

8 August 2005

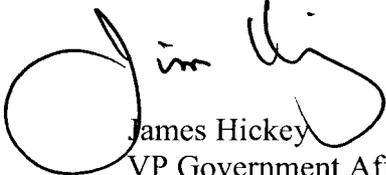
Mr. George Delgado
Sr. Analyst, Review & Analysis
Base Realignment & Closure Commission
2521 South Clark Street, Suite 600
Arlington, Virginia 22202

Dear George,

In one of our recent phone conversations, you asked for any info regarding exceptions to competition, i.e. options for the Department of Defense to choose directed workloads as opposed to competitive contractual arrangements. Attached is a one-pager that looks at the limited options available to DoD for directed, non-competitive contracting for munitions. I hope this responds to that request.

If there's anything else you need in the weeks ahead, please let us know and we will comply quickly and completely. Many thanks.

Sincerely,



James Hickey
VP Government Affairs
Day & Zimmermann

cc: Elizabeth Bieri, R. Gary Dinsick

Library/File

Library Routing Slip 2005 BRAC Commission Materials
Title of Item: *Statutory Exceptions to Competition*
Institution or Community: *Log Site: BAP*
Source: *Paranormal - James Hickey*
Cabled Material? yes no
Analyst / Provider: *George Delgado* Date Recd: *8/10/05*

STATUTORY EXCEPTIONS TO COMPETITION

The following represents excerpts from the Federal Acquisition Regulation (FAR) Part 6 that define situations under which exceptions to competition are allowed.

Subject: FAR Part 6 Full and Open Competition Requirement (48 CFR Part 6)

FAR 6.301 Policy

10 U.S.C. 2304(c) and 41 U.S.C. 253(c) require, with certain limited exceptions that contracting officers shall promote and provide for full and open competition in soliciting offers and awarding Government contracts.

FAR Part 6.302 Circumstances permitting other than full and open competition.

- 6.302-1** Only one responsible source and no other supplies or services will satisfy agency requirements.
- 6.302-2** Unusual and compelling urgency. Government would be seriously injured unless the agency is permitted to limit the number of sources from which it solicits bids or proposals. This statutory authority requires that agencies shall request offers from as many potential sources as is practicable under the circumstances.
- 6.302-3** Industrial mobilization; engineering, developmental, or research capability; or expert services.
- 6.302-4** International agreement.
- 6.302-5** Authorized or required by statute.
- 6.302-6** National security. Full and open competition need not be provided for when the disclosure of the agency's needs would compromise the national security unless the agency is permitted to limit the number of sources from which it solicits bids or proposals. This authority shall not be used merely because the acquisition is classified, or merely because access to classified matter will be necessary to submit a proposal or to perform the contract.
- 6.302-7** Public Interest. This authority may be used when none of the other authorities in 6.302 apply. However, prior to its use, a written determination must be made by the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, the Administrator of the National Aeronautics and Space Administration, or the head of any other executive agency (authority non-delegable). Further, the Congress shall be notified in writing of such determination not less than 30 days before award of the contract.

Although there are seven exceptions, their use is highly restrictive.