OFFICE OF THE UNDER SECRETARY OF DEFENSE
3000 DEFENSE PENTAGON
WASHINGTON, DC 20301-3000

FEB 13 2009

ACQUISITION
TECHNOLOGY
AND LOGISTICS

MEMORANDUM FOR COMMANDER, UNITED STATES SPECIAL OPERATIONS COMMAND (ATTN: ACQUISITION EXECUTIVE)
COMMANDER, UNITED STATES TRANSPORATION COMMAND (ATTN: ACQUISITION EXECUTIVE)
DEPUTY ASSISTANT SECRETARY OF THE ARMY (POLICY AND PROCUREMENT), ASA (ALT)
DEPUTY ASSISTANT SECRETARY OF THE NAVY (ACQUISITION & LOGISTICS MANAGEMENT), ASN (RDA)
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE (CONTRACTING), SAF/AQC
DIRECTORS, DEFENSE AGENCIES
DIRECTORS, DOD FIELD ACTIVITIES

SUBJECT: Public Disclosure of Justification and Approval (J&A) Documents for Noncompetitive Contracts

An interim rule was issued on January 15, 2009, to amend the Federal Acquisition Regulation (FAR) to implement Section 844 "Public Disclosure of Justification and Approval Documents for Noncompetitive Contracts" of the National Defense Authorization Act for Fiscal Year 2008. The interim rule is effective on February 17, 2009. The interim rule requires agencies to post J&A documents relating to the use of noncompetitive procedures within 14 days of contract award (or within 30 days if the J&A is for unusual and compelling urgency). The J&A shall be posted at FedBizOpps and on the website of the agency, which may provide access to the justifications by linking to FedBizOpps. For example, the Defense Procurement homepage includes a link under "Business Opportunities and J&A Postings" to the FedBizOpps website (https://www.fbo.gov/).

The General Services Administration (GSA) has developed instructions for posting J&As to FedBizOpps which can be found at the FedBizOpps website under Frequently Asked Questions #13. The instructions establish a file naming convention for J&A documents posted prior to a system change being implemented in April 2009. The FedBizOpps system will be revised in April 2009, to establish a new notice type called "Justification & Approvals (J&As)" within the "Opportunities" section. It will permit buyers to designate, and vendors to search for, a specific J&A authority. There will be no search functionality for the J&As until April 2009.

To supplement the suggested naming convention set forth by the General Services Administration (GSA), all DoD Components are instructed to comply with the naming conventions based on the Components current business process for posting notices to the FedBizOpps outlined at Attachment A.

Contracting officers are reminded to carefully screen all justifications for contractor proprietary data and remove all such data, and such references and citations as are necessary to protect the proprietary data, before making the justifications available for public inspection. Contracting officers should 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, working closely with legal experts.

My policy staff point of contact for this subject is Mr. Michael L. Benavides at (703) 602-1302 or michael.benavides@osd.mil. My technical point of contact for this subject is Mr. Adarryl Roberts at (703) 607-3767 or adarryl.roberts@bta.mil.

Shay D. Assad
Director, Defense Procurement

Attachments:
As stated

Attachment A
Justification and Approval Posting Requirement and Naming Conventions

All components posting notices directly to FedBizOpps shall amend the corresponding J'and A to the pre-existing notice as an attachment in FedBizOpps. It is required that the document file name and name for which the file is given as it is loaded in FedBizOpps, identically match one another. In order to maintain consistency, Components shall preface the J&A description to the document file name and title of the attachment posted to FedBizOpps (e.g. J&A6.302-1c:"INSERT_NOTICE_NUMBER_HERE").

All Components posting notices directly to a legacy system which feeds FedBizOpps shall follow the same convention outlined in the above paragraph, but shall ensure that the link (directing the user to the location of the J&A document on the legacy system) provided by the legacy system, matches the file name for easier search capabilities within FedBizOpps. Legacy system users must await upload of the notice through the legacy system, before amending the notice with the J&A directly through the FedBizOpps website.