

Effective 3/28/2016

63G-6a-802.3 Trial use contracts.

- (1) A procurement unit may award a trial use contract without engaging in a standard procurement process if the contract is:
 - (a) awarded for a procurement item that is not already available to the procurement unit under an existing contract;
 - (b) restricted to the procurement of a procurement item in the minimum quantity and for the minimum period of time necessary to test the procurement item;
 - (c) the only trial use contract for that procurement unit for the same procurement item; and
 - (d) not used to circumvent the purposes and policies of this chapter as set forth in Section 63G-6a-102.
- (2) The period of trial use or testing of a procurement item under a trial use contract may not exceed 18 months, unless the procurement officer provides a written exception documenting the reason for a longer period.
- (3) A trial use contract shall:
 - (a) state that the contract is strictly for the trial use or testing of a procurement item;
 - (b) state that the contract terminates upon completion of the trial use or testing period;
 - (c) state that the procurement unit is not obligated to purchase or enter into a contract for the procurement item, regardless of the trial use or testing result;
 - (d) state that any purchase of the procurement item that is the subject of the trial use contract will be made in accordance with this chapter; and
 - (e) include, as applicable:
 - (i) test schedules;
 - (ii) deadlines and a termination date;
 - (iii) measures that will be used to evaluate the performance of the procurement item;
 - (iv) any fees and associated expenses or an explanation of the circumstances warranting a waiver of those fees and expenses;
 - (v) the obligations of the procurement unit and vendor;
 - (vi) provisions regarding the ownership of the procurement item during and after the trial use or testing period;
 - (vii) an explanation of the grounds upon which the contract may be terminated;
 - (viii) a provision relating to any required bond or security deposit; and
 - (ix) other requirements unique to the procurement item for trial use or testing.
- (4) Publication of notice under Section 63G-6a-112 is not required for a trial use contract.
- (5) The applicable rulemaking authority may make rules pertaining to a trial use contract.

Enacted by Chapter 355, 2016 General Session