

## Justification and Approval for Sole Source (J&A) (Template)

**Completion Instructions:** HHS has established a standard template for preparation of a Justification and Approval for Sole Source (J&A) for non-Federal Supply Schedule acquisitions exceeding the simplified acquisition threshold. Operating Divisions (OPDIVs) shall prepare the template in accordance with these completion instructions. **(NOTE:** *The Project Officer (PO) has responsibility for completing all the information items included in the template, with any necessary assistance from the cognizant Contracting Officer (CO) and Contract Specialist (CS) -- especially for items 3. (b), 4., 6., 7., 8. and 10. listed below.*

The instructions for preparing a J&A are specified in “red” and should be deleted prior to processing the document for review and approval. Also, do not include the completion instructions in the completed document.

A completed J & A must contain all the applicable bolded headings in the order specified. Place the required information directly next to, or under, the applicable heading. If a heading does not apply to a specific J & A, indicate “not applicable” (N/A) next to it. Reference and attach any additional information necessary to support the J & A.

## Justification and Approval for Sole Source

*“Source Selection Information – see FAR 2.101 and 3.104”*

### 1. Identification of the agency and contracting activity.

- a. **Federal agency and contracting activity. HHS.** Enter the OPDIV name after “HHS.”
- b. **Sponsoring organization.** Specify the name of the OPDIV’s major subcomponent organization (such as Institute, Center, Office, or Division) and lower-tier organization, if applicable, that is sponsoring the proposed acquisition.
- c. **Project Officer information.**

- **Project Officer name:** \_\_\_\_\_
- **Mailing address:** \_\_\_\_\_  
\_\_\_\_\_
- **E-mail address:** \_\_\_\_\_
- **Telephone number:** \_\_\_\_\_

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

#### a. Acquisition purpose and objectives

The purpose of this contract is to buy high efficacy UL verified Low Optical Flicker (LOF) LED replacement tubes and/or panels to replace existing high wattage fluorescent, incandescent or halide lighting units. This product will enable the agency to reduce its lighting energy consumption by at least 50% and reduce maintenance by at least 40% over the lifetime of the unit. The manufacturer will be responsible for providing lighting products for approximately \_\_\_\_\_ fixtures. In certain cases, the manufacturer may be required to build custom LED units for specialized applications. To minimize lead times and increase customization options, a US based manufacturer is the preferred source for these LED lighting products.

#### b. Project background.

ABC LED Group is the only contractor on the approved source list for LED lighting products that can meet our needs as explained in paragraph 5 above. Companies providing LED products were researched and indicated in Paragraph 8, Market Survey. When more contractors obtain the same standards, and they are approved by UL Laboratories for LOF verification and meet BAA compliance, we will look to increase our approved manufacturer base. This contract is being awarded as a basic year plus four yearly options

to give us the flexibility to add other approved contractors for this effort. We will continue to work with GSA to develop new sources as much as possible.

**3. Description of the supplies or services required to meet the agency's needs (including the estimated value).**

**a. Project title.** SOLE SOURCE ACQUISITION OF HIGH EFFICACY BAA COMPLIANT UL VERIFIED LOW OPTICAL FLICKER LED LIGHTING PRODUCTS

**b. Project description.** Replacement of existing florescent, incandescent or halide gas bulbs and or fixtures. See attached SOW for drawings, energy audit specifications and specific requirements

• **Requirement type.**

- Research & development (R&D)
- R & D support services
- Support services (non-R&D)
- Supplies/equipment
- Information technology (IT)
- Construction
- Architect-engineer (A & E) services
- Design-build
- Other (specify): \_\_\_\_\_

• **Type of action.**

- New requirement
- Follow-on
- Other (specify): \_\_\_\_\_

• **Proposed contract/order type.**

- Firm-fixed-price
- Other fixed-price (specify, e.g., fixed-price award-fee, fixed-price incentive-fee): \_\_\_\_\_
- Cost-plus-fixed-fee
- Other cost reimbursement (specify, e.g., cost-plus-award-fee, cost-plus-incentive-fee): \_\_\_\_\_
- Time and materials
- Indefinite delivery (specify whether indefinite quantity, definite quantity, or requirements): \_\_\_\_\_
- Other (specify): \_\_\_\_\_
- Completion Form     Term form

• **Acquisition identification number:**

**c. Total estimated dollar value and performance/delivery period.** Total dollar value though period of performance shall not exceed \$650,000.

**4. Identification of the statutory authority permitting other than full and open competition.**

This acquisition is conducted under the authority of 41 United States Code (U.S.C.) 253(c)(1) as set forth in Federal Acquisition Regulation (FAR) 6.302-1(a)(2)(i)(a-b).

This acquisition is conducted under the authority of section 4202 of the Clinger-Cohen Act of 1996.

This acquisition is conducted under the authority of the Services Acquisition Reform Act of 2003 (41 U.S.C. 428a)

**5. Demonstration that the proposed contractor(s) unique qualifications or the nature of the acquisition requires use of the authority cited.**

**a. Name and address of the proposed contractor(s).**

ABC LED GROUP  
1234 SUCCESS STREET, WINSVILLE, US 12345  
123-456-7890

**b. Nature of the acquisition and proposed unique qualifications of the contractor(s).**

ABC LED Group is the only contractor on the approved source list for LED lighting products that can meet our needs as explained in paragraph 2.a above. Companies providing LED products were researched and indicated in Paragraph 7 below. When more contractors obtain the same standards, and they are approved by UL Laboratories for LOF verification and meet BAA compliance, we will look to increase our approved manufacturer base.

**6. Description of the efforts made to ensure that offers are solicited from as many potential sources as practicable. Indicate whether a notice was or will be publicized as required by FAR Subpart 5.2 and, if not, which exception under FAR 5.202 applies.**

This solicitation is being issued pursuant to the procedures at FAR 13. Synopsis exception FAR 5.202(a)(13) applies and Solicitation Number \_\_\_\_\_; is hereby issued as an attachment hereto. All changes to the requirement that occurred prior to the closing date.

**7. Determination by the Contracting Officer that the anticipated cost/price to the Government will be fair and reasonable.**

The cost of the new effort will be negotiated, and we have current pricing available through GSAadvantage.gov to evaluate the reasonableness of our effort. While ABC LED Group is the only source available to meet the current requirement, we do not expect pricing to vary more than 5% from non-BAA compliant, non-UL verified LOF competition. We will continue to work GSA to

develop new sources as much as possible. Ultimately the purchase of LED lighting with minimum efficacy rating of 130 or better will pay for the cost of the unit within 26 months in savings. The net gain in energy savings will exceed the cost of the unit by 200% or more over the life of the unit.

**7. Description of the market research conducted (see FAR Part 10) and the results, or a statement of the reasons market research was not conducted.**

Other manufacturers researched:

1. ENERGY FOCUS - Not BAA compliant
2. GE LIGHTING - Not BAA compliant, not UL verified LOF
3. LARSON ELECTRONICS LLC - Not BAA compliant, not UL verified LOF
4. LINMORE LED - Not BAA compliant, not UL verified LOF
5. MAXLITE - Not BAA compliant, not UL verified LOF
6. PHILIPS - Not BAA compliant, not UL verified LOF
7. REVOLUTION LIGHTING - Not UL verified LOF
8. SKILCRAFT - Not BAA compliant, not UL verified LOF
9. SYLVANIA - Not BAA compliant, not UL verified LOF
10. UTOPIA LIGHTING - Not BAA compliant, not UL verified LOF
11. WAXIE - Not BAA compliant, not UL verified LOF

We verified through GSAadvantage.gov that ABC LED Group is the only provider to the federal government that meets the requirements for BAA compliant UL LOF LED products. We have confirmed with ABC LED Group that all LED lighting products meet or exceed minimum efficacy ratings of 130.

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

ABC LED Group is the only qualified manufacturer able to provide minimum efficacy rating of 130 (watts to lumen) with UL labs verified LOF LED tubes with BAA compliance certification. Our only other option would be to award to another source that does not meet either the UL verification, BAA compliance or minimal efficacy rating of 130.

ABC LED Group provides an extensive catalog of standard LED products. In addition, ABC LED Group has manufacturing facilities in the US. This will enable HHS to obtain customized products to meet specific requirements for specialized equipment on a timely basis.

**10. Listing of sources, if any, that expressed, in writing, an interest in the acquisition.**

No other sources have expressed an interest, in writing, in the proposed acquisition.

**11. Statement of the actions, if any, the agency may take to remove or overcome any barriers to competition before any subsequent acquisition for the required supplies or services.**

The steps being taken on the part of the US Government to foster competition are to try and solicit contractors and get them to meet the latest regulations and most effective LED technology. When more US based BAA compliant manufacturers obtain UL LOF verification, we will be able to complete this requirement or include additional vendors in future LED replacement initiatives. This contract is being awarded as a basic year plus four yearly options to give us the flexibility to add other approved contractors for this effort. We will continue to work with GSA to develop new sources as much as possible.

**12. Program office certification.**

**This is to certify that the portions of this justification that have been developed by the undersigned program office personnel, including supporting information and/or data verifying the Government’s minimum needs, schedule requirements and other rationale for other than full and open competition, are accurate and complete.**

Official	Name & Title	Signature	Date
Project Officer			
Project Officer’s Immediate Supervisor			
Head of the Sponsoring Program Office			

**13. Contracting Officer certification.** **NOTE:** The CO’s signed certification may serve as approval of a J & A over \$150,000 but not exceeding \$650,000<sup>1</sup>, depending on OPDIV procedures.

**This is to certify that the justification for the proposed acquisition has been reviewed and that to the best of my knowledge and belief the information and/or data provided to support the rationale and recommendation for approval is accurate and complete.**

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<sup>1</sup> This dollar range is current as of the date of issuance of interim acquisition policy memorandum No. 2008-03 but is subject to change – see FAR 6.304(a)(1) and 13.501(a)(2)(i). See HHSAR 306.304(a)(1) and 313.501(a)(2)(i) for additional information regarding CO approval of a J & A in this dollar range.

Official	Name & Title	Signature	Date
Contracting Officer			

14. **Chief of the Contracting Office and Head of the Contracting Activity signature(s).** The Chief of the Contracting Office (CCO), if applicable, and the HCA shall indicate review of, and concurrence with, any J & A over \$650,000<sup>2</sup> by providing the information required below and signing in the applicable block.

Official	Name & Title	Signature	Date
Chief of the Contracting Office			
Head of the Contracting Activity			

15. **Competition Advocate signature.** The designated OPDIV Competition Advocate (CA), upon acceptance of the rationale provided in the J & A, shall complete the information required below and sign in the block provided as the approving official for any J & A over \$650,000 but not exceeding \$62.5 million<sup>3</sup>. However, if the CA does not meet the requirements of FAR 6.304(a)(3)(ii) for a J & A over \$12.5 million, but not exceeding \$62.5 million, an individual other than the CA shall exercise the approval authority.

The signature of the CA, or that of an individual meeting FAR 6.304(a)(3)(ii) requirements for a J & A over \$12.5 million, but not exceeding \$62.5 million, shall serve as concurrence on any J & A over \$62.5 million that requires the approval of the HHS SPE.

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<sup>2</sup> This review and concurrence requirement is applicable to the dollar ranges over \$650,000 cited in the FAR, specifically: (i) over \$650,000 but not exceeding \$12.5 million; (ii) over \$12.5 million but not exceeding \$62.5 million; and (iii) over \$62.5 million – see FAR 6.304(a)(2) through (4) and 13.501(a)(2)(ii) through (iv). See HHSAR 306.304 and 313.501(a)(1)(iii) for additional information regarding CCO/HCA review of and concurrence with a J & A in these dollar ranges. These dollar ranges are current as of the date of issuance of interim acquisition policy memorandum No. 2008-03 but are subject to change.

<sup>3</sup> This approval authority is applicable to the following dollar ranges cited in the FAR, specifically: (i) over \$650,000, but not exceeding \$12.5 million; and (ii) over \$12.5 million, but not exceeding \$57 million – see FAR 6.304(a)(2) and (3) and 13.501(a)(2)(ii) and (iii). See HHSAR 306.304(a)(2) and (3) and 313.501(a)(ii) and (iii) for additional information regarding this approval authority, including when the CA does not meet the requirements of FAR 6.304(a)(3)(ii). These dollar ranges are current as of the date of issuance of interim acquisition policy memorandum No. 2008-03 but are subject to change.

Official	Name & Title	Signature	Date
Competition Advocate			

16. **HHS Senior Procurement Executive signature.** The HHS SPE, upon acceptance of the rationale provided in the J & A, shall complete the information required below and sign in the block provided as the approving official for any J & A over \$62.5 million<sup>4</sup>.

Official	Name & Title	Signature	Date
HHS Senior Procurement Executive			

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<sup>4</sup>This dollar range is current as of the date of issuance of interim acquisition policy memorandum No. 2008-03 but is subject to change – see FAR 6.304(a)(4) and 13.501(a)(2)(iv). See HHSAR 306.304(a)(4) and 313.501(a)(2)(iv) for additional information regarding SPE approval of a J & A in this dollar range.