

Effective 3/28/2016

Part 5
Other Standard Procurement Processes

63G-6a-501 Title.

This part is known as "Other Standard Procurement Processes."

Amended by Chapter 355, 2016 General Session

63G-6a-506 Small purchases.

(1) As used in this section:

- (a) "Annual cumulative threshold" means the maximum total annual amount, established by the rulemaking authority under Subsection (2), that a procurement unit may expend to obtain procurement items from the same source under this section.
- (b) "Individual procurement threshold" means the maximum amount, established by the rulemaking authority under Subsection (2), for which a procurement unit may purchase a procurement item under this section.
- (c) "Single procurement aggregate threshold" means the maximum total amount, established by the rulemaking authority under Subsection (2), that a procurement unit may expend to obtain multiple procurement items from one source at one time under this section.

(2)

- (a) The rulemaking authority may make rules governing small purchases of any procurement item, including construction, job order contracting, design professional services, other professional services, information technology, and goods.
 - (b) Rules under Subsection (2)(a) may include provisions:
 - (i) establishing expenditure thresholds, including:
 - (A) an annual cumulative threshold;
 - (B) an individual procurement threshold; and
 - (C) a single procurement aggregate threshold;
 - (ii) establishing procurement requirements relating to the thresholds described in Subsection (2)(b)(i); and
 - (iii) providing for the use of electronic, telephone, or written quotes.
 - (c) If a procurement unit obtains administrative law judge service through a small purchase standard procurement process, rules made under Subsection (2)(a) shall provide that the process for the procurement of administrative law judge service include an evaluation committee described in Subsection 63G-6a-116(3).
- (3) Expenditures made under this section by a procurement unit may not exceed a threshold established by the rulemaking authority, unless the procurement official gives written authorization to exceed the threshold that includes the reasons for exceeding the threshold.
- (4) Except as provided in Subsection (5), an executive branch procurement unit may not obtain a procurement item through a small purchase standard procurement process if the procurement item may be obtained through a state cooperative contract or a contract awarded by the chief procurement officer under Subsection 63G-6a-2105(1).
- (5) Subsection (4) does not apply if:
- (a) the procurement item is obtained for an unanticipated, urgent, or emergency condition, including:
 - (i) an item needed to avoid stopping a public construction project;

- (ii) an immediate repair to a facility or equipment; or
 - (iii) another emergency condition; or
- (b) the chief procurement officer or the procurement official of a procurement unit that is an executive branch procurement unit with independent procurement authority:
 - (i) determines in writing that it is in the best interest of the procurement unit to obtain an individual procurement item outside of the state contract, comparing:
 - (A) the contract terms and conditions applicable to the procurement item under the state contract with the contract terms and conditions applicable to the procurement item if the procurement item is obtained outside of the state contract;
 - (B) the maintenance and service applicable to the procurement item under the state contract with the maintenance and service applicable to the procurement item if the procurement item is obtained outside of the state contract;
 - (C) the warranties applicable to the procurement item under the state contract with the warranties applicable to the procurement item if the procurement item is obtained outside of the state contract;
 - (D) the quality of the procurement item under the state contract with the quality of the procurement item if the procurement item is obtained outside of the state contract; and
 - (E) the ability of the vendor under the state contract to match the quoted cost of the procurement item if the procurement item is obtained outside of the state contract;
 - (ii) for a procurement item that, if defective in its manufacture, installation, or performance, may result in serious physical injury, death, or substantial property damage, determines in writing that the terms and conditions, relating to liability for injury, death, or property damage, available from the source other than the contractor who holds the state contract, are similar to, or better than, the terms and conditions available under the state contract; and
 - (iii) grants an exception, in writing, to the requirement described in Subsection (4).
- (6) Except as otherwise expressly provided in this section, a procurement unit:
 - (a) may not use the small purchase standard procurement process described in this section for ongoing, continuous, and regularly scheduled procurements that exceed the annual cumulative threshold; and
 - (b) shall make its ongoing, continuous, and regularly scheduled procurements that exceed the annual cumulative threshold through a contract awarded through another standard procurement process described in this chapter or an applicable exception to another standard procurement process, described in Part 8, Exceptions to Procurement Requirements.
- (7) This section does not prohibit regularly scheduled payments for a procurement item obtained under another provision of this chapter.
- (8)
 - (a) It is unlawful for a person knowingly to divide a single procurement into multiple smaller procurements, including by dividing an invoice or purchase order into multiple invoices or purchase orders, if:
 - (i) the single procurement would not have qualified as a small purchase under this section;
 - (ii) one or more of the multiple smaller procurements qualify as a small purchase under this section; and
 - (iii) the division is done with the intent to:
 - (A) avoid having to use a standard procurement process, other than the small purchase process, that the person would otherwise be required to use for the single procurement; or
 - (B) make one or more of the multiple smaller procurements fall below a small purchase expenditure threshold established by rule under Subsection (2)(b) that the single procurement would not have fallen below without the division.

- (b) A violation of Subsection (8)(a) is subject to penalties as provided in Subsection 63G-6a-2404.3(2).
- (9) The Division of Finance within the Department of Government Operations may conduct an audit of an executive branch procurement unit to verify compliance with the requirements of this section.
- (10) An executive branch procurement unit may not make a small purchase after January 1, 2014, unless the chief procurement officer certifies that the person responsible for procurements in the procurement unit has satisfactorily completed training on this section and the rules made under this section.

Amended by Chapter 344, 2021 General Session

63G-6a-507 Approved vendor list procurement process.

- (1) As used in this section:
 - (a) "Closed-ended approved vendor list" means an approved vendor list that is subject to:
 - (i) a short period of time, specified by the procurement unit, during which vendors may be added to the list; and
 - (ii) a specified period of time after which the list will expire.
 - (b) "Open-ended approved vendor list" means an approved vendor list that is subject to:
 - (i) an indeterminate period of time during which vendors may be added to the list;
 - (ii) the addition of vendors to the list throughout the term of the list; and
 - (iii) a specified period of time after which the procurement unit is required to verify that vendors on the list continue to meet the minimum mandatory requirements, evaluation criteria, and applicable score thresholds.
- (2) A procurement unit may not establish an approved vendor list unless the procurement unit has first completed the statement of qualifications process described in Section 63G-6a-410.
- (3)
 - (a) A procurement unit may establish an approved vendor list for:
 - (i) a specific, fully defined procurement item; or
 - (ii) a future procurement item that is not specifically and fully defined, if the request for statement of qualifications contains a general description of:
 - (A) the procurement item; and
 - (B) the type of vendor that the procurement unit seeks to provide the procurement item.
 - (b) A procurement unit may not award a contract to a vendor on an approved vendor list for a procurement item that is outside the scope of the general description of the procurement item contained in the request for statement of qualifications.
- (4) After receiving the statements of qualifications and evaluation scores submitted by the evaluation committee under Subsection 63G-6a-410(9)(f), the procurement official of the procurement unit using the request for statement of qualifications process under Section 63G-6a-410 as part of an approved vendor list process shall:
 - (a) include on an approved vendor list those vendors meeting the minimum mandatory requirements, evaluation criteria, and applicable score thresholds; and
 - (b) reject any vendor not meeting the minimum mandatory requirements, evaluation criteria, and applicable score thresholds as ineligible for inclusion on the approved vendor list.
- (5)
 - (a) A procurement unit shall include approved vendors on a closed-ended approved vendor list or an open-ended approved vendor list.
 - (b)

- (i) A closed-ended approved vendor list shall expire no later than 18 months after the publication of the closed-ended approved vendor list.
 - (ii) A procurement unit shall verify, no less frequently than every 18 months, by a method approved by the procurement official, that each vendor on an open-ended approved vendor list continues to meet the minimum mandatory requirements, evaluation criteria, and applicable score thresholds.
- (6) A procurement unit may:
- (a)
 - (i) using a bidding process, request for proposals process, small purchase process, or design professional procurement process, award a contract to a vendor on an approved vendor list for any procurement item or type of procurement item specified by the procurement unit in the request for statement of qualifications, including procurement items that the procurement unit intends to acquire in a series of future procurements described in the request for statement of qualifications; and
 - (ii) limit participation in a bidding process, request for proposals process, small purchase process, or design professional procurement process to vendors on an approved vendor list; or
 - (b) award a contract to a vendor on an approved vendor list at a price established as provided in Section 63G-6a-113.
- (7)
- (a) After establishing an approved vendor list as provided in this section, a conducting procurement unit shall, before using the approved vendor list, submit the approved vendor list to the issuing procurement unit.
 - (b) An issuing procurement unit that receives an approved vendor list under Subsection (7)(a) shall make the approved vendor list available to the public.
- (8) A conducting procurement unit administering an open-ended approved vendor list shall:
- (a) require a vendor seeking inclusion on the approved vendor list to submit a statement of qualifications that complies with all requirements applicable at the time of the initial request for statement of qualifications; and
 - (b) if modifying the requirements for inclusion on the approved vendor list, apply any new or additional requirement to all vendors equally, whether a vendor is seeking inclusion on the approved vendor list for the first time or is already included on the approved vendor list.
- (9) A rulemaking authority shall make rules pertaining to an approved vendor list process, including:
- (a) procedures to ensure that all vendors on an approved vendor list have a fair and equitable opportunity to compete for a contract for a procurement item; and
 - (b) requirements for using an approved vendor list with the small purchase process.

Amended by Chapter 257, 2020 General Session