) Except as noted at FAR 6.304(b), the approval of a justification for other than full and open competition shall be in writing and at the levels given below—

(1) For a proposed contract not exceeding \$100,000, the HCA is the approval authority. This approval is not required when the contract is one of those cited in FAR 6.304(a)(1) (i) through (iv).

(2) For a proposed contract over \$100,000, but not exceeding \$1,000,000, the Competition Advocate is the approval authority.

(3) For a proposed contract over \$1,000,000, but not exceeding \$5,000,000,

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the Procurement Executive is the approval authority.

(4) For a proposed contract over \$5,000,000, the Administrator is the approval authority.

(b) Contracting officers shall consult with the Competition Advocate prior to submitting any justification for approval pursuant to paragraph (a) of this section.

### 3506.304-70 Class justifications.

(a) Class justifications shall be approved in the same manner as individual justifications. To determine the approval level for a class justification, the aggregate estimated dollar value of all actions contemplated for one year shall be used to establish the appropriate dollar threshold for approval.

(b) The following are examples of appropriate class justifications:

(1) A basic ordering agreement (BOA) including all orders to be issued under the BOA for the term of the BOA;

(2) Contracts to be awarded to more than one contractor to provide Government-furnished property for assembly into an end item, in which case the circumstances of the class justification must justify all the contracts proposed under the justification.

(c) Requests for approval at any level must be submitted to the approval authority before release of the solicitation. The solicitation shall not be released until the justification is approved in writing (but see FAR 6.303-1(e)).

(d) The Procurement Executive shall maintain a list of products, materials, and services that have been granted a class justification for exclusive acquisition from sources in Panama (see 3506.302-4(c)).

### Subpart 3506.5—Competition Advocate

#### 3506.501 Requirement.

The Administrator shall designate in writing one Competition Advocate who shall serve as the agency and procuring activities competition advocate for all Commission acquisitions.

## 48 CFR Ch. 35 (10-1-00 Edition)

### PART 3507—ACQUISITION PLANNING

#### Subpart 3507.1—Acquisition Plans

Sec.

3507.103 Agency-head responsibilities.

#### Subpart 3507.3—Contractor Versus Government Performance

3507.301 Policy.

AUTHORITY: 40 U.S.C. 486(c).

#### Subpart 3507.1—Acquisition Plans

##### 3507.103 Agency-head responsibilities.

(c)(1) Formal acquisition planning provided at FAR subpart 7.1 is primarily designed for complex and costly acquisitions. However, the disciplines of the prescribed planning process are useful to all acquisitions, even if on a less formal basis.

(2) Written acquisition plans shall be prepared for—

(i) All development (see FAR 35.001) acquisitions whose estimated contractual cost is \$1,000,000 or more annually;

(ii) Supply, service, and construction acquisitions whose estimated contractual cost is \$3,000,000 or more for any fiscal year. Excluded are repetitive requirements-type and fuel contracts.

(d) The Acquisition Plan (AP) shall include all subsystems, Government-furnished property, major component contractual actions, and all other contracts which have a significant effect on the total program.

(f) The planner for acquisitions requiring a formal, written plan shall be the program manager or other official having overall responsibility for the program concerned.

(g)(1) The planner shall obtain the written concurrence of the appropriate contracting officer for each acquisition plan.

(2) The Head of the Contracting Activity shall review and approve the acquisition plan and ensure that (i) the objectives of the AP are realistic and achievable, and (ii) solicitations and contracts are appropriately structured to equitably distribute the technical, financial, and business risks, considering the phase of the acquisition, the