

Federal Acquisition Regulation

6.302-2

products other than those specifically referenced by brand-name, provide for full and open competition and do not require justifications and approvals to support their use.

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

(2) For contracts awarded using this authority, the notices required by 5.201 shall have been published and any bids, proposals, quotations, or capability statements must have been considered.

[50 FR 52431, Dec. 23, 1985, as amended at 52 FR 21886, June 9, 1987; 53 FR 27463, July 20, 1988; 56 FR 29127, June 25, 1991; 59 FR 67018, Dec. 28, 1994; 66 FR 2128, Jan. 10, 2001; 71 FR 57359, Sept. 28, 2006; 73 FR 10962, Feb. 28, 2008; 77 FR 193, Jan. 3, 2012; 79 FR 24198, Apr. 29, 2014; 84 FR 19842, May 6, 2019; 87 FR 73896, Dec. 1, 2022]

EDITORIAL NOTE: At 79 FR 24198, Apr. 29, 2014, §6.302-1 was amended; however, the amendment could not be incorporated because of the inaccurate amendatory instruction.

6.302-2 Unusual and compelling urgency.

(a) *Authority.* (1) Citations: 10 U.S.C. 3204(a)(2) or 41 U.S.C. 3304(a)(2).

(2) When the agency's need for the supplies or services is of such an unusual and compelling urgency that the Government would be seriously injured unless the agency is permitted to limit the number of sources from which it solicits bids or proposals, full and open competition need not be provided for.

(b) *Application.* This authority applies in those situations where—

(1) An unusual and compelling urgency precludes full and open competition; and

(2) Delay in award of a contract would result in serious injury, financial or other, to the Government.

(c) *Limitations.* (1) Contracts awarded using this authority shall be supported by the written justifications and approvals described in 6.303 and 6.304. These justifications may be made and 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 or modified 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, including all options, unless the head of the agency determines that exceptional circumstances apply. This determination must be documented in the contract file.

(2)(i) Any subsequent modification using this authority, which will extend the period of performance beyond one year under this same authority, requires a separate determination. This determination is only required if the cumulative period of performance using this authority exceeds one year. This requirement does not apply to the exercise of options previously addressed in the determination required at paragraph (d)(1)(ii) of this section.

(ii) The determination shall be approved at the same level as the level to which the agency head authority in paragraph (d)(1)(ii) of this section is delegated.

(3) The requirements in paragraphs (d)(1) and (2) of this section shall apply to any contract in an amount greater than the simplified acquisition threshold.

(4) The determination of exceptional circumstances is in addition to the approval of the justification in 6.304.

(5) The determination may be made after contract award when making the determination prior to award would unreasonably delay the acquisition.

[50 FR 52431, Dec. 23, 1985, as amended at 74 FR 52851, Oct. 14, 2009; 74 FR 65615, Dec. 10, 2009; 79 FR 24198, Apr. 29, 2014; 80 FR 38309, July 2, 2015; 84 FR 19842, May 6, 2019; 87 FR 73896, Dec. 1, 2022]