

Effective 3/28/2016

**63G-6a-802 Award of contract without engaging in a standard procurement process --
Notice -- Duty to negotiate contract terms in best interest of procurement unit.**

- (1) The chief procurement officer or the head of a procurement unit with independent procurement authority may award a contract for a procurement item without engaging in a standard procurement process if the chief procurement officer or the head of the procurement unit with independent procurement authority determines in writing that:
 - (a) there is only one source for the procurement item;
 - (b)
 - (i) transitional costs are a significant consideration in selecting a procurement item; and
 - (ii) 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; or
 - (c) 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.
- (2) Transitional costs associated with a trial use or testing of a procurement item under a trial use contract may not be included in a consideration of transitional costs under Subsection (1)(b).
- (3)
 - (a) Subject to Subsection (3)(b), the applicable rulemaking authority shall make rules regarding the publication of notice for a procurement under this section that, at a minimum, require publication of notice of the procurement, in accordance with Section 63G-6a-112, if the cost of the procurement exceeds \$50,000.
 - (b) Publication of notice under Section 63G-6a-112 is not required for:
 - (i) the procurement of public utility services pursuant to a sole source contract; or
 - (ii) other procurements under this section for which an applicable rule provides that notice is not required.
- (4) The chief procurement officer or the head of a procurement unit with independent procurement authority who awards a contract under this section shall negotiate with the contractor to ensure that the terms of the contract, including price and delivery, are in the best interest of the procurement unit.

Amended by Chapter 355, 2016 General Session