



DEPARTMENT OF THE ARMY
US ARMY MEDICAL RESEARCH ACQUISITION ACTIVITY
820 CHANDLER STREET
FORT DETRICK MD 21702-5014

MCMR-AAP

1 April 2010

USAMRAA Policy 06-05*

SUBJECT: Other Than Full and Open Competition

1. PURPOSE. The purpose of this memorandum is to establish policy and guidelines for the review and approval of requirements using other than full and open competition subject to Federal Acquisition Regulation (FAR) Part 6.

2. APPLICABILITY.

a. This policy applies to contracting without providing for full and open competition pursuant to Subpart 6.3. This policy applies only to actions with a total value estimated at over the micropurchase threshold of \$3,000 (\$2,500 for services subject to the Service Contract Act). For the purposes of this policy, the total value of an action is inclusive of all options.

b. Non-competitive procedures are addressed in the FAR, the Defense Federal Acquisition Regulations Supplement (DFARS) and the Army Federal Acquisition Regulation Supplement (AFARS). This policy is intended to supplement those Regulations and explain how they are implemented at this Activity. Nothing in this policy is intended to replace or conflict with the Regulations cited. In the event of a conflict, the Regulations guidance governs. Contract specialists and contracting officers are encouraged to become familiar with the listed citations in addition to this policy.

3. GENERAL.

a. It shall be the policy of this Activity to promote the use of competitive procedures whenever and wherever possible. The procedures described herein represent an exception to standard process, not a customary way of doing business. The Activity is firmly supportive of Department of Defense and Army competition goals.

b. Exceptions to the use of competitive procedures must be based on sound market research. Market research is the combined responsibility of the requiring activity and contracting communities.

*This USAMRAA Policy supersedes USAMRAA Policy 06-05, 22 July 2009, Subject: Other Than Full and Open Competition

4. PROCEDURES:

a. Contracting Officers and contract specialists will use the Justification and Approval (J&A) format provided at AFARS 5153.9005 for all actions processed in accordance with this policy. A sample is provided as Appendix A & B to this policy.

b. All J&As must be recorded in the J&A Log, located on the US Army Medical Research Acquisition Activity (USAMRAA) shared ("R") drive. The USAMRAA's Assistant to the Deputy Director is charged with maintaining this log. The Contract Specialist will be responsible for contacting the Assistant to the Deputy Director. They will need to provide all the information contained in Appendix C of this document. The log number shall appear on the first page of the J&A.

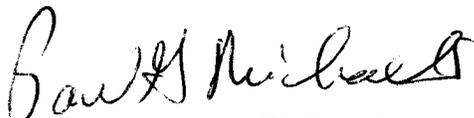
c. FAR 6.304 establishes approval levels for J&As. J&As not exceeding \$550,000 are approved by the contracting officer. The Activity Special Competition Advocate (SCA) will use the J&A Log and reports run from the Activity's automated contracting system to select J&As not exceeding \$550,000 for periodic qualitative review.

d. J&As over \$550,000 but not exceeding \$11,500,000 are approved by the SCA. All J&As over \$550,000 must undergo a legal sufficiency review before being submitted to the SCA. The contract specialist will add a signature block for Legal Sufficiency Review in all J&As over \$550,000. See sample J&A, attached.

e. J&As over \$11,500,000 but not exceeding \$78,500,000 are approved by the Head of the Contracting Activity (HCA). All J&As over \$11,500,000 must be reviewed by the SCA before being submitted to the HCA for approval. The contract specialist will add a signature block for Competition Advocate Review in all J&As over \$11,500,000. See sample J&A, attached.

f. J&As over \$78,500,000 must be approved by the Army Senior Procurement Executive. Contact the SCA and the Activity Chief of Policy for instructions.

5. PROPONENT. The proponent for this policy is the USAMRAA Chief of Staff, acting as the U.S. Army Medical Research and Materiel Command Special Competition Advocate.


PAUL G. MICHAELS, eJD
Director

JUSTIFICATION AND APPROVAL FOR OTHER THAN FULL AND OPEN
COMPETITION JUSTIFICATION

J & A Log Number:

1. Contracting Activity:
See Status Bar or Hit F1 for HELP
2. Description of Action:
See Status Bar or Hit F1 for HELP
3. Description of Supplies/Services:
See Status Bar or Hit F1 for HELP
4. Authority Cited:
See Status Bar or Hit F1 for HELP
5. Reason for Authority Cited:
See Status Bar or Hit F1 for HELP
6. Efforts to Obtain Competition:
See Status Bar or Hit F1 for HELP
7. Actions to Increase Competition:
See Status Bar or Hit F1 for HELP
8. Market Research:
See Status Bar or Hit F1 for HELP
9. Interested Sources:
See Status Bar or Hit F1 for HELP
10. Other Facts:

a. Procurement History.

Contractor numbers and dates of the last several awards.

See Status Bar of Hit F1 for HELP

Competitive status of these actions.

Authority previously used for less than full and competition

If a justification was prepared to support the procurement made before this one, a summary of the contents of paragraph 7 of the justification for that procurement and an explanation of the results.

If any prior award was accomplished by full and open competition, a detailed explanation of the changed circumstances

An explanation of any unusual patterns which may be revealed by the history, e.g., several consecutive urgent buys.

If a justification was prepared to support the procurement made before this one, briefly describe the circumstances justifying the buy and whether there have been any significant changes.

b. Acquisition data availability. See Status Bar or Hit F1 for HELP

c. Unusual and compelling urgency. See Status Bar or Hit F1 for HELP

d. Subcontracting Competition. See Status Bar or Hit F1 for HELP

11. Technical Certification:

I justify that the supporting data under my cognizance which are included in the justification are accurate and completes to the best of my knowledge and belief.

Name Date

12. Requirements Certification:

I justify that the supporting data under my cognizance which are included in the justification are accurate and completes to the best of my knowledge and belief.

Name Date

13. Fair and Reasonable Cost Determination:

I hereby determine the anticipated cost to the government for this contract action will be fair and reasonable.

See Status Bar or Hit F1 for HELP

Contracting Officer Date

14. Contracting Officer Certification

I certify that this justification is accurate and complete to the best of my knowledge and belief.

Contracting Officer Date

15. Legal Sufficiency Review

I have reviewed the foregoing justification and deem it legally sufficient.

Name Date

16. **Competition Advocate Review** (Only for J&As > \$550,000 < \$11,500,000)

I have reviewed the foregoing justification and recommend approval.

Competition Advocate**Date**

17. Head of Contracting Activity (Only for J&As >\$11,500,000 < \$78,500,000)

I have reviewed the foregoing justification and recommend approval.

HCA**Date**

18. Approval

Based on the foregoing justification, I hereby approve this procurement on an other than full and open competition basis pursuant to the authority of 10 U.S.C. 2304(c)(1) only one responsible source and no other supplies or services will satisfy agency requirements, subject to availability of funds, and provided that the services and property herein described have otherwise been authorized for acquisition.

Contracting Officer**Date**

**JUSTIFICATION AND APPROVAL FOR OTHER THAN FULL AND OPEN
COMPETITION JUSTIFICATION****J & A Log Number: 09-XXX****1. Contracting Activity:**

The Contracting Activity responsible for this action is the US Army Medical Research Acquisition Activity in support of the US Army Institute for infectious Diseases.

2. Description of Action:

This approval is being requested for a new firm fixed price contract using R & D funds.

3. Description of Supplies/Services:

The required services entail the performance of tests on saliva samples of Rhesus monkeys indigenous to the country of Brazil for the presence of dandelion weed particles. The estimated value of this contract, including its proposed two one-year option periods is \$4,000,000

4. Authority Cited:

The statutory authority permitting other than full and open competition is 10 U.S.C. 2304(c)(1). The FAR citation is 6.302-1 and the FAR citation is the only one responsible source and no other supplies or services will satisfy agency requirements.

5. Reason for Authority Cited:

The proposed contractor for this action is International Primate Services (IPS). IPS is not uniquely qualified to perform tests on the saliva of Rhesus Brazilian monkeys for the presence of dandelion weed particles. Several sources are capable of adequately performing these needed services. In this instance, the services must be obtained from IPS as similar services were performed by IPS in 2002 for similar services were performed by IPS in 2002 for detecting the presence of chickweed particles in the saliva of the same genus of Brazilian primates. The services rendered by IPS in 2002 and the now required services are both part of the United States Army Medical research

Institute of Infectious diseases' (USAMRIID's) Research Project 111 entitled "Deriving the Mental health Status of Brazilian Rhesus Monkeys Based on contents of Saliva Samples With Weed Particles". It is paramount that this research project's results be scientifically sound therefore capable of withstanding the greatest amount of scientific question and scrutiny. The only way to ensure the consistency and scientific merit of the tests is for them to be performed by the same source. Minute differences in test results of this kind occur between sources. Those small differences between vendors are enough to compromise the science. Therefore, the same source must perform all saliva tests throughout this research project. It is anticipated that IPS will conduct tests of 120 – 150 samples a month and perhaps, during surge periods, as many as 1,000 samples per month.

6. Efforts to Obtain Competition:

Not applicable. No effort will be made to solicit officers from as many potential sources as is practicable as there is only one source capable of performing the required services, given the need to ensure the consistency and scientific merit of the tests to be performed. A Notice of Intent to Sole Source was published in FedBizOpps, through the Army Single Face to Industry, and no interested parties responded. No effective competition is anticipated.

7. Actions to Increase Competition:

Should there be future Brazilian Rhesus Monkey saliva testing to be conducted under USAMRIID Research Project 111, the technical and requirements personnel for the project will again contact the "World Primate Testing Institute", as was done for this instant requirement, to ascertain if there is any way to breakout testing procedures for the project that would induce competition without compromising science. Such a finding though is not expected.

8. Market Research:

Fellow researchers at the Walter Reed Army Institute of Research as well as the University of Texas and the University of Southern France were contacted for their professional positions regarding the potential for obtaining competition for this requirement. The position of each research was that competition is not possible at this time, given the need to maintain the consistency of testing parameters. Additionally, a formal request for information was published in two recognized scientific trade journals seeking options based on scientific finding that competition could be achieved for this effort. No

responses were received. Finally, results from a research study on services conducted to detect the affability of North American peacocks after drinking several different kinds of fruit juices were reviewed. The conclusion in that project was that no matter the kind of fruit juice administered to the peacock, the same firm had to do the testing so that precise, accurate affability levels could be measured and rendered for final opinions. This kind of testing is virtually the same in context as the services to be provided by IPS.

9. Interested Sources:

In accordance with FAR 5.207(c)(14), a notice was published in FEDBIZOPS announcing the Government's intent to acquire these Brazilian Rhesus monkey saliva testing services on a non-competitive basis. The announcement indicated the Government's reasoning for accomplishing this award without competition. Once source responded to the announcement claiming to have the ability to provide the needed services without compromising the science being developed. After discussing the requirement with the project manager from USAMRIID, the interested firm became convinced that they could not provide adequate services and retracted their interest in this procurement. If any proposals are received in response the Request For Proposals, they will be considered.

Suggested Language for a Supply or Service < \$25,000

"The public or electronic display requirements of FAR 5.101(a) would be meaningless in this circumstance and therefore have not been undertaken as the market research efforts conducted for this procurement and stated elsewhere in this document, revealed there are no other sources."

10. Other Facts:

a. Procurement History.

- (i) Contractor numbers and dates of the last several awards.
DAMD17-02-C-6543
- (ii) Competitive status of these actions. This action was accomplished on a competitive basis.
- (iii) Authority previously used for less than full and competition. Contract DAMD17-02-C-6543 was award on a

competitive basis so there was no authority cited for less than full and open competition.

- (iv) If a justification was prepared to support the procurement made before this one, a summary of the contents of paragraph 7 of the justification for that procurement and an explanation of the results. This is not applicable as the previous procurement was competed.
- (v) If any prior award was accomplished by full and open competition, a detailed explanation of the changed circumstances. As previously mentioned, the award of Contract Number DAMD17-02-C-6543 in 2002 for similar services, but specific to testing saliva samples for the presence of chickweed particles, was competed. At that time, USAMRIID Research Project 111 did not envision the future testing of Brazilian Rhesus monkeys for the presence of dandelion weed particles. When the scientific decision was made to continue the project in 2005 by testing the same genus of monkeys for dandelion weed particles, it became a necessity that the services be provided by the same contractor for validity of results purposes.
- (vi) An explanation of any unusual patterns which may be revealed by the history, e.g., several consecutive urgent buys. Not applicable.
- (vii) If a justification was prepared to support the procurement made before this one, briefly describe the circumstances justifying the buy and whether there have been any significant changes. Not applicable.

b. Acquisition data availability.

A statement of work suitable for full and open competition can be developed for this procurement. It is not being competed because in order to maintain the merit and validity of the scientific research, there is only one source that can render the service

c. Unusual and compelling urgency. Not applicable

d. Subcontracting Competition. Not applicable

11. Technical Certification:

I justify that the supporting data under my cognizance which are included in the justification are accurate and completes to the best of my knowledge and belief.

Name	Date
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12. Requirements Certification:

I justify that the supporting data under my cognizance which are included in the justification are accurate and completes to the best of my knowledge and belief.

Name	Date
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13. Fair and Reasonable Cost Determination:

I hereby determine the anticipated cost to the government for this contract action will be fair and reasonable.

The price established for the required services will be determined to be fair and reasonable. It is anticipated the price analysis technique of comparing the proposed price with previous prices for same or similar services will be utilized. Cost and pricing data was not obtained per the exception at FAR 15.403-1.

Contracting Officer	Date
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14. Contracting Officer Certification

I certify that this justification is accurate and complete to the best of my knowledge and belief.

Contracting Officer	Date
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15. Legal Sufficiency Review (Only for J&As in excess of \$500,000)

I have reviewed the foregoing justification and deem it legally sufficient.

Name

Date

16. Competition Advocate Review (Only for J&As > \$550,000 < \$11,500,000)

I have reviewed the foregoing justification and recommend approval.

Competition Advocate

Date

17. Head of Contracting Activity (Only for J&As >\$11,500,000 < \$78,500,000)

I have reviewed the foregoing justification and recommend approval.

HCA

Date

18. Approval

Based on the foregoing justification, I hereby approval the procurement of the services to test the saliva of Brazilian Rhesus monkey for the presence of dandelion weed particles on an other than full and open competition basis pursuant to the authority of 10 U.S.C. 2304(c)(1) only one responsible source and no other supplies or services will satisfy agency requirements, subject to availability of funds, and provided that the services and property herin described have otherwise been authorized for acquisition.

Contracting Officer

Date

