

## Federal Acquisition Regulation

## 6.302-5

any claim or request for adjustment to contract terms and conditions, whether asserted by a contractor or the Government, which is in litigation or dispute, or is anticipated to result in dispute or litigation before any court, administrative tribunal, or agency, or

(B) Participating in any part of an alternative dispute resolution process, including but not limited to evaluators, fact finders, or witnesses, regardless of whether the expert is expected to testify; or

(ii) A neutral person, e.g., mediators or arbitrators, to facilitate the resolution of issues in an alternative dispute resolution process.

(c) *Limitations.* Contracts awarded using this authority shall be supported by the written justifications and approvals described in 6.303 and 6.304.

[50 FR 52431, Dec. 23, 1985, as amended at 60 FR 42654, Aug. 16, 1995; 60 FR 44548, Aug. 28, 1995; 62 FR 235, Jan. 2, 1997; 63 FR 58594, 58602, Oct. 30, 1998; 66 FR 2128, Jan. 10, 2001; 68 FR 28080, May 22, 2003]

### 6.302-4 International agreement.

(a) *Authority.* (1) Citations: 10 U.S.C. 2304(c)(4) or 41 U.S.C. 253(c)(4).

(2) Full and open competition need not be provided for when precluded by the terms of an international agreement or a treaty between the United States and a foreign government or international organization, or the written directions of a foreign government reimbursing the agency for the cost of the acquisition of the supplies or services for such government.

(b) *Application.* This authority may be used in circumstances such as—

(1) When a contemplated acquisition is to be reimbursed by a foreign country that requires that the product be obtained from a particular firm as specified in official written direction such as a Letter of Offer and Acceptance; or

(2) When a contemplated acquisition is for services to be performed, or supplies to be used, in the sovereign territory of another country and the terms of a treaty or agreement specify or limit the sources to be solicited.

(c) *Limitations.* Except for DoD, NASA, and the Coast Guard, contracts awarded using this authority shall be

supported by written justifications and approvals described in 6.303 and 6.304.

[50 FR 52432, Dec. 23, 1985, as amended at 55 FR 52790, Dec. 21, 1990]

### 6.302-5 Authorized or required by statute.

(a) *Authority.* (1) Citations: 10 U.S.C. 2304(c)(5) or 41 U.S.C. 253(c)(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 item 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. 46-48c (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 (see subpart 19.8); or

(5) The Robert T. Stafford Disaster Relief and Emergency Assistance Act—42 U.S.C. 5150 (see subpart 26.2).

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

(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. 2304(j) for armed services acquisitions or section 303(h) of the Federal Property and Administrative Services Act of 1949 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(j) or section 303(h) of the Federal Property and Administrative Services Act, as appropriate. However, this limitation does not apply—