



DEPARTMENT OF THE NAVY
COMMANDER MILITARY SEALIFT COMMAND
914 CHARLES MORRIS CT SE
WASHINGTON NAVY YARD DC 20398-5540

REFER TO:

COMSCINST 4255.2D
N10
15 July 2002

COMSC INSTRUCTION 4255.2D

Subj: CONTRACTING WITH OTHER THAN FULL AND OPEN COMPETITION

Ref: (a) 10 U.S.C. 2304
(b) FAR PART 6
(c) FAR 6.3
(d) DFARS 206.3
(e) NAPS 5206.3
(f) FAR 13.501(a)
(g) FAR 6.5

Encl: (1) Justification and Approval (J&A) Format
(2) Military Sealift Command Competition Advocates

1. Purpose. To establish policy and procedures, and assign responsibilities within Military Sealift Command (MSC) for processing justification and approvals (J&As) required by the FAR to ensure compliance with reference (a). This instruction is a complete revision and should be read in its entirety.
2. Cancellation. COMSCINST 4255.2C.
3. Definition. "Full and Open Competition", when used with respect to a contract action, means that all responsible sources are given the opportunity to compete.
4. Scope. This instruction applies to all MSC procurement actions except those specifically excluded by reference (b).
5. Background. Reference (a) requires a detailed, written justification for any contracting action not using full and open competition in accordance with references (c), (d) and (e). Justifications for sole source acquisitions under the authority of the test program for commercial items (FAR Subpart 13.5) shall be prepared in accordance with reference (f).

15 July 2002

6. Policy

a. Lack of planning or the concerns related to the amount of funds available for the acquisition, for example imminent expiration of appropriated funds do not justify other than full and open competition. Each J&A must be a stand-alone document and must include sufficient detail to justify the need for other than full and open competition without the need to refer to the contract file. If the J&A includes options, those options also must be justified based on the statutory authority cited in the J&A. If the options were priced and evaluated as part of the initial competition, exercising of the option does not require a separate J&A. The estimated dollar value of all options shall be included in determining the approval level of a J&A.

b. FAR 6.302 lists the statutory authorities permitting procurement without full and open competition. Unless the justification is based on unusual and compelling urgency, a J&A must be executed prior to negotiation for a procurement which provides for other than full and open competition. Justifications involving unusual and compelling urgency pursuant to FAR 6.302-2 may be prepared and approved after contract award when preparation and approval prior to award would unreasonably delay the acquisition. Justifications may be made on an individual or class basis except for contracts awarded under the public interest exception under FAR 6.302-7.

c. A class J&A is approved in the same manner as individual J&As. When using a class J&A for a specific contract action, the Contracting Officer must document the file affirming the applicability of the class J&A to the specific contract action and must include a duplicate copy of the approved, signed class J&A in the contract file.

d. The cumulative dollar value of all actions contemplated will comprise the approval threshold amount (e.g., firm period of performance plus all options). If the dollar value of the proposed contract increases beyond the dollar value specified in the J&A after the approval of the J&A, an amended or new J&A is required prior to award. The approval authority will be based on the increased value. The approval level for the amended J&A shall be established by adding or subtracting the dollar value of the amendment to the basic J&A.

e. A J&A shall be amended and the required approval shall be obtained if any of the following occur:

(1) The dollar value of the proposed contract exceeds that specified in the approved J&A,

(2) The contract action dollar value increases to the extent it exceeds the previous approving official's authority,

(3) A significant change in the scope of the work or quantity occurs,

(4) A change in the Government's acquisition strategy reduces or eliminates competition or

(5) A change in the Government's requirement affects the justification for the J&A.

f. The Contracting Officer, with information provided by the requiring office, and the technical office must prepare a written J&A on letterhead, certify the accuracy and completeness of the justification and obtain the necessary approval signatures.

(1) A J&A shall follow the format set forth in enclosure (1). A J&A will have a number which is associated with the procurement request or solicitation. The numbering convention is the same as that for acquisition plans, determination and findings (D&Fs) and business clearance memorandums.

(2) An "Amendment to Justification and Approval For Other Than Full and Open Competition" shall be prepared on letterhead using the same paragraphs as the basic J&A. It will be numbered sequentially with a number, which is associated with the solicitation or contract number. Depending upon the extent of the changes, an amendment may be submitted addressing only those paragraphs being revised or as a completely revised J&A. If the amendment is not a complete revision, paragraphs 1, 2 and 3 from the original J&A will be repeated for reference, the paragraphs being revised will be addressed and paragraph 9 will explain the need for the amendment. A copy of the basic J&A along with the amendment will be forwarded to the approval authority.

7. Action

a. Requiring and Technical Office. FAR 6.303-1(b) requires offices having technical cognizance over contract requirements and offices initiating contract requirements to provide the Contracting Officer with the information needed to complete the justification and approval and to certify that the information is complete and accurate. The head of the requiring and technical office must sign the J&A. For J&A amendments, technical and requirements certifications are only needed when something in those respective areas has changed.

b. Legal Counsel. NAPS 5206.303-90 requires legal review of J&As and counsel signature prior to submission to the approving official. Amendments also require legal review, before submission to the approving official.

15 July 2002

c. Contracting Officer. After receiving the necessary information from the requiring and technical office, the Contracting Officer will prepare the justification. The Contracting Officer shall obtain the signature of the head of the requiring office and technical office (i.e., Program Manager or Functional Director), secure the required legal review, sign the J&A/amendment below his/her certification and forward the document to the appropriate approving official as indicated in paragraph 7e below. If the Contracting Officer is the approving official as indicated in paragraph 7e(2) below, the Contracting Officer shall also perform the duties of the Competition Advocate as described in paragraph 7d(2) below.

d. Competition Advocate

(1) Appointments. In accordance with reference (g), Competition Advocates for MSC are identified in enclosure (2).

(2) Duties

(a) Promote the competition advocacy program at MSC.

(b) Participate in procurement planning and work with the requiring office to enhance competition.

(c) Review noncompetitive procurements and challenge barriers to full and open competition. This includes challenging unnecessarily detailed specifications or overly restrictive statements of need.

(d) Act as approving official for the written J&As for contract actions expected to be awarded using other than full and open competition procedures in accordance with the approval thresholds in paragraph 7e below.

e. Review and Approval

(1) The introductory paragraph for J&As shall include the position/title of the person approving the J&A, i.e., Contracting Officer; Director, Contracts and Business Management; Executive Director or Navy Senior Procurement Executive.

(2) The approving official is determined by the total dollar value of the procurement, including estimates and options for J&As exceeding \$500,000, the Competition Advocate and the Contracting Officer shall not be the same individual.

≤ \$500,000

Contracting Officer (within the individual's warrant limitations)

15 July 2002

| | |
|--------------------------|--|
| ≤ \$1 million | Director, Contracts and Business Management Far East (N10FE). For J&As exceeding \$1 million, N10FE will forward those J&As to Policy and Compliance Division (N101) and request approval from N101 or N10/N10X depending on the total estimated value of the J&A. |
| ≤ \$3 million | Director, Policy and Compliance Division (N101); Director, Services and Ship Support Division (N102); Director, Chartering and Ship Operations Division; Director, Contracts and Business Management LANT (N10LANT) and Director, Contracts and Business Management PAC (N10PAC). |
| > \$3 million | J&As exceeding \$3 million shall be forwarded via N101 to the approving official. |
| ≤ \$10 million | Director or Deputy Director, Contracts & Business Management Directorate (N10/N10X). |
| ≤ \$50 million | Executive Director, Military Sealift Command (N03). |
| over \$50 million | Navy Senior Procurement Executive, ASN Research, Development and Acquisition (RD&A). J&A will be transmitted via ASN (RD&A) Acquisition & Business Management. |

//S//

D. L. BREWER III

Distribution:

COMSCINST 5215.5

List I (Case A, B, C)

SNDL 41B (MSC Area Commanders)

41D (MSC Offices)

COMSCINST 4255.2D

15 July 2002

TECHNICAL AND REQUIREMENTS CERTIFICATION

I certify that the facts and representations under my cognizance which are included in this justification and its supporting Acquisition Plan No. _____ and which form a basis for this justification are complete and accurate.

Technical Cognizance

(Signature) _____
Date Code Phone

Requirements Cognizance

(Signature) _____
Date Code Phone

CONTRACTING OFFICER CERTIFICATION REQUIRED BY FAR 6.303-2(a)(12)

I certify that this justification, including its supporting Acquisition Plan No. _____, is accurate and complete to the best of my knowledge and belief.

(Signature) _____
Date Code Phone

LEGAL REVIEW REQUIRED BY NAPS 5206.303-90

I have reviewed this justification and it is deemed to be legally sufficient.

(Signature) _____
Date Code Phone

APPROVED:

(Signature) _____
Date Code Phone

MILITARY SEALIFT COMMAND COMPETITION ADVOCATES

Executive Director (N03)
Military Sealift Command
914 Charles Morris Court SE
Washington Navy Yard DC 20398-5540

(202) 685-5011
DSN: 325-5011
FAX: (202) 685-5020

Director and Deputy Director (N10/N10X)
Contracts & Business Management
Military Sealift Command
914 Charles Morris Court SE
Washington Navy Yard DC 20398-5540

(202) 685-5570
DSN: 325-5570
FAX: (202) 685-5579

Director (N101)
Policy and Compliance Division
Military Sealift Command
914 Charles Morris Court SE
Washington Navy Yard DC 20398-5540

(202) 685-5930
DSN: 325-5930
FAX: (202) 685-5942

Director (N102)
Services and Ship Support Division
Military Sealift Command
914 Charles Morris Court SE
Washington Navy Yard DC 20398-5540

(202) 685-5964
DSN: 325-5964
FAX: (202) 685-5965

Director (N103)
Chartering and Ship Operations Division
Military Sealift Command
914 Charles Morris Court SE
Washington Navy Yard DC 20398-5540

(202) 685-5940
DSN: 325-5940
FAX: (202) 685-5965

Director (N10LANT)
Contracts and Business Management East
Military Sealift Command Camp Pendleton
Bldg. 238
Virginia Beach, VA 23458

(757) 417-4600
DSN: 537-4600
FAX: (757) 417-4606

Director (N10PAC)
Contracts and Business Management West
Military Sealift Command Pacific
140 Sylvester Rd.
San Diego, CA 92106

(619) 553-0348
DSN: 553-0348
FAX: (619) 553-7695

Director (N10FE)
Military Sealift Command Far East
PSC 471
FPO AP 96347-2600
(Yokohama, JA)

81-311-769-6649
DSN: 315-269-6649
FAX: 81-311-769-6073