

Justification for Other Than Full and Open Competition

U.S. Department of Housing and Urban Development
Office of the Chief Procurement Officer

PART 1 - PROGRAM OFFICE RECOMMENDATION

I recommend the use of other than full and open competition for the acquisition of *[describe services or supplies]*
Closing Agent services in the State of Arizona.

Negotiations should be conducted with the following source(s) only *[provide names, addresses and points of contact; continue on separate sheets as needed]*:

Grand Canyon Title, 2720 E. Camelback RD. Ste 100, Phoenix, AZ 85016, Jody Black, 602-862-0481

The estimated cost of this acquisition is: \$

The statutory exception which allows this use of other than full and open competition is *[select one]*:

- Only one responsible source and no other supplies or services will satisfy agency requirements - 41 USC 253 (c)(1) (see FAR 6.302-1)
- Unusual and compelling urgency - 41 USC 253 (c)(2) (see FAR 6.302-2)
- Industrial mobilization; engineering, developmental or research capability; or expert services - 41 USC 253 (c)(3) (see FAR 6.302-3)
- Authorized or required by statute - 41 USC 253 (c)(5) (see FAR 6.302-5)
- Public interest (**NOTE: requires Secretarial approval and Congressional Notification**) - 41 USC 253 (c)(7) (see FAR 6.302-7)

A description of the circumstances which support the use of the above statutory authority is attached and included as Exhibit 1 to this justification.

Program Office Certification. I certify that the information contained in this justification is accurate and complete to the best my knowledge and belief.

Head of Program Office *[name]*

Joseph Bates

Signature:

[Handwritten Signature: Joseph Bates] 07/19/2009

Title/Name of Office:

Director, SANTA ANA, HOC

Date:

07/15/09

For additional information contact:

Judy Wasmuth

[Handwritten Signature] 7/17/2009

PART 2 - CONTRACTING OFFICER REVIEW AND CERTIFICATION

Provide additional justification and comments here. Continue on back as needed.

Contracting Officer Certification.

I certify that the information contained in this justification is accurate and complete to the best of my knowledge and belief

Name:

Tony M. Karpowicz

Signature:

[Handwritten Signature: Tony M. Karpowicz]

Date:

7/20/09

PART 3 - OTHER APPROVALS

Up to \$550,000 - Contracting Officer

Name	Title
Signature <i>Gary M. Karponig</i>	Date 6-28-09 7/20/09

\$550,000 to \$11,500,000 - Competition Advocate

Name Jackie D. Harris	Title Assistant Chief Procurement Officer
Signature <i>Jackie D. Harris</i>	Date 8/14/09

\$11,500,000 to \$97,000,000 - Head of the Contracting Activity

Name	Title
Signature	Date

Over \$97,000,000 - Senior Procurement Executive

Name	Title
Signature	Date

Additional Contracting Officer justification/comments from front *[attach additional pages if needed]*

Additional Guidance for Completing the Justification (see HUD Handbook 2210.3, Chapter 4)

1. PART 1 - Program Office Recommendation

The supporting documentation in the Exhibit 1 must describe:

- The nature of the proposed acquisition that requires other than full and open competition;
- The unique qualifications of any proposed sole source; and
- The market research conducted (see FAR Part 10) and the results or the reason(s) why market research was not conducted.

The cost estimate must include all costs of the proposed acquisition, e.g., options, systems life costs, etc. The total will determine the approval level needed (see 3 below).

FAR Subpart 6.3 describes the statutory exceptions, their applicability and limitations on their use.

"Head of the Program Office" means:

- For all Headquarters acquisitions: the cognizant Assistant Secretary or designee.
- For field acquisitions: the program office director (e.g., Director, Multifamily Housing) within the State or Area Office or the Director of the Administrative Service Center for Administration-initiated acquisitions.

PART 2 - Contracting Officer Review and Certification

Besides any information provided to support the program office's justification, the Contracting Officer shall provide:

- Documented results of any Commerce Business Daily notices or explanation of why no notice was published.
- A statement of actions the Department may take to remove barriers to competition for subsequent acquisitions of similar services / supplies; and
- A determination that the anticipated cost / price is fair and reasonable. (See FAR Subpart 6.3 for further guidance.)

The Contracting Officer signing the certification shall be the same individual who will sign the proposed acquisition action which is the subject of this justification.

PART 3 - Other Approvals

The Contracting Officer shall obtain the approval for the dollar value ranges indicated.

If any person required to sign in these blocks disapproves this justification, he/she shall return it to the requesting activity with a written determination.

The requesting activity may obtain the name of the "Contracting Activity Competition Advocate" from the cognizant contracting office.

The "Head of Contracting Activity" is defined at Subpart 2402.1 of the HUD Acquisition Regulation (48 CFR Chapter 24). The cognizant contracting office may also provide the name of this individual.

ARIZONA

Exhibit 1 – JUSTIFICATION FOR OTHER THAN FULL AND OPEN COMPETITION R-DEN-02379

- 1. Requiring Activity: Santa Ana Homeownership Center, Real Estate Owned Division (SAHOC-REO)**
Contracting Activity: OCPO, Western (Denver) Field Contracting Operations
Requisition Number: R-2009-9JH-00048
Solicitation Number: R-DEN-02404

2. Nature and/or description of the action being approved:

The Santa Ana Homeownership Center, Real Estate Owned Division hereby requests an emergency Sole Source contract for the continued and uninterrupted Closing Agent services for Real Estate Owned (REO) sales in the State of Arizona. The request is absolutely essential in that:

- Due to the rapid deterioration of the national economy, we have experienced a very large, unexpected increase in foreclosure activity and the REO inventory in Arizona continued to grow at a substantially greater rate than had been projected. However, as soon as it became apparent that we had the risk of exceeding our maximums, and subsequently being without services, we immediately started the process to procure a new contract.
- A single Closing Agent handles the closings of all FHA, REO properties for the entire State of Arizona, and without their services there is a significant risk that homebuyers, communities, and businesses will be negatively impacted.
- The requested Contract will ensure the uninterrupted of services.

The REO Division handles the acquisition, management, marketing and sale of FHA, REO properties through the services of a Management and Marketing (M&M) contractor. The M&M cannot finalize the sale of the properties without the services of a Closing Agent contractor. Therefore, the services of a Closing Agent contractor are of an unusual and compelling nature in the overall process, and are absolutely essential in order to provide for uninterrupted succession in the overall process. The anticipated cost of this service is \$_____ for a period not to exceed six (6) months; a base period of two (2) months, and two (2) two-month option periods. The option periods will only be exercised if needed due to exigent circumstances.

3. Description of services required to meet SAHOC-REO's needs:

The contractor shall provide real estate property sales closings for single family properties owned by the U.S. Department of Housing and Urban Development (HUD) located within the State of Arizona. Performance under this contract will involve interaction with homebuyers and their representatives in the

real estate community, mortgage lenders, non-profit housing and advocacy organizations, staff from HUD's HOC, and service providers under contract to HUD, such as the M&M contractors. Additionally, this contract may be impacted by changes in regulation, legislation, or housing policy initiatives identified by the White House or the HUD Secretary.

As described above, the total performance of this emergency bridge contract will not exceed Six (6) months. The total estimated dollar value of this emergency contract, if all options are exercised, is \$

4. Identification of the statutory authority permitting Other Than Full and Open Competition:

41 USC 253 (c) (2) (FAR 6.302-2) – Unusual and Compelling Urgency.

This is a Sole Source contract and offers will only be sought from the incumbent .

5. The Contracting Officer has determined that the anticipated cost to the Government will be fair and reasonable.

The Government will use a combination of cost and price analysis techniques; comparison of previously proposed prices and previous Government contract prices for the same items to determine proposed cost to be fair and reasonable.

6. Any other facts supporting the use of other than full and open competition.

Performance by in-house by government employees is not a feasible alternative due to the unavailability of the special technical skills required to perform these tasks and the lack of time in which to train them.

(i) Explanation of why submission of a Contract Management Review Board package has not been finalized for a full and open competition

A package for a full and open competition has been prepared and submitted, but the probability exists that following the package approval, the completion of the Technical Evaluation Panel, and final award may not take place before we suffer a loss of services due to the substantially increased inventory of new REO properties and increased sales, beyond what had been anticipated in the contract which was awarded five years ago, and the approaching expiration of the current contact.

(ii) When 603-2 is cited, data, estimated cost, or other rationale as to the extent and nature of the harm to the Government.

The Closing Agent contractor performs an integral function in the support of the HUD's mission to increase homeownership, support community development and increase access to affordable housing.

The function of the Closing Agent is to finalize the sale and transfer title of REO properties, acquired through the FHA foreclosure process, to the new owners; thus enabling new homeownership and aiding communities by decreasing vacant REO properties and increasing neighborhood development. Without Closing Agent services, the properties will remain in HUD's inventory and will continue to incur holding costs by the government.