



Enterprise Services Procedure No. PRO-DES-140-00

Sole Source Contract Approval Procedure

Applies to: Agencies requesting sole source contract and/or amendment approval from DES and filing of sole source exempt contracts for the purchase of goods and services in accordance with DES Policy #[POL-DES-140-00](#).

Effective date: June 6, 2024

Approved by: Tara C. Smith Tara C. Smith, Director

PRO-DES-140-00 Obtaining Sole Source Contract Approval

SOLE SOURCE DETERMINATION

<u>Action By:</u>	<u>Action:</u>
Agency Staff	<ol style="list-style-type: none"> 1. Confirms that a statewide contract is not available for the good/service. 2. Confirms that the proposed business need and purchase is from “a contractor providing goods or services of such a unique nature or sole availability that the contractor is clearly and justifiably the only practicable source to provide the goods or services.” RCW 39.26.010(23). This must be verified by conducting thorough market research (as defined in the Glossary Supplement). The agency must provide documented market research to support a sole source contract. The methods for conducting market research include, but not limited to: <ol style="list-style-type: none"> i. Gathering detailed information about the past, present, and potential service/goods being acquired; ii. Research about the industry as a whole; iii. performing an extensive internet search to identify other potential sources, including various search terms; iv. Connecting with the Office of Minority and Women’s Business Enterprises (OMWBE) and/or searching the OMWBE online portal for businesses; v. A market analysis of trends, pricing, and service/product availability; vi. Providing results of recent RFI/RFQ/RFP/RFQs etc. conducted by the agency together with results; vii. Surveys and/or questionnaires sent out to gain industry knowledge;



	<ul style="list-style-type: none"> viii. Interviewing other vendors to gain a deeper understanding of their capabilities; ix. Searching WEBS to find vendors registered under the commodity code(s) that the agency intends to use when posting the sole source. <i>*These vendors could be other 'potential sources' that can meet your business need;</i> x. Conducting a Request for Information (RFI); and xi. Reviewing the results of a recent solicitation that resulted in a single source, etc. (see DES-POL-140 [LINK]). <p><i>*Note: Use DES' Market Research Template to assist in conducting market research.</i></p> <ul style="list-style-type: none"> 3. Conducts an unbundling analysis to determine whether there are areas of the proposed contract/scope of work that are feasible to unbundle.
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PRESENTATION OF SOLE SOURCE CONTRACT FILING TO DES

<u>Action By:</u>	<u>Action:</u>
Agency Staff	<ol style="list-style-type: none"> 1. Prepares the sole source contract and all related supporting documentation necessary to initiate the DES approval process; to include obtaining and completing a copy of the Sole Source Contract Filing Justification Template and the Legal Notice Template from the DES website. 2. Confirms that the agency has sufficient delegated authority for the proposed purchase (<i>*see procedure PRO-DES-090-00A for how to obtain additional delegated authority if applicable</i>). 3. If the contract contains information technology (IT) services, goods, or components, the agency should determine whether compliance has been met for all applicable Washington Technology Solutions (WaTech) policies. 4. Makes proposed sole source contract available for public inspection not less than 15 working days before the proposed contract start date. Agencies may comply with this requirement by posting the draft contract, completed Sole Source Contract Filing Justification Template, and Legal Notice on their agency website. <p><i>*Note: working days exclude weekends, state holidays, and the day you post to WEBS and file to the SSCD.</i></p>



***Note: it is recommended that you allow as much time as possible prior to your intended contract start date.*

****Note: In the event an agency does not have a website, it can post on another website, through newspaper advertisements, or other means as appropriate. The agency is encouraged to contact DES if it needs assistance.*

5. Posts a notice of intent to award a sole source contract (Legal Notice) on the State's enterprise vendor registration and bid notification system (known as Washington's Electronic Business Solution (WEBS)) for not less than 10 working days from the date posted. The posting shall include:
 - i. The name of the prospective sole source vendor, which must be registered in WEBS;
 - ii. All applicable WEBS commodity codes for the product or services being procured, including those commodity codes used by the prospective sole source vendor;
 - iii. A Legal Notice of intent to award a sole source contract, which must include:
 - 1) A description of the purpose and scope of the contract;
 - 2) The criteria or rationale justifying the sole source contract;
 - 3) The name of the prospective contractor;
 - 4) The period of performance, including options for extensions listed in specific duration (ex.: "can be extended for 12 months a total of three (3) times, not to exceed ___ months/years");
 - 5) The projected contract value for the initial period of performance;
 - 6) If options to extend will be included (per #4 above), the amount of additional consideration (value) contemplated by the agency.
 - 7) A description of the process for providing vendor inquiries or responses to the posting agency. The description should include timelines and requirements, and a request for capability statements if a vendor believes they can provide the goods or services being procured under the sole source contract; and
 - 8) A list of specific sole source requirements that other vendor(s) need to address should they feel capable of performing the work. These requirements must be



	<p>based on the agency’s justifiable business need (not preference) and must not include anything considered excessive and/or a barrier to entry to do business with the state (see Sole Source FAQ #25-26).</p> <ul style="list-style-type: none"> iv. A copy of the proposed draft sole source contract in significantly final form which must include: <ul style="list-style-type: none"> 1) Appropriate terms and conditions including but not limited to: terms that preserve state’s rights in the case of breach and solicitation requirements required by state law, policies, executive orders, etc.; 2) Requirements contained in the legal notice as reflected in the statement of work; and 3) Performance-based contracting language (see RCW 39.26.180(3)). v. A copy of the Sole Source Contract Filing Justification Template that contains complete and compelling answers to all questions, as submitted to the SSCD. <p>6. Submits the request for sole source approval with DES using the Sole Source Contracts Database (SSCD) not less than 15 working days prior to the contract start date: <ul style="list-style-type: none"> i. Gives complete and compelling answers to the questions in the Sole Source Contract Filing Justification Template and copies the answers into the SSCD; ii. Attaches a copy of the draft sole source contract, which must be in significantly final form; including any related exhibits, attachments, and/or documents; iii. Uploads a document that shows the Legal Notice of intent to award a sole source contract, the draft contract, and a copy of the justification template has been posted on WEBS for a minimum of 10 working days. iv. If applicable, attach proof of compliance with WaTech policies (ex: security design review, completed IT Investment Intake f/k/a Information Technology Project Assessment (ITPA)). <p>7. Provides any capability statements received in response to the WEBS posting (see document section: Responding to vendor Capability Statement(s)).</p> </p>
DES	8. Reviews all information submitted to the SSCD including, but not limited to whether:



	<ul style="list-style-type: none"> i. Sufficient market research to support sole source was conducted prior to filing in the SSCD. ii. The posting to WEBS contained all necessary information and documents as requested for this procedure; iii. The draft contract, Sole Source Justification Template, and Legal Notice were made available for public inspection as required; iv. The proposed draft sole source contract is performance-based, and the terms and conditions, scope of work, etc. are appropriate; v. The legal notice posted in WEBS is the same as posted on the agency's website; vi. The answers to the Sole Source Contract Filing Justification Template are complete and compelling; vii. Vendor capability statements/challenges are received and the agency's analysis and recommendation to DES demonstrate the contract is a valid sole source; viii. The agency has complied with WaTech policies, if applicable; and ix. Previous sole source filings associated with the prospective vendor, if applicable. <p>9. Provides a decision on an agency request for sole source generally within 15 working days* after the contract is filed in the SSCD.</p> <p><i>*Note: the volume and complexity of requests received by DES can impact DES's processing time. The agency cannot execute a contract or contract amendment until DES approval is received (see document section: Sole Source Amendments).</i></p>
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RESPONDING TO VENDOR CAPABILITY STATEMENT(S) WHEN RECEIVED

<u>Action By:</u>	<u>Action:</u>
Agency Staff	1. Sends an individual email to vendor(s) who submitted the capability statement that acknowledges receipt of the capability statement and pending agency and DES' review, agency will follow up with a decision to continue with sole source or pursue another contracting method (ex. Competitive procurement).



	<ol style="list-style-type: none"> 2. Reviews and reconciles the capability statement received with the requirements listed in the legal notice that was transparently posted to WEBS. 3. Determines whether the vendor has made a good-faith effort in addressing the requirements and can potentially meet the business need of the agency. 4. Drafts the agency’s analysis and explanation for proposed decision to DES. 5. Uploads copies of capability statement, all related correspondence, and agency’s analysis/proposed decision to SSCD in Word and/or PDF format.
DES	<ol style="list-style-type: none"> 6. Reviews capability statement, all agency related correspondence, legal notice requirements, and agency’s analysis/proposed decision. 7. Determines whether the sole source contract should continue or be competed. Responds to agency with a decision.
Agency Staff	<ol style="list-style-type: none"> 8. Responds to vendor who submitted capability statement with DES’ decision and the agency’s planned procurement method for contract.

PRESENTATION OF SOLE SOURCE CONTRACT AMENDMENT FILING TO DES FOR APPROVAL

<u>Action By:</u>	<u>Action:</u>
Agency Staff	<ol style="list-style-type: none"> 1. Prepares the sole source contract amendment and all related supporting documentation necessary to initiate the DES approval process. <i>Note: Amendments that contain “minor or administrative change(s)” as defined in the Sole Source Glossary Supplement do not require DES approval.</i> 2. Determines whether the agency has sufficient delegated authority for purchase (*see procedure PRO-DES-090-00A for how to obtain additional delegated authority if applicable). 3. Conducts additional market research if the amendment will extend the term and/or significant change(s) to statement of work/scope are proposed.



	<ol style="list-style-type: none">4. Submits the request for sole source amendment approval with DES using the Sole Source Contracts Database (SSCD) not less than 15 working days prior to the contract amendment start date.5. Obtains a copy of the Sole Source Contract Amendment Filing Justification Template from the DES website.6. Answers the questions in the template and copies the answers into the SSCD.7. Attaches a copy of the sole source contract amendment, which must be in significantly final form, and any related documents. <p><i>*Note: Sole source contract amendments do not need to be posted on WEBS and do not require a 15 working day public inspection period (posting on agency website).</i></p> <p><i>**Note: Working days exclude weekends, state holidays, and the day you post to WEBS and file to the SSCD.</i></p>
DES	<ol style="list-style-type: none">8. Reviews all information submitted to the SSCD including, but not limited to, whether:<ol style="list-style-type: none">i. Sufficient market research to support the sole source amendment was conducted prior to filing* (*if agency is amending to extend the contract term and/or if there are potential scope changes or significant changes to the statement of work) in the SSCD.ii. The answers to the Sole Source Contract Amendment Filing Justification Template are complete and compelling; andiii. The agency has complied with WaTech policies, if applicable.9. Provides a decision generally within 15 working days* after the amendment is filed in the SSCD. <p><i>*Note: the volume and complexity of requests received by DES can impact DES's processing time. The agency cannot execute a contract or contract amendment until DES approval is received.</i></p>



ADDITIONAL STEPS IF THE SOLE SOURCE CONTRACT IS ALSO A CONVENIENCE CONTRACT FILED ON BEHALF OF MORE THAN ONE AGENCY

<u>Action By:</u>	<u>Action:</u>
Lead Agency Staff	<ol style="list-style-type: none"> 1. Includes the convenience contract approval letter from DES as an attachment in the SSCD. 2. Provides information about the contract’s status as a convenience contract, including a list of the participating agencies, in the sole source contract justification and legal notice.

FILING EXEMPTION(S) TO SOLE SOURCE LISTED IN SECTION 5. OF THE SOLE SOURCE POLICY

<u>Action By:</u>	<u>Action:</u>
Agency Staff	<ol style="list-style-type: none"> 1. Determines that the contract’s scope of work rightfully fits within one of the exemptions #3-17 listed in Section 5, Exemptions of the Sole Source Policy. 2. Prepares the exempt sole source contract and all related documentation necessary to support the proposed sole source exemption; to include completing an optional copy of the Sole Source Exempt Contract Filing Template. If the contract contains IT components, the agency should determine whether compliance has been met for all applicable WaTech policies. 3. Determines whether the agency has sufficient delegated authority for purchase (<i>*see procedure PRO-DES-090-00A for how to obtain additional delegated authority if applicable</i>). 4. Submits the exempt sole source filing to DES using the Sole Source Contracts Database (SSCD). <ol style="list-style-type: none"> i. Gives complete and compelling answers to the questions in the Sole Source Exempt Contract Filing Template and uploads them to the SSCD; and ii. Indicates which exemption in the sole source policy agency is utilizing. 5. Attaches, in the SSCD, a copy of the final signed exempt sole source contract within 20 business days of executing the contract; including any related exhibits, attachments, and/or documents.



DES Staff	<ol style="list-style-type: none">6. Reviews exempt filing.7. Notes any potential compliance issues for review at the time of the agency's procurement risk assessment.8. Issues acknowledgment of exempt filing.

History

Last update: April 1, 2022

Sunset review date: *{5 years from effective date}*