

# Sole Source Contract Approval Procedure

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**Applies to:** Agencies requesting sole source contract and/or amendment approval from DES for the purchase of goods and services in accordance with DES Policy #POL-DES-140-00-00A.

**Effective date:** April 3, 2019

**Last update:** April 1, 2022

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

## PRO-DES-140-00A OBTAINING SOLE SOURCE CONTRACT APPROVAL

Action by:

Action:

**Agency**

**1. Sole Source Determination**

- a. Confirms that the proposed purchase is from “a contractor providing goods or services of such a unique nature or sole availability at the location required that the contractor is clearly and justifiably the only practicable source to provide the goods or services.” RCW [39.26.010 \(23\)](#). This can be verified by conducting market research (as defined in the [Glossary Supplement](#)), searching the internet for validation that there are no other potential sources, previous solicitation of bids that resulted in a single source, etc.

**Agency**

**2. Presentation of Sole Source Contract Filing to DES**

- a. 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.

*Note: for 2b, 2c, 2d 3b, and 4a - working days exclude weekends, state holidays, and the day you post to WEBS and file to the SSCD.*

- b. Makes proposed sole source contract available for public inspection not less than 10 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, or by making paper copies available in the agency’s headquarters. The paper copies must include the:

- 1) Draft contract;

- 2) Completed Sole Source Contract Filing Justification Template (or equivalent); and
- 3) Legal Notice.

*\*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.*

- c. 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 5 working days from the date posted. The posting shall include:
  - i. All applicable WEBS commodity codes for the product or services being procured including those commodity codes used by the prospective sole source vendor;
  - ii. 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;
    - 5) The projected contract value;
    - 6) The option for extensions to add additional consideration (if option(s) for extensions are included); and
    - 7) A description of the process for providing vendor inquiries or responses to the posting agency, including 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.
  - iii. A copy of the proposed draft sole source contract in significantly final form which must include:
    - 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; and
    - 3) Performance-based contracting language (see RCW 39.26.180(3)).

*\*Note: if the contract contains proprietary or confidential information, attaching a redacted version is appropriate.*
  - iv. A copy of the [Sole Source Contract Filing Justification Template](#) that contains complete and compelling answers to all questions, as submitted to the SSCD.
- d. Submits the request for sole source approval with DES using the Sole Source Contracts Database (SSCD) not less than 10 working days prior to the contract start date:
  - i. Gives complete and compelling answers to the questions in the [Sole Source Contract Filing Justification Template](#) and uploads them to 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; *\*Note: if the contract contains proprietary or confidential information, attaching a redacted version is appropriate.* and
- iii. Uploads a document that shows the notice of intent to award a sole source contract has been posted on [WEBS](#) for a minimum of 5 working days. *\*Note: the contract may be filed before this 5 working day period has passed on WEBS. Agencies only need to upload evidence prior to the 10 working day filing period expires.*
  - 1) Examples of these documents include a screen shot showing the date that the sole source contract notice was posted to WEBS, or a printout of the WEBS page.
- e. Provides any capability statements received in response to the WEBS posting to WEBS by filing the statements in the SSCD, and the agency's analysis regarding whether the request for sole source authorization should be granted.

**Agency**

**3. Presentation of Sole Source Contract Amendment Filing to DES**

- a. Prepares the sole source contract amendment and all related supporting documentation necessary to initiate the DES approval process. *Note: Amendments that contain "minor or administrative change(s)" as defined in the Sole Source [Glossary Supplement](#) do not require DES approval.*
- b. Submits the request for sole source amendment approval with DES using the Sole Source Contracts Database (SSCD) not less than 10 working days prior to the contract amendment start date:
  - i. Obtain a copy of the [Sole Source Contract Amendment Filing Justification Template](#) from the DES website.
  - ii. Give answers to the questions in the template and upload them to the SSCD.
  - iii. Attach a copy of the sole source contract amendment, which must be in significantly final form; and any related documents.

*\*Note: Sole source contract amendments do not need to be posted on WEBS and do not require a 10 working day public inspection period (posting on agency website).*

**DES**

**4. Decision**

- a. DES will provide a decision on an agency request for sole source or sole source amendment generally within 10 working days after the contract or amendment is filed in the SSCD.
- b. In determining to approve a sole source contract or amendment filing, DES will review all information submitted to the SSCD including, but not limited to whether:
  - i. Sufficient market research was conducted prior to filing in the SSCD. *Note: not applicable to amendment filings;*

- 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's terms and conditions, scope of work, etc. are appropriate;
- v. The legal notice posted in WEBS is the same as was posted on the agency's website;
- vi. The answers to the Sole Source Contract Filing/Amendment Filing Justification Template are complete and compelling;
- vii. Vendor capability statements/challenges received and the agency's analysis/response demonstrate the contract is a valid sole source;
- viii. The agency has complied with OCIO policies, if applicable; and
- ix. Previous sole source filings associated with the prospective vendor, if applicable.

*\*Note: the number 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.*

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## History

Adopted

04-01-2022

Replaces

04-03-2019 version

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