**PART 8 EXCEPTIONS REQUEST FORM**

**ACWESPP (SOLE SOURCE), TRIAL USE CONTRACTS, CONTRACT EXTENSIONS, CONTRACT INCREASES**

Only the Utah Division of Purchasing can approve an ACWESSP award for an individual item that exceeds $5,000. An agency can complete the purchase using the Small Purchase Standard Procurement Process when individual items are $5,000 or less or when the aggregate total does not exceed $10,000. An agency can complete quotes for small purchases when the individual items exceed $5,000, as long as the aggregate total for all items does not exceed $10,000.

* Email this completed form along with a copy of the quote from the vendor to [**purchasingsolicitations@utah.gov**](mailto:purchasingsolicitations@utah.gov)**.** The RQM or RQS number must be in the subject line of the email.
* An urgent or unexpected circumstance or requirement for a procurement item does **not** justify the award of contract without engaging in a standard procurement process.
* The first two pages will not be posted; however, all of the subsequently numbered pages may be posted for public notice and comment. Be complete in your answers.
* **WARNING: An approved and signed ACWESPP/Part 8 form does not constitute a contract. The contract or PO must be executed before any work can begin.**

**INCLUDE WITH THIS FORM THE FOLLOWING (as applicable):**

**Proposed Scope of Work** or Specifications (required for all new contracts)

**Quote received from the vendor**. Quotes cannot be marked as confidential, as they may be published.

**Any justification provided by or correspondence with the vendor**.

* + The requesting public entity must demonstrate an internal analysis for its justification that is not derived from vendor material or messaging.
  + Any undue support, coaching or coordination provided by the vendor outside general research and inquiries may result in rejection including denial of sole source or vendor being ineligible for contract award regardless of methodology used. See Utah Administrative Rules R33-104-103(3).

**Disclosure** of any personal, financial, or fiduciary relationship with the vendor. If no relationship no disclosure is required.

**Copy of the terms and conditions** if agency requires specific or unique terms and conditions for resulting contract/PO.

**Complete the following vendor information:**

|  |  |
| --- | --- |
| **Vendor Name:** |  |
| **Vendor Contact Person:** |  |
| **Vendor E-mail Address:** |  |
| **Vendor Telephone Number:** |  |
| **Vendor Ordering Address:** |  |
| **Vendor Remittance Address:** |  |
| **FINET Vendor Number** (if available): |  |
| *All items in the above section are required.* | |

**Complete the following if no FINET number exists:**

|  |  |
| --- | --- |
| Vendor Federal Tax ID# (TIN): (9 Digits): |  |
| Type of Vendor: | Click to use the drop-down menu to select the type of vendor. |

**Conducting Procurement Unit Contact Information:**

|  |  |  |  |
| --- | --- | --- | --- |
| **Department/Division Name:** |  | | |
| **Contact Person and Title:** |  | | |
| **E-mail Address:** |  | **Telephone Number:** |  |
| **DTS Contact (Required for IT related ACWESPP):** |  | | |
| **Technology Acquisition Approval Form (for IT purchases only):** | Completed - Attached  Not Completed  Not required/DTS pre-approved | | |

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Agency Contract** | | **Insert the RQM Number:**  **If this request is related to an expiring or expired contract, provide the contract number and expiration date here:** |
|  | **Purchase Order** | | **Insert the RQS Number:** |
| **Agency Documents:** | | Other, provide a copy to the Division of Purchasing  Business Associate Agreement | |
| **Scope of Work:** | | Is the Scope of Work attached to this Request Form?  Yes  No  (If required State Purchasing will not process this request until it has received the proposed Scope of Work) | |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **TO BE COMPLETED BY THE DIVISION OF PURCHASING** | | | | |
| The public notice period shall be (Check the box that applies): | | | | |
| a. | Procurement exceeds $50,000. Public notification must be made in accordance with Section 63G-6a-112. | | | |
| b. | Procurements of $50,000.00 or less are not required to be published, but may be published at the discretion of the procurement official. Published:  Not Published: | | | |
| c. | Publication is not required for a procurement pursuant to a trial use contract. | | | |
| d. | Publication is waived for an award of contract without engaging in a standard procurement process procurement:  For any procurement item identified in R33-108-101e.(2a)  For other circumstances as determined in writing by the procurement official. | | | |
| e. | Publication was not required because this is an extension request for an existing contract and there are no funds being added. | | | |
| f. | Publication was not required because this is a funds increase and/or an extension request for an existing contract which was established through a competitive procurement process. | | | |
| **The Terms and Conditions that will be attached to the awarded agency contract/purchase order:** | | | | |
| **Agency Contract:** | | Goods & Services  Att. B IT (include Technology Acquisition Approval) | | |
| **Purchase Order:** | | Goods & Services  Att. B IT (include Technology Acquisition Approval) | | |
| **For Division of Purchasing Use** | | | | Agent: |
| Solicitation #: | | |  | |
| Commodity Code(s) (if publicly posted): | | |  | |
| # of Vendors Sent To (if publicly posted): | | |  | |
| Additional Research, Comments, & Recommendation: | | |  | |
| Summary of Contest(s) Received & Determination (if applicable): | | |  | |

|  |  |  |  |
| --- | --- | --- | --- |
| **Recommend Award:** | | **Approved by Management for Award:** | |
|  |  |  |  |
| State Purchasing Agent | Date | Director, Division of Purchasing, or designee | Date |

|  |  |  |
| --- | --- | --- |
|  |  | Department of Government Operations  Division of Purchasing and General Services  **4315 S 2700 W, FL 3, Taylorsville, UT 84129-2128 Phone: 801-957-7160 www.purchasing.utah.gov** |
|  |  | Issuing Procurement Unit: Division of Purchasing |
|  |  | Conducting Procurement Unit: |

**NOTICE OF INTENT TO AWARD A CONTRACT WITHOUT ENGAGING IN A STANDARD PROCUREMENT PROCESS**

The Division of Purchasing is publishing this notice pursuant to the Utah Procurement Code. The Conducting Procurement Unit submitted this form to the Division of Purchasing claiming that it intends to award a contract without competition if it is determined by the Division of Purchasing, in writing, that:

* there is only one source for the procurement item;
* transitional costs are a significant consideration in selecting a procurement item; or
* the award of a contract is under circumstances, described in rules adopted by the applicable rulemaking authority, that make awarding the contract through a standard procurement process impractical and not in the best interest of the procurement unit.

**In the subsequent pages the Conducting Procurement Unit has identified its justification for wanting to award a contract without engaging in standard procurement process.**

**Determination of Other Interested Vendors**

If the procurement item identified in this notice is to be awarded as a sole source (only one source for the procurement item), then this notice will help determine if there are any other interested and qualified vendors that meet the specifications of this notice.  Any such vendors must submit the following information:

* The name of the contesting person; and
* A detailed explanation of the challenge, including documentation showing that there are other competing sources for the procurement item.

In addition, a vendor should include:

* Documentation that your firm can provide a comparable or better procurement item that meets or exceeds the specifications;
* Documentation that your firm can also provide the same proprietary procurement item or an equivalent procurement item; and
* If transitional costs are identified as the justification for this notice, submit a cost comparison of the identified transitional costs with your firm’s anticipated transitional costs.

Regardless of any prior communications with the Division of Purchasing or the State, all vendors interested in responding to this notice must submit a response to this posting containing complete responses to all of the information requested above.

**DO NOT CONTACT THE CONDUCTING PROCUREMENT UNIT.**Any questions regarding this notice, including obtaining additional information, can be obtained through the Division of Purchasing during the publication period. No action is required if you agree with this Notice.

If the purpose of this notice is an intent to award a sole source, after the public notice period has passed, and the Division of Purchasing determines that there are other interested and qualified vendors that meet the specifications of this notice, then the Division of Purchasing will not award a contract pursuant to this notice. An award without competition may still be made even if there are other interested vendors when the basis for the award is due to transitional costs or impracticality as stated above.

If, after the public notice period has passed, no valid challenges have been received, then the Division of Purchasing may award a contract to the identified vendor without competition.

Read the entire form very carefully before responding to this notice.

It is anticipated that this procurement will result in a:

|  |  |  |
| --- | --- | --- |
|  | **RESULT** | **ACTION** |
|  | **Agency Contract** | **The term of this contract (or extension) will be:**       **and renewal options:**      **.**  *The agency may not make the procurement until the solicitation process is completed and a contract is written and signed by the agency, the vendor, and the Division of Purchasing.* |
|  | **Purchase Order** | *The agency may not make the procurement until the solicitation process is completed, the purchase order is signed by the Division of Purchasing and delivered to the agency and the vendor.* |

|  |  |
| --- | --- |
| **Description of procurement item to be purchased:** |  |
| **Estimated value of the contract/purchase order/increase:** |  |
| **Freight Cost (F.O.B. Destination, Freight Prepaid):** | $0.00 |
| **Vendor Name:** |  |

|  |
| --- |
| **Explain in detail the service or product to be procured (additional information included in attached Scope of Work):** |

|  |  |  |
| --- | --- | --- |
| **CHECK THE BOX THAT IDENTIFIES WHY A CONTRACT SHOULD BE AWARDED WITHOUT ENGAGING IN A STANDARD PROCUREMENT PROCESS:** | | |
|  | **Sole Source** - There is only one source for the procurement item. | *Complete Section A* |
|  | **Transitional Costs** - Transitional costs are a significant consideration in selecting a procurement item and the results of a cost-benefit analysis demonstrate that transitional costs are unreasonable or cost-prohibitive, and that the award of a contract without engaging in a standard procurement process is in the best interest of the procurement unit. | *Complete Section B* |
|  | **Impracticality** - The award of a contract is under circumstances, described in rules adopted by the applicable rulemaking authority, that make awarding the contract through a standard procurement process impractical and not in the best interest of the procurement unit. | *Complete Section C* |
|  | **Trial use contract** for a new or innovative procurement item, or for a procurement item with a novel or unproven use or application. | *Complete Section D* |
|  | **Extension of a contract** without engaging in a standard procurement process. If extension will result in a request to increase the contract total, then also complete Section F below. | *Complete Section E* |
|  | **Request to increase total contract amount.** | *Complete Section F* |

## SECTION A: ONLY ONE SOURCE

|  |  |  |
| --- | --- | --- |
| 1. | What is unique about this procurement item to justify an award of contract without engaging in a standard procurement process? (Explain in detail why the service, product, etc. is only available from a single supplier.) | |
|  | |  |
| 2. | Could the procurement item be reasonably modified to allow for competition? | |
|  | |  |
| 3. | Explain the market research performed. | |
|  | |  |
| 4. | What research have you conducted to ensure the requested procurement item is not available on an existing state cooperative contract? | |
|  | |  |
| 5. | If there is only one source for the procurement item, list the names of other similar vendors contacted, contact person, and a summary of their response. | |
|  | |  |

## SECTION B: TRANSITIONAL COSTS

|  |  |  |  |
| --- | --- | --- | --- |
| 1. | Describe the existing equipment, technology, software, accessories, replacement parts, or service, hereafter referred to as equipment; include the original purchase price and date of purchase for the existing equipment. | | |
|  | |  | |
| 2. | Supply the following: | | |
|  | a. | | Procurement method that was used to purchase the existing equipment? (e.g. IFB, RFP, Sole Source): |
|  | b. | | Solicitation number, RQS number, or sole source number for the existing equipment: |
|  | c. | | Contract number for the existing equipment: |
| 3. | Attach the cost-benefit analysis, as required by Utah Code Section 63G-6a-802, that demonstrates that transitional costs are unreasonable or cost-prohibitive. | | |

SECTION C: STANDARD PROCUREMENT PROCESS IMPRACTICABLE

|  |  |  |  |
| --- | --- | --- | --- |
| 1. | Review R33-108-101c and provide supporting justification why awarding the contract through a standard procurement process is impractical and not in the best interest of the procurement unit under the circumstances; including any supporting documentation. | | |
|  | |  | |
| 2. | Supply the following, if applicable: | | |
|  | a. | | Procurement method that was used to purchase the existing equipment? (e.g. IFB, RFP, Sole Source): |
|  | b. | | Solicitation number, RQS number, or sole source number for the existing equipment: |
|  | c. | | Contract number for the existing equipment |

## SECTION D: TRIAL USE CONTRACT

|  |  |  |
| --- | --- | --- |
| 1. | Describe how this trial use contract for the new or novel procurement item will benefit your agency. | |
|  | |  |
| 2. | Describe how the procurement item is new or innovative, or how the procurement item has a proposed use/application that is novel or unproven. | |
|  | |  |
| 3. | Describe why a trial use contract exception is necessary for this procurement item at this time as opposed to conducting a standard procurement process to procure the procurement item. | |
|  | |  |
| 4. | What research have you conducted to ensure the requested procurement item is not available on an existing state cooperative contract? | |
|  | |  |
| 5. | How long does the agency need to test the procurement item and what quantities of the procurement item (if applicable) will be necessary to test this procurement item? Note trial use contracts generally cannot exceed a period of 24 months. | |
|  | |  |

## SECTION E: EXTENSION OF CONTRACT WITHOUT ENGAGING IN A STANDARD PROCUREMENT PROCESS

The procurement official may extend a contract up to 120 days. For extensions beyond 120 days, the procurement official may extend the contract after consulting with legal counsel.

|  |  |  |  |
| --- | --- | --- | --- |
| **Contract Start Date:** | Enter date. | **Current End Date:** | Enter date. |
| **Proposed End Date:** | Enter date. | **Contract Number:** | Enter text. |

|  |  |  |
| --- | --- | --- |
| 1. | Is this request for a contract extension the result of a protest, appeal or court action? If yes, agency does not need to complete items 2-5 below. Provide the solicitation number that resulted in a protest and date of the protest, appeal or court action. | |
|  | |  |
| 2. | Describe why extending this contract without engaging in a standard procurement process is necessary to avoid a lapse in a critical government service, OR to mitigate a circumstance that is likely to have a negative impact on public health, safety, welfare, or property. | |
|  | |  |
| 3. | Confirm the procurement unit is currently engaged in a standard procurement process for the procurement item that is subject to the contract extension request and that the standard procurement process is delayed due to an unintentional error. | |
|  | |  |
| 4. | Justification for Extension: check all that apply:   |  |  | | --- | --- | |  | The standard procurement process is delayed due to an unintentional error. | |  | A change in an industry standard requires one or more significant changes to specifications for the procurement item. | |  | To prevent the loss of federal funds. | |  | To mitigate the effects of a delay of a state or federal appropriation. | |  | To enable the procurement unit to continue to receive a procurement item during a delay in the implementation of a contract awarded pursuant to a procurement that has already been conducted. | |  | To enable the procurement unit to continue to receive a procurement item during a period of time during which negotiations with a vendor under a new contract for the procurement item are being conducted. | | |
| 5. | For the selection(s) above, provide any additional details regarding the circumstances justifying a contract extension. | |
|  | |  |

## SECTION F: REQUEST TO INCREASE TOTAL CONTRACT AMOUNT

**If the original solicitation type was an ACWESPP (e.g. sole source) and the additional amount will make the contract total go above $50K, then a public notice is required to increase the contract total. This public notice is not necessary if the procurement official waives the public notice requirement in accordance with R33-108-101e.**

|  |  |  |  |
| --- | --- | --- | --- |
| **Contractor Name:** | Enter text. | **Contract Number:** | Enter text. |
| **Original Contract Total:** | Enter text. | **Current Contract Total:** | Enter text. |
| **Proposed Contract Total:** | Enter text. | **% Increase from Original:** | Enter text. |
| **Solicitation Number:** | Enter text. | **Solicitation Type:** | Enter text. |
| **Product or Service Description:** | Click to enter text. | | |

**Why is the contract total being increased? Check all that apply.**

The term of the contract is being extended (also complete Section E above if extending).

The quantity of products or services needed has increased.

The price, rate, or fee for a product or service has increased.

A new or upgraded product or service is needed.

|  |
| --- |
| **Provide details for the answer that was selected in the previous question. Provide any reasons for the increase.**  Click to enter text. |