

## **Other than Full and Open Competition**

All procurements (contracts, grants, or cooperative agreements) must be fully competed. If a full and open competition has not been held, or if the competition has been limited to a few contenders, that must be justified. Whoever made the selection of the awardee ***must*** certify as part of the justification.

**Step 1. Before proceeding any further, discuss the procurement with the Contracting Officer, Agreement Officer, or EXO.**

**Step 2.** If you still want to avoid full and open competition, review the regulations. The regulations on justifications for contracts are found in the FAR Part 6.3, and Part 13.106, and in the AIDAR Part 706.3. Regulations on justifications for other than full and open competition for Cooperative Agreements and Grants are found in ADS Chapter 303. All of these regulations are available on your computer.

**Step 3.** Prepare the appropriate justification using the sample formats attached. Be aware that, after approval, the justification is made available to the public. Thus, be sure that you are proud to sign it before you do so.

The approver of the justification depends on the type of procurement:

<b>Procurement Type</b>	<b>Approver of Justification</b>	<b>Clearances Required</b>	<b>Regulation</b>
Contract less than \$2,500	none required		
Contract less than \$25,000	Contracting Officer/EXO	Office Chief	FAR 13.106
Contract \$500,000 or less	Contracting Officer	Office Chief, RLA	FAR 13.106 AIDAR 706-302
Contract \$500,000 - \$10,000,000	Mission Competition Advocate	Office Chief, RLA, Contracting Officer	FAR 6.304 AIDAR 706-302
Contract \$10,000,000 to \$50,000,000	Mission Director (HCA)	Office Chief, RLA, Contracting Officer, Competition Advocate	FAR 6.03
Contract in excess of \$50,000,000	USAID Procurement Executive (Director of OP)	Office Chief, RLA, Contracting Officer, Competition Advocate	FAR 6.03
Personal Services Contract (local)	EXO/Contracting Officer	Office Chief, SO Team Leader, RLA	AIDAR 706-302 and CIB 92-5
Personal Services Contract (Off-Shore)	Contracting Officer	Office Chief, SO Team Leader, RLA	AIDAR 706-302 and CIB 92-5
Grant	Grant Officer	Office Chief, SO Team Leader, RLA, Competition Advocate	ADS 303
Cooperative Agreement	Agreement Officer	Office Chief, SO Team Leader, RLA, Competition Advocate	ADS 303

## **Format for Justifications of Other than Full and Open Competition**

These formats are intended to assist Activity Managers/CTOs and SO Team Leaders to draft justification documents.

- A. Contract less than \$500,000
- B. Contract \$500,000 - \$10,000,000
- C. Contract \$10,000,000 - \$50,000,000
- D. Personal Services Contract
- E. Grant
- F. Cooperative Agreement

## **Format A. Contract less than \$500,000**

### **ACTION MEMORANDUM FOR CONTRACTING OFFICER USAID/\_\_\_\_\_**

**FROM:** Activity Manager

**SUBJECT:** Justification for other than full and open competition for the procurement of an assessment and study of..... for an estimated cost of \$150,000.

---

**AGENCY AND CONTRACTING ACTIVITY:** The U.S. Agency for International Development, USAID/\_\_\_\_\_.

**SERVICES TO BE PROCURED:** Here describe the nature of the requirement and the total estimated cost.

Eg: A study and assessment of..... The value of this report is estimated at \$150,000.

**AUTHORITY:** Here, cite the appropriate regulatory authority from the FAR or the AIDAR, for example:

Federal Acquisition Regulations 6.302-1 provides that full and open competition need not be obtained when there is "only one responsible source and no other supplies or services will satisfy agency requirements", e.g., when unique supplies or services are available from only one source or only one supplier with unique capabilities. Statutory authority: 41 USC 252(c)(1). By virtue of your appointment as Contracting Officer, in accordance with FAR 6.304(a)(1) for proposed contracts not exceeding \$500,000, you have the authority to approve requests for other than full and open competition .

### **DEMONSTRATION THAT THE PROPOSED CONTRACTOR'S UNIQUE QUALIFICATIONS REQUIRE THE USE OF THE AUTHORITY CITED:**

Here, explain why a competition should not be held and why the authority selected applies.

**DESCRIPTION OF EFFORTS MADE TO ENSURE THAT OFFERS ARE SOLICITED FROM AS MANY POTENTIAL SOURCES AS PRACTICABLE:**

Here, explain what steps you have taken to solicit offers for a limited competition or, in the case of a sole-source procurement, why you have not solicited any offers at all.

**REQUESTING OFFICER'S CERTIFICATION:** I hereby certify that the technical statements included above and which form a basis for the justification are complete and accurate.

---

Activity Manager/CTO

**CONTRACTING OFFICER'S STATEMENT:** It is my determination that the estimated cost of this activity to the Government is fair and reasonable. In accordance with FAR 6.303-1(a)(1) and FAR 6.303-2(a)(12), I hereby certify that the justification is accurate and complete to the best of my knowledge and belief.

---

Contracting Officer

Clearances:

, Office Chief

, RLA

---

---

## **Format B. Contract \$500,000 - \$10,000,000**

### **ACTION MEMORANDUM FOR THE COMPETITION ADVOCATE USAID/[Mission]**

**FROM:** Activity Manager

**SUBJECT:** Justification for other than full and open competition for the procurement of a study of..... for an estimated cost of \$550,000.

---

**AGENCY AND CONTRACTING ACTIVITY:** The U.S. Agency for International Development, USAID/[Mission]

**SERVICES TO BE PROCURED:** Here describe the nature of the requirement and the total estimated cost.

Eg: Technical assistance services to do .....valued at \$550,000.

**AUTHORITY:** Here, cite the appropriate regulatory authority from the FAR or the AIDAR, for example:

Federal Acquisition Regulations 6.302-1 provides that full and open competition need not be obtained when there is "only one responsible source and no other supplies or services will satisfy agency requirements", e.g., when unique supplies or services are available from only one source or only one supplier with unique capabilities. Statutory authority: 41 USC 252(c)(1). By virtue of your appointment as Competition Advocate, in accordance with FAR 6.304(a)(2) for proposed contracts over \$100,000 but not exceeding \$1,000,000, you have the authority to approve requests for other than full and open competition .

#### **DEMONSTRATION THAT THE PROPOSED CONTRACTOR'S UNIQUE QUALIFICATIONS REQUIRE THE USE OF THE AUTHORITY CITED:**

Here, explain why a competition should not be held and why the authority selected applies.

**DESCRIPTION OF EFFORTS MADE TO ENSURE THAT OFFERS ARE SOLICITED FROM AS MANY POTENTIAL SOURCES AS PRACTICABLE:**

Here, explain what steps you have taken to solicit offers for a limited competition or, in the case of a sole-source procurement, why you have not solicited any offers at all.

**REQUESTING OFFICER'S CERTIFICATION:** I hereby certify that the technical statements included above and which form a basis for the justification are complete and accurate.

\_\_\_\_\_  
Activity Manager/CTO

**CONTRACTING OFFICER'S STATEMENT:** It is my determination that the estimated cost of this activity to the Government is fair and reasonable. In accordance with FAR 6.303-1(a)(1) and FAR 6.303-2(a)(12), I hereby certify that the justification is accurate and complete to the best of my knowledge and belief.

\_\_\_\_\_  
Contracting Officer

**RECOMMENDATION:** Based on the justification stated herein, I recommend that you approve this exception to other than full and open competition.

[ ] Approved [ ] Not Approved

\_\_\_\_\_  
, Competition Advocate

Clearances:

, Office Chief \_\_\_\_\_  
, RLA \_\_\_\_\_

## **Format C. Contract \$10,000,000 - \$50,000,000**

### **ACTION MEMORANDUM FOR THE MISSION DIRECTOR USAID/\_\_\_\_\_**

**FROM:** Activity Manager

**SUBJECT:** Justification for other than full and open competition for the procurement of a study of..... for an estimated cost of \$15,150,000.

---

**AGENCY AND CONTRACTING ACTIVITY:** The U.S. Agency for International Development, USAID/[Mission]

**SERVICES TO BE PROCURED:** Here describe the nature of the requirement and the total estimated cost.

Eg: Technical assistance services to do .....valued at \$15,150,000.

**AUTHORITY:** Here, cite the appropriate regulatory authority from the FAR, for example:

Federal Acquisition Regulations 6.302-1 provides that full and open competition need not be obtained when there is "only one responsible source and no other supplies or services will satisfy agency requirements", e.g., when unique supplies or services are available from only one source or only one supplier with unique capabilities. Statutory authority: 41 USC 252(c)(1). By virtue of your appointment as Director of USAID/Russia, in accordance with FAR 6.304(a)(3) for proposed contracts over \$1,000,000 but not exceeding \$10,000,000, you have the authority to approve requests for other than full and open competition .

### **DEMONSTRATION THAT THE PROPOSED CONTRACTOR'S UNIQUE QUALIFICATIONS REQUIRE THE USE OF THE AUTHORITY CITED:**

Here, explain why a competition should not be held and why the authority selected applies.

**DESCRIPTION OF EFFORTS MADE TO ENSURE THAT OFFERS ARE SOLICITED FROM AS MANY POTENTIAL SOURCES AS PRACTICABLE:**

Here, explain what steps you have taken to solicit offers for a limited competition or, in the case of a sole-source procurement, why you have not solicited any offers at all.

**REQUESTING OFFICER'S CERTIFICATION:** I hereby certify that the technical statements included above and which form a basis for the justification are complete and accurate.

\_\_\_\_\_  
Activity Manager

**CONTRACTING OFFICER'S STATEMENT:** It is my determination that the estimated cost of this activity to the Government is fair and reasonable. In accordance with FAR 6.303-1(a)(1) and FAR 6.303-2(a)(12), I hereby certify that the justification is accurate and complete to the best of my knowledge and belief.

\_\_\_\_\_  
Contracting Officer

**RECOMMENDATION:** Based on the justification stated herein, I recommend that you approve this exception to other than full and open competition.

Approved     Not Approved

\_\_\_\_\_  
, Director USAID/[Mission]

Clearances:

, Office Chief \_\_\_\_\_  
, RLA \_\_\_\_\_  
, Competition Advocate \_\_\_\_\_

## **Format D. Personal Services Contract**

### **ACTION MEMORANDUM FOR THE CONTRACTING OFFICER USAID/[Mission]**

**FROM:** Activity Manager

**SUBJECT:** Justification for limited competition for the procurement of a Personal Services Contractor for an estimated cost of \$\_\_\_\_\_.

---

**AGENCY AND CONTRACTING ACTIVITY:** The U.S. Agency for International Development, USAID/[Mission].

**SERVICES TO BE PROCURED:** A Personal Services Contractor to fill the \_\_\_\_\_ position in the \_\_\_\_\_ Office. Cost of this PSC is estimated at \$\_\_\_\_\_.

**AUTHORITY:** See the attached class justification as per AID Acquisition Regulations 706.3.

**DEMONSTRATION THAT FOLLOWING USAID/Mission's NORMAL HIRING PROCEDURES WILL ADVERSELY AFFECT THE US ASSISTANCE PROGRAM, THUS REQUIRING A LIMITED COMPETITION AND USE OF THE AUTHORITY CITED:**

USAID normally advertises for a few weeks, then reviews resumes, interviews and makes a selection. In this space, explain why you did not want to follow that procedure and thus held a limited competition and why the authority selected applies.

**DESCRIPTION OF EFFORTS MADE TO ENSURE THAT OFFERS ARE SOLICITED FROM AS MANY POTENTIAL SOURCES AS PRACTICABLE:**

Here explain what steps you have taken to solicit offers for a limited competition or, in the case of a sole-source procurement, why you have not solicited any offers at all.

**REQUESTING OFFICER'S CERTIFICATION:** I hereby certify that the technical statements included above and which form a basis for the justification are complete and accurate.

---

Activity Manager/CTO

**CONTRACTING OFFICER'S STATEMENT:** It is my determination that the estimated cost of this activity to the Government is fair and reasonable. In accordance with FAR 6.303-1(a)(1) and FAR 6.303-2(a)(12), I hereby certify that the justification is accurate and complete to the best of my knowledge and belief.

---

Contracting Officer

Clearances:

, Office Chief \_\_\_\_\_  
, SO Team Leader \_\_\_\_\_  
, RLA \_\_\_\_\_

## **Format E. Grant**

### **ACTION MEMORANDUM FOR THE GRANT OFFICER USAID/[Mission]**

**FROM:** Activity Manager/CTO

**SUBJECT:** Justification for other than full and open competition for the award of a grant of  
\$ \_\_\_\_\_ to \_\_\_\_\_.

---

#### **SUMMARY OF PROGRAM DESCRIPTION:**

**AUTHORITY:** Here, cite the appropriate regulatory authority from the ADS, for example:

USAID Automated Directives System Chapter 303.5.3c allows for an exception to competition requirements for “follow-on assistance awards intended to continue or further develop an existing assistance relationship.”

#### **DEMONSTRATION THAT THE PROPOSED GRANTEE'S UNIQUE QUALIFICATIONS REQUIRE THE USE OF THE AUTHORITY CITED:**

Here, explain why a competition should not be held and why the authority selected applies.

**DESCRIPTION OF EFFORTS MADE TO ENSURE THAT OFFERS ARE SOLICITED FROM AS MANY POTENTIAL SOURCES AS PRACTICABLE:**

Here, explain what steps you have taken to solicit offers for a limited competition or, in the case of a sole-source grant, why you have not solicited any offers at all.

**RECOMMENDATION:** Based on the justification stated herein, Strategic Objective Team \_\_. \_\_ recommends that the Grant Officer negotiate a non-competitive grant to \_\_\_\_\_.

[ ] Approved [ ] Not Approved

\_\_\_\_\_  
, Grant Officer

Clearances:

, Office Chief \_\_\_\_\_  
, SO Team Leader \_\_\_\_\_  
, RLA \_\_\_\_\_  
, Competition Advocate \_\_\_\_\_

## **Format F. Cooperative Agreement**

### **ACTION MEMORANDUM FOR THE AGREEMENT OFFICER USAID/[Mission]**

**FROM:** Activity Manager/CTO

**SUBJECT:** Justification for other than full and open competition for the award of a Cooperative Agreement of \$ \_\_\_\_\_ to \_\_\_\_\_.

---

#### **SUMMARY OF PROGRAM DESCRIPTION:**

**AUTHORITY:** Here, cite the appropriate regulatory authority from the ADS, for example:

USAID Automated Directives System Chapter 303.5.3[x] allows for an exception to competition requirements for:

**a. Amendments and follow-ons:** Amendments to existing awards or follow-on awards for the same activity, or to further develop an existing assistance relationship. This authority shall not be used to extend an award beyond ten years of its original award date unless an exception is approved by the Assistance Executive for U.S. organizations or the Mission Director for non-U.S. organizations.

The SO/RP Team Leader or Cognizant Technical Officer shall justify in writing why it would be more advantageous for USAID to amend an award or create a new "follow-on" award without the benefit of competition rather than open the process to competition.

**b. Unsolicited applications:** An unsolicited application shall be reviewed and evaluated under the Annual Program Statement it comes closest to fitting. However, awards may be made based on an unsolicited application without the benefit of competition where the application **clearly** demonstrates a unique, innovative, or proprietary capability, represents appropriate use of USAID funds to support or stimulate a public purpose, and fits within an existing strategic objective. To qualify as an unsolicited application, it must be submitted to USAID solely on the applicant's initiative without prior formal or informal solicitation from USAID.

The SO Team Leader or the Head of the Operating Unit shall certify that the application was not solicited by USAID; that, based on a review by an appropriate technical specialist and an Agreement Officer, the application is considered unique, innovative, or proprietary; that funding the application would represent

appropriate use of USAID funds to support or stimulate a public purpose, and that it fits within a strategic objective.

**c. Exclusive or Predominant Capability:** Assistance awards for which one recipient is considered to have exclusive or predominant capability based on proprietary capability, specialized facilities or technical expertise, or based on an existing unique relationship with the cooperating country or beneficiaries. The justification shall describe in sufficient detail the uniqueness of the supported activity and proposed recipient. The SO/RP shall also describe how other options were explored. This exception shall not be used to continue a relationship with a recipient which received a non-competitive award based on the Small Award exception.

**DEMONSTRATION THAT THE PROPOSED RECIPIENT'S UNIQUE QUALIFICATIONS REQUIRE THE USE OF THE AUTHORITY CITED:**

Here, explain why a competition should not be held and why the authority selected applies.

**DESCRIPTION OF EFFORTS MADE TO ENSURE THAT OFFERS ARE SOLICITED FROM AS MANY POTENTIAL SOURCES AS PRACTICABLE:**

Here, explain what steps you have taken to solicit offers for a limited competition or, in the case of a sole-source cooperative agreement, why you have not solicited any offers at all.

**RECOMMENDATION:** Based on the justification stated herein, Strategic Objective Team \_\_ recommends that the Agreement Officer negotiate a non-competitive Cooperative Agreement with \_\_\_\_\_.

[ ] Approved [ ] Not Approved

\_\_\_\_\_  
, Agreement Officer

Clearances:

- , Office Chief \_\_\_\_\_
- , SO Team Leader \_\_\_\_\_
- , RLA \_\_\_\_\_
- , Competition Advocate \_\_\_\_\_