



OSP Policies

SPECIAL PROCUREMENTS

It is the policy of the State of Arkansas to promote increased economy in state procurement by fostering fair and open competition. State agencies should strive for an open and competitive procurement process to help satisfy the public that the procurement process is fair and not influenced by political or other improper considerations.

Despite this State's strong policy of favoring competitive procurement where practicable, unusual or unique situations may exist that can make the application of all requirements of competitive bidding, competitive sealed bidding, or competitive sealed proposals contrary to the public interest. In such instances, state agencies may effectuate a special procurement ("Special Procurement") pursuant to Ark. Code Ann. § 19-11-263.

Special procurements are not the same as Sole Source procurements. The Sole Source procurement method is only to be used in those limited instances where it is determined that there is only one source for a required or designated commodity or service. Strict observance of this safeguard will help maximize the use of full and fair competition.

This memorandum outlines state policy regarding the use of Special Procurement.

- As a procedural safeguard, only the State Procurement Director or the head of a procurement agency (as defined by Ark. Code Ann. § 19-11- 203(21) may initiate a Special Procurement.
- To initiate a Special Procurement, the State Procurement Director (if OSP is effectuating the procurement) or the head of a procurement agency (if the agency is effectuating the procurement), must first make a written determination that an unusual or unique situation exists that makes applying the requirements of competitive bidding, competitive sealed bidding, or competitive sealed proposals contrary to the public interest. To promote accountability, this determination will be signed by the officer making the determination.
- The request must explain the unique or unusual circumstances facts justifying special procurement and for the selection of the requested vendor. More specifically, the request needs to identify or explain:



Department of Transformation and Shared Services

Governor Asa Hutchinson
Secretary Amy Fecher
Director Edward Armstrong

- (a) as applicable, the contract number,
(for AASIS-using agencies the contract number will be represented by the AASIS outline agreement or purchase order number);
- (b) the amount to be spent, expressed as the total projected cost;
- (c) the unusual or unique situation that justifies special procurement;
- (d) why, under the situation presented, competitive procurement is contrary to the public interest;
- (e) the proposed start date and end date,
(for AASIS-using agencies the contract start and end dates are recorded in the *Validity Start* and *Validity End* date fields in the AASIS outline agreement or purchase order);
- (f) how long the unusual or unique situation that justifies special procurement as an alternative to competitive procurement is expected to last;
- (g) if it exceeds the anticipated duration of the unusual or unique situation used to justify a special procurement, what rationale justifies making the duration of the contract exceed the anticipated duration of the unusual or unique situation used to justify special procurement;
- (h) the contractor selected and the reasons for the selection of the contractor.

Special Procurements used to avoid a shortage of a vital commodity or a service until a competitive procurement process can be finalized should generally be limited to the period of additional time needed to competitively procure the commodity or service.

- The written determination must be kept in the agency's contract file and submitted to OSP for review and monthly reporting to the Legislative Council.
- If a contract is a type and/or amount that requires to be submitted for review prior to execution, it is still subject to such review prior to execution. Special Procurement is merely a procurement method and does not excuse non-compliance with any other applicable laws subjecting particular types of contracts to prior review.