

Marshall CIV John C

From: Marshall CIV John C
Sent: Friday, March 27, 2009 2:34 PM
To: M_HQMC_MCFCS_Directors/Deputies; M_HQMC_MCFCS_Civilian;
M_HQMC_MCFCS_Officer; M_HQMC_MCFCS_Enlisted
Cc: M_HQMC_LB; Romano CIV Mark; Oliver CIV R. Kaye; Daise CIV Stanley C; Caracciolo CIV
Laura E
Subject: APM 09-12: Public Disclosure of Justification and Approval (J&A) Documents for
Noncompetitive Contracts
Signed By: marshalljc@hqmc.usmc.mil
Attachments: JA DASN 24Feb09.pdf; JA NECO 13Feb09.doc



JA DASN
24Feb09.pdf



JA NECO
13Feb09.doc

To All,

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

BACKGROUND: An interim FAR rule, which implements Section 844 of NDAA for FY08, 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). Randy Johnston, HQMC (LBP) provided notice to MCFCS activities of this requirement, including posting instructions to NECO, via email on 17 February 2009, the effective date for this requirement.

POLICY: The attached DASN (A&LM) and USD (AT&L) (DPAP) memorandums of 24 February 2009 and 13 February 2009, respectively, formally establish posting requirements for J&As involving noncompetitive procedures within 14 days of contract award (or within 30 days if the J&A is for unusual and compelling urgency). Both memorandums provide further details about the J&A postings, including file naming conventions and a reminder for Contracting Officers 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.

PROCEDURES: In implementing these J&A posting requirements, MCFCS offices shall:

- A. Follow the instructions for posting the J&As as identified in the attached NECO announcement dated 13 February 2009,
- B. Comply with the file naming conventions based on the current business process for posting notices to FedBizOpps, as outlined in Attachment A to DPAP memorandum of 13 February 2009, and
- C. Carefully screen all justifications for contractor proprietary data and remove such data before making the J&A document public. Contracting Officers should also be guided by FOIA exemptions to disclosure of information and the prohibitions against disclosure in FAR 24.202 in determining whether other data should be removed, working closely with their CL field Counsel.

NOTE: The above policy/procedures will be included in the next update of the MAPS and/or CMPG as appropriate.

POC: Please direct questions to LB's NECO/FedBizOpps POC, Mr. Randy Johnston, HQMC (LBP), (703) 695-6590 x2513 or DSN 225-6590.

V/R John
John Marshall
Contracts Policy and eBusiness Team



DEPARTMENT OF THE NAVY
OFFICE OF THE ASSISTANT SECRETARY
(RESEARCH, DEVELOPMENT AND ACQUISITION)
1000 NAVY PENTAGON
WASHINGTON DC 20350-1000

FEB 24 2009

MEMORANDUM FOR DISTRIBUTION

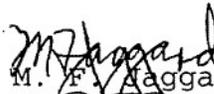
Subj: PUBLIC DISCLOSURE OF JUSTIFICATION AND APPROVAL DOCUMENTS
FOR NONCOMPETITIVE CONTRACTS

Encl: (1) DPAP memo dated February 13, 2009

Enclosure (1) provides notification of a new requirement for public disclosure of justification and approval (J&A) documents for noncompetitive contracts and is forwarded for immediate action, as appropriate. An interim Federal Acquisition Regulation rule, effective February 17, 2009, 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 or compelling urgency. The interim rule implements Section 844 "Public Disclosure of Justification and Approval Documents for Noncompetitive Contracts" of the FY08 National Defense Authorization Act.

Enclosure (1) provides instructions from GSA on posting J&A documents to FedBizOpps, which include a file naming convention. To supplement GSA's suggested naming convention, all DoD Components are instructed to comply with the naming conventions based on their current business process for posting notices to FedBizOpps, as outlined in Attachment A to enclosure (1). Also, contracting officers are reminded to carefully screen all justifications for contractor proprietary data and to remove such data before making the J&A documents public.

It is requested that enclosure (1) be forwarded to all appropriate contracting personnel.


M. F. Aggard
COS/Policy
DASN (A&LM)

Distribution:
See next page

Subj: PUBLIC DISCLOSURE OF JUSTIFICATION AND APPROVAL DOCUMENTS
FOR NONCOMPETITIVE CONTRACTS

Distribution:

CMC (LB)
MARCORSYSCOM (CT)
MSC (N10)
NAVAIRSYSCOM (2.0)
NAVFACENCOM (ACQ)
NAVSEASYSYSCOM (02)
NAVSUPSYSCOM (02)
ONR (02)
SPAWARSYSCOM (02)
SSP (SPN)
NAVICP (02)
AGC



**ACQUISITION
TECHNOLOGY
AND LOGISTICS**

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

FEB 13 2009

**MEMORANDUM FOR COMMANDER, UNITED STATES SPECIAL OPERATIONS
COMMAND (ATTN: ACQUISITION EXECUTIVE)
COMMANDER, UNITED STATES TRANSPORTATION
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/>).

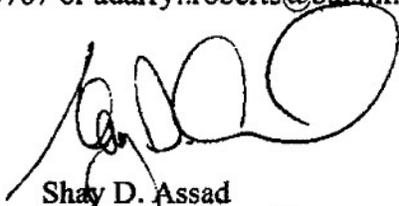
The General Services Administration (GSA) has developed instructions for posting J&As to FedBizOpps which can be found at the FedBizOpps website under Frequently Asked Questions #13. The instructions establish a file naming convention for J&A documents posted prior to a system change being implemented 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.

A handwritten signature in black ink, appearing to read 'Shay D. Assad', written over a circular stamp or mark.

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.



Navy Electronic Commerce Online

<https://www.neco.navy.mil>



13 February 2009

An interim rule was issued on 15 January 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 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 interim rule is effective on 17 February 2009.

In order to satisfy this interim rule change, NECO has been modified accordingly. Therefore, Navy and Marine Corps Buyers will have the capability to upload a ‘J&A Notice’ using NECO on 17 February 2009. This new feature will be located on the Synopsis upload menu in the Buyer area.

After selecting ‘J&A Notice’, Buyers will be prompted to choose the appropriate J&A Statutory Authority from a dropdown menu. The ‘J&A Notice’ template consists of pre-populated data elements, such as Activity UIC, Address, and Buyer email. Required data fields will be annotated by an asterisk. The ‘J&A Notice’ should be associated with a previously uploaded Notice. The ‘J&A Notice’ will be forwarded to FBO, as is the norm with all NECO uploaded Synopses.

The Search Synopsis Database page will give users the ability to search for ‘J&A Notices’ uploaded to NECO.

Please view the Buyer Users Manual upon login, 17 February 2009, for further details.

Note: In accordance with FAR Subpart 6.305(c), Contracting officers shall carefully screen all justifications for contractor proprietary data and remove all such data, and such references and citations that are necessary to protect the proprietary data, before making the justifications available for public inspection. Contracting officers should 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 FAR Subpart 24.202 in determining whether other data should be removed.