

SOLE SOURCE PROCUREMENT PROCEDURE

Purpose and Requirement: The University's Procurement Manual under Article 3.12 states: "A contract may be awarded for a supply, service or construction item without competition when the provisions of this section (Article 3.12) are met, provided that the President or his designee above the level of University of Guam Dean/Director determines in writing that there is only one source for the required supply, service or construction item." In view of that, **the President has designated the Vice President of Administration and Finance (VPAF), or the Comptroller in the absence of the VPAF, to review and approve all sole source procurement requests.**

SOURCE: GC § 6959.4. MPC § 3-205. Amended by P.L. 36-070:2 Dec. 27, 2021) effective 90 calendar days after enactment pursuant to P.L. 36- 070:3 (Dec. 27, 2021).

Request for Sole Source Procurement: Accordingly, any UOG unit or department seeking to procure via the provision of the sole source procurement shall provide the written justification for sole source procurement determination by indicating the need to purchase from a sole source vendor or an explanation as to why no other vendor will be suitable or acceptable to meet the need. Note: In cases of reasonable doubt, competition should be solicited by units or departments.

The attached Sole Source Sheet shall be used as the written determination as required. Sole source procurement is not permissible unless a requirement is available from only a single supplier. Below is the suggested procedure for the routing of Sole Source Procurement requests:

1. All sole source procurement requests require the written determination memo approved and included as supporting documentation.
2. Solicitation package marketed and presented to perspective vendors/service providers, which contain description, need, and market research without terms and conditions.
3. A statement from the supplier stating that they are the only supplier for the supply, services or construction attached to the Sole Source Sheet.
4. Sole source procurements are allowed only in five (5) situations:
 - Compatibility of equipment, accessories, or replacement parts is of paramount consideration;
 - Sole supplier's item is needed for trial use or testing;
 - Sole supplier's item is to be procured for resale;
 - Public utility services are to be procured;
 - Supplies are offered through bankruptcy or receivership sales, or other disposition at lower than prevailing market prices.
5. Fill out the attached memo to utilize as documentation for the sole source procurement. The memo will be retained as a record listing for contracts made under Sole Source Procurement for a period of five (5) years.

§ 5214. Sole Source Procurement.

(a) A contract may be awarded for a supply, service, or construction item without competition when, prior to commencing negotiations:

(1) the Chief Procurement Officer, the Director of Public Works, the head of a purchasing agency, or a designee of either officer above the level of the Procurement Officer, determines in writing that there is only one (1) source for the required supply, service, or construction item; and
(2) the Chief Procurement Officer, the Director of Public Works, the head of a purchasing agency, or a designee of either officer above the level of the Procurement Officer, prepares a package to market and present to prospective vendors or service providers, which shall be based on the determination of need and market research, and contain a purchase description, evaluation factors, delivery or performance schedule, inspection and acceptance requirements, the contract terms and conditions, and any warranty, bond, or other security requirement of the sole source contract.

(b) A sole source contract shall not exceed a term greater than one (1) year, with four (4) successive annual options to renew. Any option to renew a contract under this Section shall not exceed a term greater than one (1) year. An option to renew may be exercised only by the government when, at the time to be exercised, the Chief Procurement Officer, the Director of Public Works, the head of a purchasing agency, or a designee of either officer above the level of the Procurement Officer, determines in writing that there is only one (1) source for the required supply, service, or construction item.

(c) Prior to and as a condition of making any determination in writing required under Subsections (a)(1) or (b) of this Section, the purchasing agency shall prepare a written report for the person making such determination, which shall include a detailed analysis of the minimum needs of the government upon which the contract is based, findings from thorough market research, and a conclusion that will certify accurate and complete necessary data to support their recommendation that there is no other source that will satisfy the minimum needs of the government. The report must be signed by the person or persons conducting the market research and analysis, and shall be made part of the procurement record.

(d) A sole source contract shall not be awarded or executed unless and until the Chief Procurement Officer, the Director of Public Works, the head of a purchasing agency, or a designee of either officer above the level of the Procurement Officer, has determined in writing that the contract price is fair and reasonable and consistent with applicable regulations. Such determination shall include relevant cost and price information from the sole source and comparable or substitute supplies, services, or construction items.

(e) The purchasing agency shall publish a notice in a newspaper of general circulation on Guam, and on its website, within fourteen (14) calendar days of awarding any contract under this Section, in excess of Fifty Thousand Dollars (\$50,000). The notice shall include the names of the purchasing agency and awardee(s), the contract award amount, term, and the nature of the contract.

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