approved after contract award when preparation and approval prior to award would unreasonably delay the acquisition.

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

(d) Period of Performance. (1) The total period of performance of a contract awarded using this authority—
   (i) May not exceed the time necessary—
      (A) To meet the unusual and compelling requirements of the work to be performed under the contract; and
      (B) For the agency to enter into another contract for the required goods and services through the use of competitive procedures; and
   (ii) May not exceed one year unless the head of the agency entering into the contract determines that exceptional circumstances apply.
   (2) The requirements in paragraph (d)(1) of this section shall apply to any contract in an amount greater than the simplified acquisition threshold.
   (3) The determination of exceptional circumstances is in addition to the approval of the justification in 6.304.
   (4) The determination may be made after contract award when making the determination prior to award would unreasonably delay the acquisition.


6.302–3 Industrial mobilization; engineering, developmental, or research capability; or expert services.

(a) Authority. (1) Citations: 10 U.S.C. 2304(c)(3) or 41 U.S.C. 3304(a)(3).
   (2) Full and open competition need not to be provided for when it is necessary to award the contract to a particular source or sources in order—
      (i) To maintain a facility, producer, manufacturer, or other supplier available for furnishing supplies or services in case of a national emergency or to achieve industrial mobilization.
      (ii) To establish or maintain an essential engineering, research, or development capability to be provided by an educational or other nonprofit institution or a federally funded research and development center, or
      (iii) To acquire the services of an expert or neutral person for any current or anticipated litigation or dispute.
   (b) Application. (1) Use of the authority in paragraph (a)(2)(i) above may be appropriate when it is necessary to—
      (i) Keep vital facilities or suppliers in business or make them available in the event of a national emergency;
      (ii) Train a selected supplier in the furnishing of critical supplies or services, prevent the loss of a supplier’s ability and employees’ skills, or maintain active engineering, research, or development work;
      (iii) Maintain properly balanced sources of supply for meeting the requirements of acquisition programs in the interest of industrial mobilization (when the quantity required is substantially larger than the quantity that must be awarded in order to meet the objectives of this authority, that portion not required to meet such objectives will be acquired by providing for full and open competition as appropriate under this part);
      (iv) Create or maintain the required domestic capability for production of critical supplies by limiting competition to items manufactured in—
         (A) The United States or its outlying areas; or
         (B) The United States, its outlying areas, or Canada.
      (v) Continue in production, contractors that are manufacturing critical items, where there would otherwise be a break in production; or
      (vi) Divide current production requirements among two or more contractors to provide for an adequate industrial mobilization base.
   (2) Use of the authority in paragraph (a)(2)(ii) above may be appropriate when it is necessary to—
      (i) Establish or maintain an essential capability for theoretical analyses, exploratory studies, or experiments in any field of science or technology;
      (ii) Establish or maintain an essential capability for engineering or developmental work calling for the practical application of investigative findings and theories of a scientific or technical nature; or
      (iii) Contract for supplies or services as are necessary incident to paragraphs (b)(2)(i) or (ii) above.
(3) Use of the authority in paragraph (a)(2)(iii) of this section may be appropriate when it is necessary to acquire the services of either—

(i) An expert to use, in any litigation or dispute (including any reasonably foreseeable litigation or dispute) involving the Government in any trial, hearing, or proceeding before any court, administrative tribunal, or agency, whether or not the expert is expected to testify. Examples of such services include, but are not limited to:

(A) Assisting the Government in the analysis, presentation, or defense of 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. 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; 79 FR 24198, Apr. 29, 2014]

6.302–5 Authorized or required by statute.

(a) Authority. (1) Citations: 10 U.S.C. 2304(c)(5) or 41 U.S.C. 3304(a)(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. chapter 85, Committee for Purchase From People Who Are Blind or Severely Disabled (see subpart 8.7).


(4) Sole source awards under the 8(a) Program (15 U.S.C. 637), but see 6.303 for requirements for justification and approval of sole-source 8(a) awards over $20 million. (See subpart 19.8).