

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*]

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

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 3304 (a)(1) (see FAR 6.302-1)
- Unusual and compelling urgency - 41 USC 3304 (a)(2) (see FAR 6.302-2)
- Industrial mobilization; engineering, developmental or research capability; or expert services - 41 USC 3304 (a)(3) (see FAR 6.302-3)
- Authorized or required by statute - 41 USC 3304 (a)(5) (see FAR 6.302-5)
- Public interest (**NOTE: requires Secretarial approval and Congressional Notification**) - 41 USC 3304 (a)(7) (see FAR 6.302-7)

A description of the circumstances that 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*]

Title/Name of Office:

Signature:

Date:

For additional information contact:

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:

Signature:

Date:

PART 3 - OTHER APPROVALS

Up to \$700,000 - Contracting Officer

Name	Title
Signature	Date

\$700,000 to \$13,500,000 - Competition Advocate

Name	Title
Signature	Date

\$13,500,000 to \$68,000,000 - Head of the Contracting Activity

Name	Title
Signature	Date

Over \$68,000,000 - 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)

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.

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 Federal Business Opportunity 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.

**Exhibit 1 Class Justification and Approval (J&A)
Justification for Other than Full and Open Competition for
Field Service Management Services for Areas
3A, 4A, 5A, 6A, 7A, 8A, 1D, 2D, 4D, 5D, 1P, 3P, 4P, 5P, 3S/5S 4S, and 6S**

1. Identification of the agency and the contracting activity:

Agency: The U.S. Department of Housing & Urban Development, Washington, D.C.

Program Office: Office of Single-Family Housing, Office of Single-Family Asset Management

Contracting Activity: Office of the Chief Procurement Officer, Atlanta Office - Southern Field Contracting Operations

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

HUD's Office of Single-Family Housing, Office of Asset Management has a need of unusual and compelling urgency to extend current Field Service Management (FSM) contract/services under FAR 6.3, Other than Full and Open Competition, to provide FSM services for one month. Each of the seventeen (17) contract areas' current period of performance expires on January 31, 2023, and will be extended through February 28, 2023, to meet HUD's requirements during the pendency of the corrective action on the post-award protests of the FSM 3.12 awards and any subsequent corrective action (if needed).

Contract Areas:

Contract Area 3A (IL)

Contract Area 4A (IN & KY)

Contract Area 5A (NC & SC)

Contract Area 6A (MS, AL, & TN)

Contract Area 7A (GA)

Contract Area 8A (FL, PR, & VI)

Contract Area 1D (CO, NM, North TX, & UT)

Contract Area 2D (AR, KS, LA, MO, OK, & So. TX)

Contract Area 4D (WI, IA, NE, & SD)

Contract Area 5D (WY, MT, ND, & MN)

Contract Area 1P (MI)

Contract Area 3P (CT, MA, ME, NH, NJ, NY, RI, & VT)

Contract Area 4P (OH)

Contract Area 5P (DC, DE, MD, PA, VA, & WV)

Contract Area 3S/5S (AZ, CA, HI & Guam)

Contract Area 4S (ID & NV)

Contract Area 6S (OR, WA & AK)

The Federal Housing Administration (FHA), an organizational unit within HUD, administers the Single-Family mortgage insurance program. FHA insures approved lenders against the risk of

loss on loans they finance for purchase or rehabilitation. In the event of a default on an FHA insured loan, the lender acquires title to the property by foreclosure, a deed-in-lieu of foreclosure, or other acquisition method, files a claim for insurance benefits and conveys the property to HUD. Because of acquisitions through the mortgage insurance program and other programs, HUD has a need to close and reconcile a sizable inventory of single-family homes in a manner that promotes home ownership, preserves communities, and maximizes return to the FHA insurance funds.

The FSM contractors provide vital property preservation and protection services. The previous contracts for the above-referenced areas expire on January 31, 2023. HUD has a critical need to extend the current FSM bridge contracts for an additional one (1) month without delay in the referenced areas as a discontinuation in services would result in HUD Real Estate Owned properties not being preserved/maintained and protected, which pose increased risk in adverse occupants, theft, and vandalism that can result in blight on the communities in which the properties are located. The holding costs associated with not awarding a one-month modification to the existing bridge contracts is approximately \$52,315,124.

The extension modification(s) involve no changes to the core services performed under the current contracts.

The current contracts for the above-referenced area(s) expire on January 31, 2023. The FSM 3.12 awards were made on May 31, 2022, and June 14, 2022. The Agency received three (3) GAO protest on June 28, 2022. HUD has a critical need to modify its current bridge contracts to provide preservation and protection services for properties until the corrective action on the FSM 3.12 protests and any subsequent corrective action (if needed) are resolved.

3. A description of the supplies or services required to meet HUD's needs (including the estimated value)

Subject to approval of this J&A action, the incumbent contractors will continue performance in the seventeen (17) contracts through February 28, 2023. The transition out period will be no more than sixty (60) days under the authority of the Continuity of Service clause FAR 52.237-3, if needed. The extension modifications for these contracts are a temporary measure urgently needed to avoid a break in services. Without a modification to the existing bridge contracts, there will not be sufficient time to complete the corrective action required due to the three (3) GAO protest(s) of FSM 3.12 contract awards.

The Office of Single-Family Housing estimates that the one (1) month extension for all contract Areas is \$4,706,526.

The total amount requested to cover the one (1) month extension modifications per contract Area is as follows:

<u>Contract</u>	<u>Estimated Value</u>
3A	\$238,289.00
4A	\$162,069.00
5A	\$207,589.00
6A	\$276,588.00
7A	\$175,254.00
8A	\$502,828.00
1D	\$262,324.00
2D	\$578,920.00
4D	\$144,168.00
5D	\$119,493.00
1P	\$119,433.00
3P	\$535,160.00
4P	\$132,073.00
5P	\$624,777.00
3S/5S	\$315,121.00
4S	\$83,130.00
6S	\$229,310.00
Total	\$ 4,706,526. 00

4. The statutory authority permitting other than full and open competition:

41 USC 3304 (a)(2) (see FAR 6.302-2) Unusual and compelling urgency.

5. Demonstration that the proposed contractor's unique qualifications or the nature of the acquisition requires use of the authority cited:

The filing of the GAO protests and the subsequent need to take corrective action resulted in an unusual and compelling urgency for the agency. While the agency has been working diligently on the corrective action, it is not yet complete. The current contracts will expire on January 31, 2023, and a procurement strategy to extend the current contracts for one (1) month will satisfy the agency requirements while the corrective action is finalized. In the absence of modifying the existing contracts, HUD will adversely impact stakeholders and increase losses to the FHA Insurance Fund. As indicated above, HUD has a critical need to extend the current FSM Bridge contracts without delay in the referenced areas, as a discontinuation in services would result in prolonged unoccupied assets posing increased risk of adverse occupants, theft, and vandalism, which in turn results in blight on the communities in the specified areas.

Based on historical data, the average startup time for new contractors to complete transition-in activities and enter a given FSM market is at least 60 days. The period of performance under

this extension is one (1) one month. The Performance Work Statement also requires the contractors to maintain a fully staffed and equipped office within the HOC jurisdiction. The incumbent contractors are currently performing in this capacity and have the necessary office space, staffing, and resources to provide these services immediately across the geographic areas without significant schedule delays and startup costs. Any new contractor would have to deal with the issues of on-boarding new employees and sub-contractors that have the resources and knowledge to begin work immediately. Therefore, the incumbent contractors have unique capabilities to perform these services within the time frame required with no degradation to HUD's mission.

6. A description of efforts made to ensure that offerors are solicited from as many potential sources as is practicable, including whether a notice was or will be published as required by Subpart, 5.2 and if not, which exception under 5.202 applies.

Offerors were only solicited from the incumbent contractors, as the incumbent contractors are the only contractors with the capability to perform these services within the time frame required.

A notice will not be published for the contract modifications as required by Subpart 5.2 pursuant to FAR 5.202(a)(2) due to the proposed action being made under FAR 6.302-2. The Agency would be seriously injured if it complies with the time periods specified in 5.203, as complying with the requirements would result in a break in service. The Contracting Officer shall post this justification on the Government-Point-of-Entry, known as [SAM.GOV](https://sam.gov).

The FSM 3.12 procurement strategy was Unrestricted. The FSM 3.12 solicitation closed on April 19, 2021 and allowed potential offerors to submit competitive proposals. Awards were made on May 31, 2022, and June 14, 2022. The Agency received three (3) GAO protest on June 28, 2022.

7. A determination by the Contracting Officer that the anticipated cost to the Government will be fair and reasonable:

The Contracting Officer determined prices to be fair and reasonable on the current contracts. The extension modifications will be extended at the current unit prices.

8. A description of the market research conducted (see part 10) and the results or a statement of the reason market research was not conducted:

Market research was not conducted because the current contracts are being extended to allow a short period of additional time to complete corrective action taken because of the three (3) GAO protest(s) on the FSM 3.12 awards. The Contracting Officer completed market research for the long-term FSM 3.12 procurement.

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

N/A

10. A list of the sources, if any, that expressed, in writing, any interest in the acquisition:

Atlanta HOC

3A – DGG/Guardian
4A – DGG/Guardian
5A – DGG/Guardian
6A – Innotion Enterprises
7A – Alpine Companies
8A – DGG/Guardian

Denver HOC

1D – DGG/Guardian
2D – DGG/Guardian
4D – DGG/Guardian
5D – DGG/Guardian

Philadelphia HOC

1P - DGG/Guardian
3P – DGG/Guardian
4P – BLM Companies
5P – BLM Companies

Santa Ana HOC

3S/5S - DGG/Guardian
4S – DGG/Guardian
6S – DGG/Guardian

11. A statement of the actions, if any, that the agency may take to remove or overcome any barriers to competition before any subsequent acquisition of the supplies or services required.

The Agency conducted extensive market research to remove or overcome any barriers to competition for the 3.12 FSM procurement.

12. As the Contracting Officer, I certify that this justification is accurate to the best of my knowledge and belief.

13. The Contact Information for the current task order contractors are as follows:

Mr. Dan Leader
DGG RE Investments, LLC
2300 E Lincoln Hwy, Langhorne, Pa 19047

Mr. Brent Martin BLM Companies, LLC 204
Playa Della Rosita Ste A
Washington, UT 84780

Mr. Ryan Gesinski
Innotion Enterprises, Inc.
10650 Main St #303
Fairfax, VA 22030

Ms. April Cooper
Alpine Companies, Inc
121 N Main Street
Alpine, UT 84004