

**Part IV Chapter 03**  
**Sole Source Procurements of Construction**  
**with an Estimated Cost Exceeding \$10,000**

**A. Definitions.**

1. "Construction" includes maintenance, alteration, repairs, renovation, improvements, building and demolition.
2. "Project" includes all work necessary to complete the entire scope of work, including all general construction, hazardous material removal, fire suppression, elevator, HVAC, plumbing and electrical work.

**B. Scope.** The following procedure must be used by agencies when construction to be procured directly from a contractor:

1. Is not listed on an effective DGS statewide requirements contract; and
2. Is only available from or must be obtained from one source; and
3. Has a total estimated construction cost which exceeds \$10,000.

**C. General.**

1. Construction can be procured on a sole source basis only if at least one of the conditions listed in Section D exists.
2. Agencies must complete and submit a Sole Source Fact Sheet and Checklist for Construction. The Sole Source Fact Sheet and Checklist for Construction can be found in the Procurement Forms tab on the right-hand toolbar of the DGS website.
3. For sole source procurements exceeding \$100,000, the contractor must submit a Cost or Pricing Data Certification Form and certify to the best of its knowledge and belief, that the submitted cost and pricing data is accurate, complete and current. If the contractor price is based upon established catalog or market prices, the contractor may submit copies of catalog or published market prices in lieu of cost and pricing data. The Cost or Pricing Data Certification form can be found on the DGS website, right-hand tool bar under Procurement Forms.
4. The agency must maintain a record listing of all agency sole source contracts for a minimum of three years from the date of final payment.
5. When the purchase order or contract is issued to the contractor, the agency shall send a Political Contributions Letter to the contractor reminding the contractor of its responsibility to file a report, by February 15 of each year, with the Secretary of the Commonwealth of all political contributions made by:
  - a. Any officer, director, associate, partner, limited partner or individual owner or members of their immediate family whose political

contribution exceeded one thousand dollars (\$1,000) by any individual during the preceding year; or

- b. Any employee of the contractor or members of his immediate family whose political contribution exceeded one thousand dollars (\$1,000) during the preceding year.

**D. Checklist of Reasons for Sole Source Procurements.** The following is a checklist for all sole source procurements for construction items.

1. Only a single contractor is capable of providing the construction.
  - a. Only known source – similar construction not available from another contractor.
  - b. Construction must be provided by contractor to ensure compatibility and/or warranties.
  - c. Supply must be compatible with existing equipment.
2. A federal or state statute or federal regulation exempts the construction from competitive procedures.
3. The contract for construction is in the best interests of the Commonwealth.

**E. Agency Procedure.**

1. **Agency.**
  - a. Determines need for sole source construction contract.
  - b. Verifies the reason for sole source is listed in Section D.
  - c. Encumbers funds through comptroller.
  - d. Prepares the Sole Source/No Substitute Fact Sheet and Checklist for Construction and determines that the construction is only available from one source.
  - e. If the cost exceeds \$100,000, obtains cost or pricing data and cost/pricing data certification from the proposed contractor.
  - f. Sends the Sole Source/No Substitute Fact Sheet and Checklist For Construction and the cost or pricing data and cost/pricing data certification to the Director of DGS' Bureau of Engineering and Architecture (BEA).
2. **DGS' BEA.**
  - a. Receives and reviews Sole Source/No Substitute Fact Sheet and Checklist for Construction.
  - b. If more information is required, contacts the agency.

- c. If approved, sends written approval to the agency.
  - d. If disapproved, contacts agency and explains why the proposed sole source procurement was rejected.
- 3. **Agency.**
  - a. If approved, prepares construction contract.
  - b. If contract is greater than \$25,000, requests and receives the Verification Form from contractor prior to award.
  - c. Sends construction contract to contractor for signature.
  - d. Receives signed contract back.
  - e. Determines contractor responsibility in accordance with [Management Directive 215.9, Contractor Responsibility Program, Amended](#).
  - f. Obtains signature of head of purchasing agency on contract.
- 4. **Agency Counsel.** Reviews contract and forwards to OGC and OAG, if required.
- 5. **Agency.** Affixes effective date to contract, makes necessary copies and makes distribution to purchasing agency, agency comptroller, Treasury and contractor.
- 6. **Comptroller.** Enters the effective date of contract and images signed contract for payment purposes.
- 7. **Agency.**
  - a. Issues notice to proceed to contractor.
  - b. Sends letter to the contractor reminding contractor of its responsibility to file a report of political contributions.
  - c. Monitors performance and issues approval/disapproval as stated in contract.
  - d. Upon receipt of invoices, approves or disapproves. If approves, forwards to agency comptroller for payment.

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**References:**

- 1. [Procurement Forms](#)
- 2. [Cost or Pricing Data Certification](#)

3. [No Bid Contract Letter Template & Political Contributions Reporting Form  
Political Contribution Letter](#)
4. [Management Directive 215.9, Contractor Responsibility Program, Amended](#)
5. [Public Works Employment Verification Form](#)