

## 6.302-6

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

(6) Sole source awards under the Veterans Benefits Act of 2003 (15 U.S.C. 657f).

(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—

(A) When the work provided for in the contract is a continuation of the work performed by the specified entity under a preceding contract; or

(B) To any contract requiring the National Academy of Sciences to investigate, examine, or experiment upon any subject of science or art of significance to an executive agency and to report on those matters to the Congress or any agency of the Federal Government.

(2) Contracts awarded using this authority shall be supported by the written justifications and approvals described in 6.303 and 6.304, except for—

(i) Contracts awarded under (a)(2)(ii), (b)(2), or (b)(4) of this subsection; or

(ii) Contracts awarded under (a)(2)(i) of this subsection when the statute ex-

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pressly requires that the procurement be made from a specified source. (Justification and approval requirements apply when the statute authorizes, but does not require, that the procurement be made from a specified source.)

(3) The authority in (a)(2)(ii) of this subsection may be used only for purchases of brand-name commercial items for resale through commissaries or other similar facilities. Ordinarily, these purchases will involve articles desired or preferred by customers of the selling activities (but see 6.301(d)).

[50 FR 52432, Dec. 23, 1985, as amended at 51 FR 36971, Oct. 16, 1986; 54 FR 46005, Oct. 31, 1989; 60 FR 42654, Aug. 16, 1995; 61 FR 39200, July 26, 1996; 63 FR 70267, Dec. 18, 1998; 67 FR 13068, Mar. 20, 2002; 69 FR 25276, May 5, 2004; 71 FR 44547, Aug. 4, 2006]

### 6.302-6 National security.

(a) *Authority.* (1) Citations: 10 U.S.C. 2304(c)(6) or 41 U.S.C. 253(c)(6).

(2) Full and open competition need not be provided for when the disclosure of the agency's needs would compromise the national security unless the agency is permitted to limit the number of sources from which it solicits bids or proposals.

(b) *Application.* This authority may be used for any acquisition when disclosure of the Government's needs would compromise the national security (e.g., would violate security requirements); it shall not be used merely because the acquisition is classified, or merely because access to classified matter will be necessary to submit a proposal or to perform the contract.

(c) *Limitations.* (1) Contracts awarded using this authority shall be supported by the written justifications and approvals described in 6.303 and 6.304.

(2) See 5.202(a)(1) for synopsis requirements.

(3) This statutory authority requires that agencies shall request offers from as many potential sources as is practicable under the circumstances.

[50 FR 52432, Dec. 23, 1985]

### 6.302-7 Public interest.

(a) *Authority.* (1) Citations: 10 U.S.C. 2304(c)(7) or 41 U.S.C. 253(c)(7).

(2) Full and open competition need not be provided for when the agency head determines that it is not in the