DEPARTMENT OF THE NAVY
U.S. FLEET AND INDUSTRIAL SUPPLY CENTER
(YOKOSUKA, JAPAN)
PSC 473 BOX 11
FPO AP 96349-1500

FISCINST 4280.1A
200
24 JAN 1997

FISC YOKOSUKA INSTRUCTION 4280.1A

Subj: COMPETITION ADVOCATE PROGRAM

Ref: (a) Competition in Contracting Act, PL 98-369
(b) FAR 6.3
(c) NAVSUP Manual Vol II, Par. 22056-8d (3)
(d) FAR 6.5
(e) NAVSUPINST 4200.85C (R
(f) NAVSUPINST 4200.83B (R

Encl: (1) Justification for Sole Source ($100,000 OR LESS)(FISC Form 4280/51 Rev. 9-96) (R
(2) Justification for Other Than Full and Open Competition and/or Urgent Purchase (OVER $100,000)(FISC Form 4280/52 Rev. 9-96) (R

1. Purpose. To establish and implement a formal Competition Advocate Program at the Far East Contracting Department (FECD), U.S. Fleet and Industrial Supply Center (FISC), Yokosuka, Japan to ensure an optimum level of full and open competition is achieved at the FECD, FISC Yokosuka. (R

2. Cancellation. FISCINST 4280.1

3. Policy. Pursuant to references (a) through (d), the following guidance is provided to implement the Competition Advocate Program at the FECD, FISC Yokosuka. All contracting personnel shall comply with the guidance set forth in this directive to ensure maximum competition is obtained throughout the competition process. When competitive procurement is not possible, references (b) and (c) require customers to provide the Contracting Officer with a statement justifying why competitive procurement is not possible. The justification will become part of the contract file after review and acceptance by the Contracting Officer and other certifying officials. (R

4. Background

a. The enactment of reference (a) provided a legal mandate that all goods and services for the U.S. Government be procured competitively unless exempted under certain stated conditions.

b. The Secretary of the Navy directed that Competition Advocates be appointed in writing by the Commanding Officer, at both procuring and requiring activities. The Commanding Officer retains the ultimate accountability for ensuring that goods and services are acquired competitively unless the acquisition qualifies under one of the exceptions to competitive procurement authorized in reference (b).

5. Procedures

a. The Deputy Director of the FECD, FISC Yokosuka has been designated as the Command Competition Advocate and is responsible for implementing the Competition Advocate Program. The Executive Officer, FISC Yokosuka has been designated as the alternate Competition Advocate. Responsibilities of the Competition Advocate and the alternate Competition Advocate include the following: (R

(1) Promote full and open competition in the Command;

(2) Challenge barriers to competition including unnecessarily restrictive specifications;

(3) Provide advance procurement planning assistance and guidance on increasing competition to customers;

(4) Monitor competitive performance;

R) (5) Provide or coordinate training on competition techniques and policy;

(6) Ensure all sole source acquisitions exceeding $100,000 are reviewed;

(7) Coordinate with the requiring activity's competition advocate, as appropriate;

R) (8) In those instances where competitive procurement is not possible, review all proposed contract actions and supporting Justification and Approvals (J&A) valued at more than $100,000 which will be acquired by other than full and open competition to ensure the facts support the conclusions. Concur on all J&As for which the estimated amount is between $100,000 through $500,000 and for those exceeding $10,000,000. Approve/disapprove all J&As for which the estimated amount exceeds $500,000 but is not greater than $10,000,000. (See enclosures (1) and (2));

(9) Establish and promulgate the annual command goals for the percentage of contracts to be awarded competitively.

b. The Contracting Officer Shall:

(1) Challenge barriers to competition including unnecessarily restrictive specifications;

(2) Provide advance procurement planning assistance and guidance on increasing competition to customers;

(3) Ensure that goods and services are acquired competitively unless the acquisition qualifies under one of the stated exceptions to competitive procurement provided for in reference (b);

(4) In those instances where competitive procurement is not possible, work with the requirement originator to prepare a written J&A which ensures the facts support the conclusion;

R) (5) For sole source acquisitions from $2,500 through $500,000, the Contracting Officer shall certify the accuracy and completeness of the justifications (see enclosures (1) and (2));

R) (6) Obtain Head of Contracting Activity (HCA) approval, in writing, for all proposed contract actions, to be acquired by using other than full and open competition procedures, which exceed $10,000,000 but are not greater than $50,000,000; and

R) (7) Notify the Requiring Activity Commanding Officer that he is required to review and certify the assertions and recommendations supporting the J&A by signing the J&A under "Requirements Cognizance" for requirements which exceed $100,000. (Note: Justifications for contract awards using non-competitive procurement which are expected to exceed $50,000,000 must be approved by the Office of the Assistant Secretary of the Navy).

c. Requiring Activity Manager/Competition Advocate shall:

(1) Ensure that opportunities for competition are not lost by restrictive statements of need, unnecessarily detailed specifications, poor planning, and/or arbitrary action;

(2) Ensure that goods and services which are obtained in support of, or within the scope of, their cognizant programs/projects are acquired competitively unless the acquisition qualifies under one of the exceptions to full and open competition authorized in reference (b). For procurements under the exceptions to the full and open competition, use enclosures (1) and (2) as guidelines to:

(a) Fully document the justification for each non-competitive acquisition as required by the applicable regulation.

(b) Outline planned actions to make similar acquisitions competitive in the future; and

(3) Ensure that all requisitions submitted involving non-competitive purchase actions valued at $2,500 through $100,000 will include the enclosure (1) justification, as required by page 4-7 of enclosure (1) of reference (e), as to why a competitive procurement is not possible. The justification must contain detailed and precise statements of fact rather than general or broad terms. For non-competitive procurements greater than $100,000, enclosure (2) will be used to document the justification. Enclosure (2) will be utilized to document and support the formal J&A for Other Than Full and Open Competition which will be prepared by the contracting office. Coordinate with the contracting office to complete the formal justification. Per enclosure (1) of reference (f), all justifications for non-competitive purchases with estimates exceeding $100,000 must be signed by the originator, the activity's competition advocate (if such an individual is assigned), and the requiring activity's Commanding Officer. The Commanding Officer's certification may be delegated as follows: (R

(a) To subordinate officials of Flag or Senior Executive Service rank; or

(b) For acquisitions up to $1,000,000, to the requiring activity's competition advocate, except where this individual is also the approving official under reference (b) (for proposed contracts over $100,000 but not exceeding $1,000,000).

6. Action. All department personnel are required to support maximizing competition and, as appropriate will:

a. Review requests for non-competitive procurements and ensure adequate justification is provided for sole source procurement;

b. Challenge proprietary data restrictions;

c. Accurately report procurement data;

d. Identify alternate sources of supply; and

e. Attempt to acquire all required data to ensure that follow-on contracts can be competitive.

7. Forms. Justification for Sole Source ($100,000 OR LESS) (FISC Form 4280/51 Rev. 9-96) and Justification for Other Than Full and Open Competition and/or Urgent Purchase (OVER $100,000) (FISC Form 4280/52 Rev. 9-96) are available from the Contracts Division, FISC Yokosuka (Code 201). (R

R) 8. Lead Code. The Far East Contracting Department (Code 200).

R. L. MILLIGAN

R) Distribution:
FISCINST 5215.4S
List I, A
List II,

FISC 4280/51 (Rev. 9-96)

JUSTIFICATION FOR SOLE SOURCE ($100,000 OR LESS)

(R

REQUISITION NUMBER: _____

REQUIRING ACTIVITY: _____

1. Description of material or services: _____

_____

_____

_____

2. Does the requested material or services represent the minimum requirements? Explain.

_____

_____

_____

3. Restricted to the following source (Manufacturer's name, address, telephone number):

_____

_____

_____

4. Why is this requirement restricted to the proposed Contractor? Are specifications proprietary?

_____

_____

_____

_____

Signature	Name (type or print), Code and Phone Number Supply Officer or designated representative

FISC 4280/52 (Rev. 9-96)

JUSTIFICATION FOR OTHER THAN FULL AND OPEN COMPETITION AND/OR URGENT PURCHASE (R
(OVER $100,000)

If the purchase request is for other than full and open competition (sole source or a combination of sole source and urgent), paragraphs 1, 2, 3, 5, 8, 9, 10, 11, 12 and 13 must be answered. If the request is urgent only and not sole source, paragraphs 1, 2, 3, 5, 8, 10 , 11, 12 and 13 need to be answered. If the request is for repair parts, paragraph 15 must be addressed. Other paragraphs may be left blank by the requesting activity. Paragraph 14 will need to be addressed if an Acquisition Plan is required.

1. Identification of agency and contracting activity:

a. Agency: _____

b. Procurement activity: U.S. Fleet and Industrial Supply Center (FISC), Yokosuka, Japan

c. Requiring activity: _____

2. Nature/description of action.

State if procurement is "sole source" or "urgent" or both. For sole source* requests, provide the contractor name and address. For urgent competitive requests, provide all known contractor's names and addresses, preferably a minimum of three manufacturers. For either, state whether this is a "new procurement," an "extension of contract to (insert current contract number)", or "an add-on contract to (insert contract number)."

A "new procurement" is a requirement for which a current contract does not exist.

An "extension of a contract" is a request to extend a current contract's period of performance. NOTE: THIS MUST BE ACCOMPLISHED PRIOR TO THE EXPIRATION DATE OF THE CURRENT CONTRACT.

An "add-on contract" is a request to modify a requirement within the scope of a current contract (e.g., revise the quantity).

Provide the contract number(s) of previous contracts for the same or similar items.

- *Note: Dealer competition (different dealers offer the product of the same manufacturer) is sole source.

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_____

R) **JUSTIFICATION FOR OTHER THAN FULL AND OPEN COMPETITION AND/OR URGENT PURCHASE** (OVER $100,000)

3. Description of supplies/services.

Provide a **simple** (one sentence, if possible) description of what is being bought, its purpose, and how it is being used.

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_____

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_____

4. Identification of statutory authority.

(To be filled in by contract negotiator/specialist.)

5. Demonstration of contractor's unique qualifications.

For sole source buys: Provide an in-depth description of the contractor's (i.e., the original equipment manufacturer's) unique qualifications or rationale for the sole source procurement.

For urgency procurements as defined in 10 (U.S.C.) 2304(c)(2): Describe the compelling nature of the urgency and how a full and open competition procurement will harm the Government, including estimated monetary and mission damage. Also, state why the urgency could not have been prevented by advance planning. State when the need was identified, and explain the time line or the delays between need identification and the date the requisition was submitted to contracting.

For informational purposes:

- Lack of planning does not support urgency.
- Expiring funds/late release of funds does not support urgency.
- For open-and-inspect items: If repairs could not be predicted, the discovery of repair/replacement items is legitimate if urgency can be documented.

JUSTIFICATION FOR OTHER THAN FULL AND OPEN COMPETITION AND/OR URGENT PURCHASE (R
(OVER $100,000)

6. **CBD announcement/potential sources.**

Exempted by FAR 5.202(a)(12).

7. **Determination of fair and reasonable costs.**

(To be annotated on the Justification and Approval by the contract negotiator/specialist.)

8. **Description of market survey.** (This paragraph does not need to be answered if the request is sole source based on proprietary specifications discussed in paragraph 5 above. For any other sole source and all urgents, this paragraph must be answered.)

Describe any market survey conducted (e.g., any written or telephone contacts, federal or non-federal expert statements.)

R) **JUSTIFICATION FOR OTHER THAN FULL AND OPEN COMPETITION AND/OR URGENT PURCHASE** (OVER $100,000)

9. Any other supporting facts.

Address the following items to support the use of other than full and open competition (i.e., sole source):

In the case of limited or no data packages, specifications, engineering descriptions, statements of work, or purchase descriptions, state why they are not available for this procurement. State how a proprietary data determination was made. If possible, reference or provide the source documention.

Provide an estimate of the costs and time that would be experienced in developing adequate competitive specifications.

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10. Listing of interested sources.

Provide a list of potential interested sources, if available. (If only dealers are sources, the procurement is sole source.)

_____

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_____

11. Actions taken to remove barriers to competition.

Provide a statement of actions being taken to remove any barriers to competition for subsequent procurements. If the answer is "none" explain the rationale and source of that determination. The paragraph should address good faith efforts being made to enhance competition.

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_____

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_____

JUSTIFICATION FOR OTHER THAN FULL AND OPEN COMPETITION AND/OR URGENT PURCHASE (R
(OVER $100,000)

12. Statement of delivery requirements.

Provide delivery requirements for the supplies being procured.

_____

_____

13. Total estimated dollar value of the acquisition covered by this J&A with funding specified by year and appropriation.

a. Total estimated amount: _____

b. Type and year of funding: _____

14. Reference to the approved Acquisition Plan (AP). Written acquisition plans shall be prepared by DON contracting activities for all acquisitions involving the development, production, or support of weapon systems, subsystems, or equipment which meet or exceed the threshold of DFARS 207.103(c)(1) unless otherwise exempt.

15. Documentation for spare/repair parts acquisitions.

If requiring spare/repair parts, provide a statement that specifications provided "have been reviewed and they meet the " Government's minimum requirement." (This statement is necessary because a signature below does not automatically address this paragraph. Signatures are required for all actions, not just for repair parts.)

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_____

_____

_____

Prepared by:

_____ _____
(signature) (date)

_____ _____
(print/type name & title) (phone number)