

## 1. PURPOSE

The purpose of this document is to provide SPAWAR Claimancy policy and guidance for procurements using other than full and open competition under [FAR Subpart 6.3](#).

- This document does not apply to procurements under SAT. A written justification for non-competitive procurements under SAT is required; templates are listed in the [Toolbox](#).
- For exceptions to the fair opportunity process under a multiple-award IDIQ contract ([FAR 16.505\(b\)\(2\)](#), [DFARS 216.505-70](#)), see the  [Multiple Award Contracts \(MAC\)](#) SCPPM.
- See the  [Limited-Source Justifications for orders under GSA Federal Supply Schedules](#) SCPPM ([FAR 8.405-6](#)) for FSS Limited Source Justifications.

Related guidance is available under CMPG section [1.2.8.1 J&As](#).

## 2. POLICY

It is the policy of SPAWAR to promote and provide for full and open competition first and foremost. Competition, direct or indirect, is the most effective motivator for industry to reduce costs and improve performance. SPAWAR promotes its full and open competition requirements primarily by competitive proposals. However, SPAWAR may solicit offers by sealed bid, combination procedures, sole source and other procedures. No separate justification or determination and findings is required for competitive small business set-asides, competitive 8(a) procurements, or competitive small business HUB Zone set-asides.

See [Approvals](#) to determine when a written J&A is required.

### 2.1 Posting J&As

It is SPAWAR policy to post J&As online for public inspection within 14 days or within 30 days for urgent requirements (in accordance with the [Feb. 13, 2009 DPAP memorandum "Public Disclosure of Justification and Approval \(J&A\) Documents for Noncompetitive Contracts"](#)).

### 2.2 Does Not Apply to GSA FSS

This policy document does not apply to supplies or services acquired under a GSA Federal Supply Schedule (FSS) contract. In selecting a source under a Federal Supply Schedule contract, the guidance in [FAR 8.4](#) and the SCPPM template "[Sole Source Justifications under Federal Supply Schedule Contracts](#)" in the SCPPM document  [Limited-Source Justifications for Orders Under GSA Federal Supply Schedule Contracts](#) will be followed.

### 2.3 8(a) Sole Source Awards Over \$22M

 With the implementation of section 811 of the National Defense Authorization Act for FY 2010, the award of a sole-source contract in an amount over \$22 million under the 8(a) program authority without first obtaining a written, approved, and public J&A is prohibited. More specific guidance can be found in the [DPAP memoranda of June, 16 2011](#) and the interim rule of [FAC 2005-50](#). *Note that the \$20 million threshold originally set forth in FAR 6.303-1(b) and described in the DPAP memorandum was raised to \$22 million in Oct 2015 as part of an overall adjustment in keeping with FY16 inflation rates.* Contents for sole-source 8(a) J&As under Section 811 can be found at [FAR 6.303-2](#).

### 2.4 IDIQ Service Requirements (Effective Feb 2012)

1. **Any increase in ceiling of IDIQ** - Service Requirements will require a J&A for HQ 2.0 approval. If the increase in ceiling is the result of supporting projects, programs, or customers not anticipated to be supported in the



original AP, provide rationale for supporting those projects, programs and customers in the J&A required for the ceiling increase (block 5).

2. **Use of an IDIQ contract by any customer not listed in the original Acquisition Plan** - Document the use of an IDIQ contract by any customer, not listed in the original Acquisition Plan. This includes orders placed in support of a program, service or customer that was not originally provided for in the approved Acquisition Plan. This becomes an issue when the contract ceiling is used up by activities that were not envisioned at the time of the Acquisition Plan approval. If a concurrent increase in ceiling of the IDIQ was the result of supporting programs, customers, activities not in the original AP, a thorough explanation as to why this support was provided to be stated in writing in the required J&A.

### 2.5 SBIR Phase III

Consider using the SBIR and STTR program Phase III sole source awards as an exception to competition whenever appropriate and applicable per reference [ASN\(RDA\) memo, Jan 2015](#).

## 3. RESPONSIBILITIES

### 3.1 Program Manager/Technical Code

- Provides the contracting officer with any supporting information to justify the action to procure items without the benefit of full and open competition.
- It is highly recommended that the PM/technical code obtain an electronic version of the J&A from the contracting officer and provide rationale where necessary, namely J&A paragraphs 5, 7, 8, 9, 12, and 13.

### 3.2 Contracting Officer/Contract Specialist shall:

1. Ensure that an approved J&A is included in the contract file prior to commencing negotiations, unless urgent and compelling circumstances exist. Ensure all barriers to competition are removed on any required actions. See  [Market Research](#) and  [Synopsis](#) SCPPM documents.
2. Follow the format set forth herein.
3. Assign appropriate J&A numbers in accordance with local procedures (see [J&A Numbering](#)).
4. Post J&A in accordance with the [13 Feb 2009 DPAP memorandum "Public Disclosure of Justification and Approval \(J&A\) Documents for Noncompetitive Contracts"](#).

- 3.3 **Requirements Certification** - The Program Director, Directorate Head, Program Executive Officer, Department Head (for SSC Pacific and Atlantic), or in their absence, their deputies, are the signatories for requirements certification.

**Technical Certification** – Technical certification shall be one level below the individual responsible for requirements certification.

## 4. PROCEDURE

### 4.1 Citing the exception to full and open competition at [FAR 6.302-1](#)

J&As will normally be prepared after synopsis to ensure that the sole source justification may be supported before entering negotiations. The paragraph within the J&A discussing the rationale for other than full and open competition should stand alone. The final report of the Under Secretary of Defense (A&T) sponsored Procurement Process Reform Process Action Team (January 1995) stated that, *"Industry response to a sole source synopsis is the single most valid indicator of whether a proposed procurement should be considered for competition. After the*

publication of the synopsis, if no inquiries are received from viable alternate sources, it would seem that the agency would be acting in good faith to proceed with the procurement, pending approval of the J&A." Therefore, Contracting Officers shall not commence negotiations for a sole source contract, unsolicited proposal, award or any other contract without providing for full and open competition unless the contracting officer: 1) Justifies, if required by [FAR 6.302](#), the use of such actions in writing; 2) Certifies the accuracy and completeness of the justification; and (3) Obtains the approval required by [FAR 6.304](#).

Note: It is recognized that on rare occasion, a J&A will need to be processed prior to synopsis. In this case, state the following: "This effort will be synopsized and any responses will be handled in accordance with FAR subparts 5 and 6."

For additional information, see the [Office of Counsel J&A Briefing](#) in [Toolbox](#).

**4.2 J&A Numbering**

- 4.2.1 SPAWAR HQ - Procedures for assigning and obtaining control numbers for APs, BCs, D&Fs, IAMs, J&As, contracts and solicitations may be found in [SCPPM Change Notice \(SCN\) 99-07](#).
- 4.2.2 SSC-PAC - Control numbers for all procurements may be obtained from the Electronic Procurement Log, located at: N:\LOGS\Procurement Action Log – N:\LOGS\Procurement Action Log.xls
- 4.2.3 SSC-CH - Control numbers for all J&As may be obtained by accessing the logbook located on the "N" drive.

**4.3 J&As Over \$93M**

The content of these J&As must be fully developed per [FAR 6.303-2](#) and [NMCARS 5206.303-2](#). Assume the reader is unfamiliar with the program.

- 1. Forwarding Memoranda: A memorandum for forwarding J&As to ASN(RDA) via DASN(AP) is available in the [Toolbox](#). Address this memo to ASN(RDA) and also copy to [SPAWAR HQ 2.3 \(Policy\)](#). It is important to thoroughly review this memorandum prior to completing the J&A.
  - a. SYSCOMs may use their own standard forwarding memo formats, provided that they ensure that the arrangement and content of the paragraphs follow the structure and content used in the attached template.
  - b. Field activities shall forward J&A packages to [SPAWAR HQ 2.3 \(Policy\)](#) in sufficient time for routing and coordination. Once HQ 2.0 has approved the J&A, submit the entire package (with the corresponding AS/AP) to DASN (AP) at [RDAJ&As@navy.mil](mailto:RDAJ&As@navy.mil) and also copy to [SPAWAR HQ 2.3 \(Policy\)](#) when the J&A is sent to DASN (AP) for review. The field activities will coordinate directly with DASN (AP) to obtain approval signatures.
- 2. A J&A (Over \$93M) Template is provided in Toolbox.

**4.4 Statutory Authorities for Other Than Full and Open Competition**

Description	Reference	Exceptions	Synopsis Required
<b>Only one responsible source</b>	10 U.S.C.2304(c)(1), <a href="#">FAR 6.302-1</a>	None	<b>Yes</b>
<b>Unusual and compelling urgency</b>	10 U.S.C.2304(c)(2), <a href="#">FAR 6.302-2</a> <a href="#">DPAP memo, Apr 2015</a>	None	<b>No</b>
<b>Industrial Mobilization</b>	10 U.S.C.2304(c)(3), <a href="#">FAR 6.302-3</a>	Brand Names for Resale	<b>Yes</b> <a href="#">FAR 5.202(a)(10)</a>
<b>International</b>	10 U.S.C.2304(c)(4),	<a href="#">DFARS</a>	<b>No</b>

<b>Agreement (IAM)</b>	<a href="#">FAR 6.302-4</a>	<a href="#">206.302-4</a>	<a href="#">FAR 5.202(a)(3)</a> <b>IAM required*</b>
<b>Authorized or required by statute</b>	10 U.S.C. 2304 (c)(5) or 41 U.S.C.253(C)(5), <a href="#">FAR 6.302-5</a>	<a href="#">FAR 6.302-5</a>	<b>Yes/No</b> <a href="#">FAR 5.202(a)(10)</a> No with regard to brand name commercial items for authorized resale
<b>National Security</b>	10 U.S.C.2304(c)(6), <a href="#">FAR 6.302-6</a>	None	<b>No</b> <a href="#">FAR 5.202(a)(1)</a>
<b>Public Interest</b>	10 U.S.C. 2304(c)(7) <a href="#">FAR 6.302-7</a>	None	<b>No</b> <a href="#">FAR 5.202(a)(10)</a> SECDEF D&F required, not J&A
<b>SBIR Phase III</b>	15 U.S.C. 638(r), <a href="#">NMCARS 5206.302-5</a> <a href="#">FAR 6.302-5</a>	<a href="#">FAR 6.302-5</a>	<b>No</b> <a href="#">FAR 5.202(a)(7)</a>

\* IAMs use different approval thresholds from J&As (see [Approvals](#)).

**4.5 PEO(C4I) Special Routing Instructions:** For all sole-source acquisitions supporting PEO (C4I), use one of the two attached routing sheets, which are distinguished by the \$93M threshold (see [Routing](#)).

**4.6 Class J&As:** A Class J&A is required when a class of contract actions will be executed for the same or related supplies or services that require essentially identical justification. Multiyear contracts and contracts with priced options are considered individual contract actions ([NMCARS 5206.303-1](#)).

**4.7 Posting Requirements**

Agencies shall make J&A documents available for public inspection: within 14 days of contract award ([FAR 6.305](#)); within 30 days if the J&A is for unusual and compelling urgency ([FAR 6.302-2](#)) (see additional procedures in [4.7.3](#) below), ; or posted with the solicitation for brand name justifications under [FAR 6.302-1\(c\)](#).

**4.7.1 SCREENING OF J&A DOCUMENTATION FOR PROPRIETARY DATA**

- Before making the justifications available for public inspection, contracting officers shall carefully screen all justifications for contractor proprietary data, references and citations, removing all such data, as necessary to protect proprietary information ([FAR 6.305 \(c\)](#)).
- Contracting officers shall also redact all names, signatures, and phone numbers of Government Officials.
- Contracting officers shall also be guided by the exemptions to disclosure of information contained in the Freedom of Information Act (5 U.S.C. 552) and the prohibitions against disclosure in 24.202 in determining whether other data should be removed. The J&A should be sent via encrypted e-mail as a PDF file to the Command FOIA officer to review and redact using ADOBE software.
- Next all postings prepared for public disclosure shall be reviewed by the PAO prior to posting.

**4.7.2 ACTIONS IN WHICH NO RFP WAS ISSUED**

You are still required to post the J&A. Go to the Electronic Commerce Central (ECC) site; click on "Create Award Document"; create the award synopsis; post it; return in

about 1 hour and you should see the tab for posting the J&A; follow ECC-FBO Instructions in [Toolbox](#).

4.7.3 PROCEDURE FOR UNUSUAL AND COMPELLING URGENCY (ALSO SEE [POLICY ALERT 15-067](#))

Contracting Officers shall use the following additional oversight for non-competitive contracts based on unusual and compelling urgency:

1. Document, in the J&A Numbering log (see [4.2](#) above), the date that the J&A for Unusual and Compelling Urgency was posted ([FAR 6.302-2](#));
2. When required approval signatures are not obtained in order to post the justifications within 30 days, the Contracting Officer shall document in a memorandum to file explaining why the J&A was not timely and what action were being taken to prevent future occurrences and the memorandum must be approved at one level above the Contracting Officer;
3. If the cumulative value of the action, as stated in the J&A, increases beyond the initial J&A approval thresholds as defined in [FAR 6.304](#), the Contracting Office shall document in a memorandum to file explaining the increase in the award value and the memorandum shall be signed at one level above the Contracting Officer and approved at the appropriate level as would have been required of a J&A at the increased value as defined in [FAR 6.304](#).

This additional oversight is as a result of the [DPAP memorandum of April 13, 2015](#) which is in response to [Government Accountability Office \(GAO\) Report, GAO-14-304, "FEDERAL CONTRACTING: Noncompetitive Contracts Based on Urgency Need Additional Oversight," dated March 26, 2014.](#)

4.8 Processing the J&A

1. After having been cleared for release, SPAWAR J&As are to be posted on the ECC website, which will post to the Government-wide Point of Entry ([www.fedbizopps.gov](http://www.fedbizopps.gov)).
2. All SPAWAR Activities shall post the J&A on ECC (see [Toolbox](#) for ECC-FBO Instructions).

5. APPROVALS

Award Value (x)	Technical Cognizance	Requirements Cognizance	Legal Review	Approval Authority
\$150K < x ≤ \$700K				PCO
\$700K < x ≤ \$13.5M				Competition Advocate ***
\$13.5M < x ≤ \$93M				SPAWAR 2.0
IAMs*- All Values				SPAWAR 2.0
x > \$93M**				ASN(RDA)/Senior Procurement Executive via DASN(AP)

\* Per [DFARS 206.302-4](#); delegated to 2.0/2.0A per [HCA delegation memo](#).

\*\* See [J&As Over \\$93M](#) for procedures.

\*\*\* SPAWAR 2.0/2.0A, SSC Atlantic Code 2.0, SSC Pacific Code 2.0 as appropriate.

 Review and input required before J&A is submitted for approval.

5.1 Field Activity Submissions to SPAWAR 2.0

Route through HQ Policy Branch 2.3.1 at [HQ\\_CONTRACTS\\_POLICY@NAVY.MIL](mailto:HQ_CONTRACTS_POLICY@NAVY.MIL).

**5.2 What if negotiated award exceeds the J&A's approval authority?**

If the dollar value of the contract is negotiated at a level that exceeds the authority of the official who approved the original justification, a new approval shall be obtained from the appropriate official prior to award ([NMCARS 5206.304](#)).

**5.3 What if the dollar value later increases?**

In situations where a J&A was approved, and a new scope addition to the J&A causes the estimated dollar value to cross into the next higher level, the approval level is determined by the dollar amount of the scope addition only, not the aggregate value of the previous work plus the new work. For example, if an \$80M J&A was approved by SPAWAR 2.0, and a new scope J&A is needed for the contract in the amount of \$15M, the approval level remains with SPAWAR 2.0 at \$15M, not with ASN(RDA).

**6. TOOLBOX**

**6.1 J&As up to \$93M**

1.  [NMCARS J&A Format for Actions over \\$150K](#)
2.  [Sample Sole Source Justification for Actions Under \\$150K](#) – Mar 2013
3.  [SSC-PAC Justification for Non-Competitive Procurement under \\$150K](#) – Dec 2015

**6.2 J&As Over \$93M**

1.  [NMCARS J&A Format for ASN\(RDA\) approval \(w/ forwarding memo\) via DASN \(AP\)](#)

**6.3 Routing**

1.  [J&A Routing \(Non PEO C4I\)](#)
2.  [J&A Routing up to \\$93M \(PEO C4I\)](#)
3.  [J&A Routing over \\$93M \(PEO C4I\)](#)

**6.4 International Agreements**

1. [IAM Format](#)
2. [IAM Routing](#)
3. [IAM Sample](#)

**6.5 Miscellaneous/Related SCPPMs**

1. [J & A RDA Memo](#) – ASN(RDA), May 2006
2. [Noncompetitive Contracts Awarded Based on Urgency](#)–DPAP memo, Apr 2015
3. [Tapping Into Small Business in a Big Way](#)–ASN(RDA) memo, Jan 2015
4. [Public Disclosure of J&A Documents for Noncompetitive Contracts](#) – USD(AT&L) Feb 2009
5. [ECC-FBO Instructions for Posting J&As](#) – Mar 2009
6. [Submission/Review Tips for Justification and Approvals \(J&A\)](#) – Oct 2015
7. [Office of Counsel J&A Briefing](#) – May 2014
8.  [Multiple Award Contracts \(MAC\)](#)
9.  [Limited-Source Justifications for orders under GSA FSS](#)
10.  [Market Research](#)
11.  [Synopsis](#)

**7. CHANGE HISTORY**

Updated material is highlighted by *purple text* and an Alert/New  icon.

Date	Description of Changes
May 2016	Updated 8(a) Sole Source Awards threshold.
March 2016	Updated SSC-Pacific template in Toolbox.
December 2015 Rev1	Removed obsolete SSC-Pacific Policy Gram 09-02 in Toolbox.



December 2015	Replaced J&A Samples in Toolbox with the NMCARS J&A Format.
October 2015	Content converted to new format. Updated approval thresholds, IAM approval authority, SBIR Phase III justifications, Contracting Officer requirements, procedure for posting of J&As for Unusual and Compelling Urgency, and updated and added toolbox items.
July 2014	Last version created in old format; PEO C4I approval thresholds and route sheets updated and updated title to DASN (AP).