

# State of Arkansas Procurement Manual



Department of Transformation and Shared Services  
Office of State Procurement  
501 Woodlane Street, Suite 220  
Little Rock, AR 72201-1023  
(501) 324-9316  
<https://www.transform.ar.gov/procurement/>

# How to Use This Manual

Each Table of Contents listing is a clickable link that takes you directly to the specific topic in the material.

Throughout the manual, you may also click on the provided links to access additional, in-depth information about a procurement subject or process.

To follow a link, position your cursor over the link and CTRL+Left Click.

## Notice

*This publication is designed to provide accurate and current information about the law and State policies. Readers should consult the relevant codes and rules when relying on cited material.*

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# Introduction

In order to be considered a positive good, government should make the lives of the governed better than they would be without the activity of the government. In the aid of good governance, a state will enact laws and develop programs to promote the general welfare of its people. In effectuating its laws and implementing its programs, a state will need people to provide services. It will also require property. Under Arkansas Procurement Law, the buying, purchasing, renting, leasing, or otherwise obtaining of any commodities or services is called procurement. Ark. Code Ann § 19-11-203(20)(A).

One of the duties of the Office of State Procurement (“OSP”), a division of the Department of Transformation and Shared Services (“TSS”), is to procure or supervise the procurement of commodities and services for each state agency not having an agency procurement official and, when requested to do so by such an official, procure commodities and services not otherwise under state contract. Ark. Code Ann. § 19-11-217(c)(1). This manual is intended to provide a basic overview of procurement for agency procurement officials and purchasers responsible for procuring commodities and services. It is intended to provide practical guidance consistent with the law, but it is not an official statement of the law. Its guidance is intended to serve as a support and not as a substitute for statutes and official rules. Whenever there is any question about what the applicable law is as to a procurement issue that may arise, such questions should be answered by reference to applicable law and not by resort to this manual.

With that introduction out of the way, TSS OSP hopes that you find this procurement manual useful. TSS OSP intends to continually update, supplement, and improve the manual. We welcome any suggestions you may have for how TSS OSP can improve it.

Respectfully,

*Edward R. Armstrong*

State Procurement Director  
Office of State Procurement

# Chapter 1: Procurement Overview

## 1.1 What Is Procurement?

At its most basic, procurement is simply the act or process of obtaining something. Public procurement is doing so on behalf of the public and with public funds.

Arkansas Procurement Law prescribes the processes that most Departments of the State must follow whenever they procure commodities and services. The stated purposes of Arkansas Procurement Law are:

- **Increased public confidence** in the procedures followed in public procurement.
- **Fair and equitable treatment of all persons** who deal with the procurement system of this State.
- **Increased economy** in State procurement activities by **fostering effective competition**.
- Maintenance of a procurement system of **quality and integrity**.

TSS OSP is the central procurement authority for the State. TSS OSP is tasked with procuring, or supervising the procurement of, commodities and services for the State. Generally, TSS OSP handles procurements greater than \$75,000, and other Departments handle their own lower-dollar procurements.

TSS OSP's mission is to:

*Serve the citizens of Arkansas by ethically, efficiently, and transparently procuring quality commodities and services for the State of Arkansas.*

## 1.2 Procurement Laws and Ethics

Procurement laws provide requisitioners, buyers, and other procurement officials an ethical and legal framework for purchasing and contracting on behalf of the public. (*Refer to A.C.A. § 19-11-701 – 718 for procurement laws regarding ethics.*)

According to A.C.A. § 19-11-703 Statement of Policy, “public employment is a public trust.” As a guardian of the public trust, you should execute your duties as a State employee with the utmost integrity.

The primary collection of laws governing Arkansas procurement can be found in Title 19, Chapter 11, Subchapter 2 of the Arkansas Code Annotated titled “Arkansas Procurement Law.” With certain exceptions, Arkansas Procurement Law applies to every State agency expenditure of public funds under any contract.

## 1.3 How to Read Arkansas Procurement Law Citations

Example: A.C.A § 19-11-241

- The **19** is the Title where the law can be found, in this case, Title 19.
- The **11** is the Chapter of the title in which the law can be found, in this case, Chapter 11 of Title 19.
- The **2** is the Subchapter of the Chapter and Title where the law can be found, in this case, Subchapter 2 of Chapter 11 of Title 19.
- The **41** is the Section of the Subchapter, Chapter and Title where the law can be found. In this case, it's the 41st section of Subchapter 2, Chapter 11, Title 19.

TSS OSP rules can clarify the statutory law or provide a process for the law to be implemented. The rules must be followed to the same extent as the statutory law.

## 1.4 Arkansas Procurement Roles and Functions

The three most common roles in Arkansas procurement are:

- Requisitioner
- Buyer
- Approver

The main function of the requisitioner is to initiate the procurement process. This is typically achieved by creating a purchase requisition (PR). To create a PR, the requisitioner must understand the purpose of a PR in the procurement process and the information that is required to accurately create the document.

The function of the buyer consists of facilitating the steps in the procurement process, beginning with the assignment of the PR through completion of the purchase. Buyers need to understand the fundamentals of executing the various procurement methods, negotiating, and creating outline agreements and purchase orders.

The function of an approver in procurement may consist of reviewing and releasing a PR, approving multiple steps in the solicitation process, or releasing the resulting contract documents in the State's electronic system of record for procurement. (Currently the Arkansas Administrative Statewide Information System or "AASIS" is the primary system for transacting purchases for the State, but a transition to a new system, ARBuy, is underway at the time of this 2021 update.)

Approvers need to understand the fundamentals of any of the tasks that they approve in the PR process, the buying process, or both.

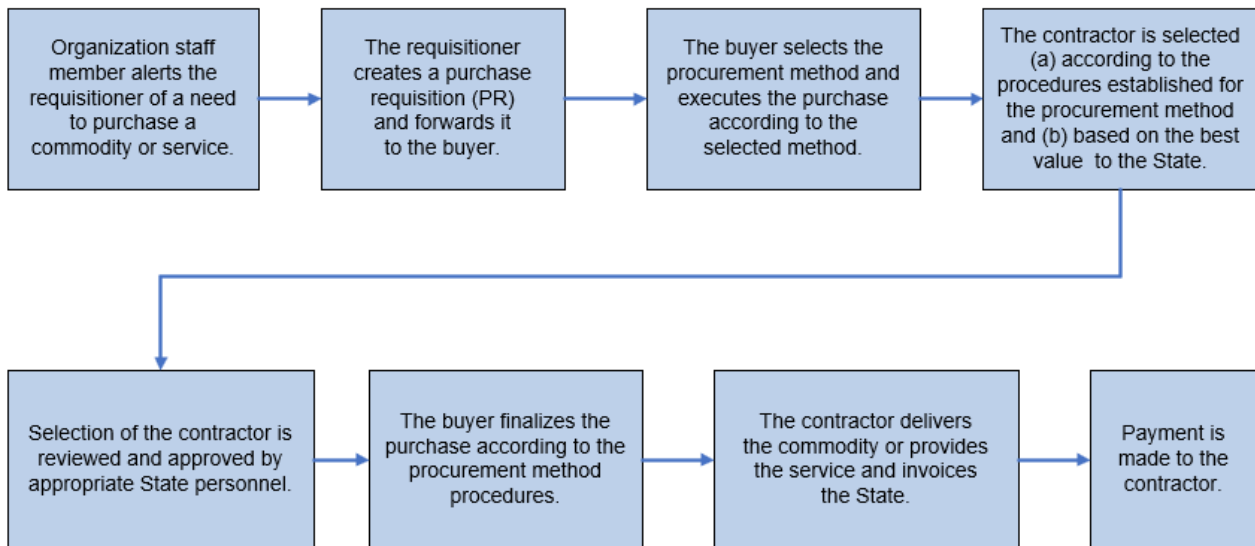
This procurement manual provides practical guidance and step-by-step instructions for people fulfilling these roles.

## 1.5 The Procurement Process in Arkansas

Procurement touches almost every commodity or service that State government provides. State procurement professionals have the opportunity to help ensure that the State is making economically sound procurement decisions.

All procurements follow a general procurement process, which is outlined in the following flowchart.

### General Procurement Process



## 1.6 Procurement Methods Overview

Arkansas Procurement Law addresses a variety of procurement methods that can be used. The typical methods of procurement are:

1. Small Order (SO)
2. Competitive Bidding (CB)
3. Invitation For Bid (IFB)
4. Request For Proposal (RFP)

As you might expect, the procurement processes for smaller procurements are simpler and less formal. Conversely, procurement processes tend to become more complex and formal as the dollar amount involved in a potential procurement increases.

Purchases under the amount of \$20,000 are referred to as a “small procurement” or a small order (SO). Small orders do not require competitive bidding, but maximum competition should be used to the extent practicable to obtain the best value for the State. The SO purchase threshold is \$40,000 if the vendor is a certified woman owned or minority owned business enterprise. You can read more about this in Section 4.3 of this manual.

Purchases above the SO threshold but at or below \$75,000 can be done on the basis of simple price comparison between three or more competing quotes, where possible. This procurement method is called quote bidding or “competitive bidding” (CB). You can refer to Ark. Code Ann. § 19-11-234 in our compilation of Arkansas Procurement Law and Rules for more information about the competitive bidding process.

The CB, IFB, and RFP methods of procurement are all referred to as “solicitations” since all of these methods require soliciting a bid or response from multiple prospective contractors.

### Typical Procurement Methods

Type	Small Order (SO)	Competitive Bid (CB)	Competitive Sealed Bid Invitation for Bid (IFB)	Competitive Sealed Proposal Request for Proposal (RFP)
Method	No price quotes required. No public posting required.	Email Prospective Contractors to obtain at least 3 price quotes. No public posting required.	Publicly posted solicitation (5-90 days) requesting a sealed price quote. Requires a public opening.	Publicly posted solicitation (5-90 days) requesting a sealed technical proposal and a separately sealed cost proposal. Requires a public opening.
Cost Threshold	Up to \$20,000 or up to \$40,000 if the Prospective Contractor is a Certified Minority-Owned or Certified Woman-Owned Business.	Up to \$75,000	\$75,000 and up	\$75,000 and up
Contractor Selection	Based on agency policy, but competition should be used to the greatest extent possible.	Based on low cost	Based on low cost	Based on highest total score from evaluation of technical proposals (70%) and calculated cost score (30%).
Discussion/ Negotiation	Requesting a lower cost is encouraged.	Requesting a lower cost is encouraged.	Negotiation is encouraged to achieve a lower cost and/or better contract value.	Negotiation is encouraged to achieve a lower cost and/or better contractual value.
Examples	Commodities: Office supplies, medical supplies, uniforms, equipment, and books. Services: lawn care, pest control, security guard services.	Commodities: Office supplies, medical supplies, uniforms, equipment, and books. Services: lawn care, pest control, security guard services.	Commodities: furniture, license plates, IT equipment Services: mailing services, transcription services, basic medical services	Services: actuarial services, advertising and marketing services, banking services
Ark. Code	§ 19-11-231	§ 19-11-234	§ 19-11-229	§ 19-11-230

A printable copy of the Typical Procurement Methods job aid above may be found [here](#).

#### KEEP IN MIND

*Always follow Arkansas Procurement Law, the policies and best practices established by OSP, and the policies of your State agency as they apply to the procurement method you choose.*

## 1.7 Purchase Category and Type

State purchases are generally broken into two categories: commodities or services. The purchase category is typically the initial factor to consider in selecting the method of procurement.

- A **commodity**, per Arkansas Procurement Law, includes all personal property, goods, leases of goods, and insurance as commodities.
- A **service** is the furnishing of labor, time, or effort by a contractor.

Arkansas Procurement Law defines two types of services:

**1. PCS: Professional Consulting Services** (See A.C.A. § 19-11-203.)

- The contractor provides professional services or consulting services.
- TSS OSP R1 19-11-203(b) defines consulting services as providing professional counsel and expert advice.
- TSS OSP R1 19-11-203(e) defines professional services as medical, legal, financial advisory, architectural, engineering, construction management, and land surveying services.

**2. TGS: Technical and General Services** (See A.C.A. § 19-11-203.)

- The work the contractor is to perform does not typically require a professional license.
- TSS OSP R1 19-11-203(g) defines technical and general services as the broad range of services that are not professional services.

Requisitioners need to know if a service is PCS or TGS in order to create the purchase requisition correctly.

## 1.8 Procurement Resources

In addition to the material provided in this manual, the TSS OSP website <https://www.transform.ar.gov/procurement/> also provides information and tools to assist you in performing your procurement duties.

Examples of the available resources and tools on the website are:

- Procurement laws, rules, and regulations.
- Job aids.
- Procurement forms and templates.
- Direction on the legislative review process.
- A directory of TSS OSP contacts.

To stay up-to-date on the latest news and events in State Procurement:

1. Check the TSS OSP website for the latest “News” [here](#).
  - Links are at the bottom of TSS OSP the home page.
2. Sign up to receive Procurement eNews emails [here](#).

# Chapter 2: Purchase Requisitions

## 2.1 About Purchase Requisitions

A purchase requisition (PR) is an internal document that initiates the procurement process by communicating a need to the purchasing staff. It is required for purchases that exceed \$20,000.

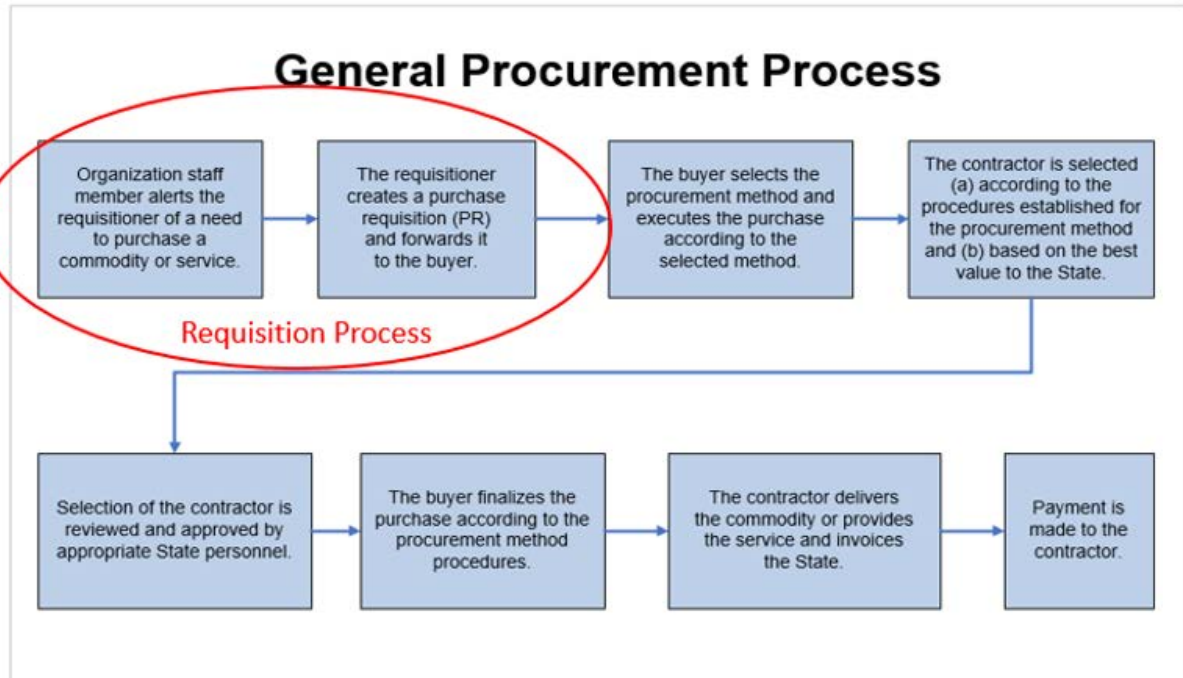
A purchase requisition is also known as a “PR,” “Req,” “PReq,” or “Requisition.”

For AASIS-using agencies, the PR is created by completing a transaction in AASIS. Agencies who do not use AASIS follow their own internal procedures for creating a PR.

### HELPFUL HINT

*A requisition is not required for a small order (SO), which is a purchase under \$20,000. Small orders can be purchased with a State credit card or by creating a purchase order (PO) without a PR.*

A PR is generally the first step in the procurement process.



## 2.2 Creating a Purchase Requisition

A PR consists of two types of information:

1. Actual purchasing data that was entered into AASIS as part of the PR transaction.
2. Supporting documents and other information relative to the procurement that are attached to the PR in AASIS.
  - a. These attachments document the PR process and provide information to the buyer.

Each type of information consists of multiple elements.

### HELPFUL HINT

*The agency's staff member who requests the purchase is often referred to as the "end user" because it's that State employee, or their staff, who will be using the purchased commodity or service.*

The information for the PR may come from various sources.

If purchasing from an existing contract that has established costs and contractual terms:

- The PR data should be provided by the end user from the existing contract.
- The requisitioner can confirm the information from the existing contract.

If a new solicitation will be required:

- The end user should provide information about the commodity or service he/she wants to purchase (description, quantity, etc.)

End users are encouraged to conduct market research regarding his/her requested purchase.

To initiate a procurement, the requisitioner will create a purchase requisition for the desired commodity or service.

For instruction on creating a purchase requisition and how to execute each step in AASIS, go to [AASIS Steps for Creating a PR](#).

## 2.3 Initiating the PR Approval Process and Monitoring the PR Status

When your PR is saved with attachments, the creation process is complete, and you are ready to initiate the approval process.

A PR must be reviewed and approved by one or more approvers, depending upon the type of purchase and cost. These approvals must be completed before the PR can move to the next phase of the procurement process.

AASIS automatically determines the levels of required approvals. This ordered list of approvers is called the release strategy, and it auto-populates in the Release Strategy tab in the Header section. The requisitioner must initiate the approval process with the first approver, then AASIS automatically routes the PR through AASIS workflow for any remaining approvals.

### HELPFUL HINT

*An approval of a PR is also referred to as a “release.”*

**To learn more about initiating the PR approval process and monitoring the approval status, go to [AASIS Steps for Initiating and Monitoring the AASIS Approval Process](#).**

## 2.4 Approving a PR

An approver accesses the PR in AASIS to review the data and attachments.

Upon review, the approver can:

1. Release (approve) the PR.
2. Reject the PR.

An approver may reject a PR when:

- The purchase request is denied.
- The PR requires changes.

**For more information on approving a PR and instruction on the AASIS steps to release it, go to [AASIS Steps for Approving a PR](#).**

If an approver releases a PR then later decides that the PR should not have been approved, he/she can reverse the release on the PR if subsequent approvers have not yet released it.

**For instruction on how to reverse an approval on a PR, go to [AASIS Steps for Reversing or Cancelling an Approval on a PR, OA, or PO](#).**

## 2.5 Rejecting a PR Approval Request

Occasionally, an approver may need to reject an approval request to deny the purchase or because the requisitioner needs to change or correct something in the PR.

Before executing a rejection of a PR, you should:

- Document in the PR the reason for the rejection.

OR

- Document in the PR any changes that the requisitioner must make to the PR for an approval to be executed.

**For instruction on how to reject a PR in AASIS, go to [AASIS Steps for Rejecting a PR Approval Request](#).**

## **Approval Functions in EASE**

The State provides another platform from which an approver can access the release function. This platform is called Empowering Arkansas State Employees (EASE).

For direction on how to approve through EASE, which provides mobile access for releasing procurement documents, go to the Learning tile on the EASE home page and look for the EASE Procurement Approval training class.

## **2.6 Changing a PR and Cancelling a PR**

Occasionally, an approver may reject a PR, either to deny the purchase or to request changes to the document. The requisitioner should check for any rejections or requests for changes to the PR and take the necessary action.

**To learn more about changing or cancelling PR, go to [AASIS Steps for Changing or Cancelling a PR](#).**

## **2.7 When PR Approvals are Complete**

When all approvals are completed, the PR is assigned to a buyer who facilitates the actual purchase.

- PRs with an Initial Contract Amount (ICA) under \$75,000 are typically assigned to a buyer in your State agency.
  - Some agencies have a delegation authority to assign PRs with higher ICAs to internal buyers.
  - Each agency may have its own procedure for assigning PRs internally.
- PRs with an ICA of \$75,000 or more are typically routed to TSS OSP to be assigned to a buyer in that office.
  - To route a PR to TSS OSP, open the PR with ME52N Change Purchase Requisition, change the Purchasing Group number to C00, then save.
  - The C00 designation triggers AASIS to automatically send the PR into TSS OSP's workflow.

See your supervisor regarding your agency's procedure for assigning a PR to a buyer.

# Chapter 3: When a Buyer Receives a PR

## 3.1 Reviewing the PR

When a buyer is assigned a PR, he/she should review the PR to gain an understanding of the purchasing need.

Questions to consider are:

- Does your agency have an existing contract (OA) or does TSS OSP have a State contract (OA) in place that could be used to make the purchase instead of creating a new solicitation?
- Will a new solicitation result in an Outline Agreement (OA) or Purchase Order (PO)?
- What is the Total Projected Cost (TPC)?
- Has a specific procurement method been requested? Which method might be required by law?
- How much detail is included in the attached specifications? Do you need more information?
- If it's a PR for services, are performance standards attached?
- If an RFP will be issued, is evaluation criteria attached?

Answers to these questions will direct the buyer in how to proceed with the procurement.

Prior to determining if you will purchase from an existing contract or create a new contract with a solicitation, you must understand the function of OAs and POs. An outline agreement (OA) and a purchase order (PO) are both purchasing documents that are created in AASIS, but they have different functions.

An OA serves as a contractual agreement between the State and a contractor governing the future purchase of specified commodities or services.

A PO serves as an actual order of those commodities or services and gives the contractor permission to ship. It also commits the State to pay for the order.

For more information on OAs and POs, go to [The Function of POs an OAs](#).

## 3.2 Procurement Authority

When there is not a current outline agreement (OA) in place from which to place a purchase order (PO), a new contract, OA and/or PO must be created. The anticipated dollar amount of the purchase will dictate the next steps. Typically:

- An agency may execute a purchase with an initial contract amount (ICA) under \$75,000.

- If the ICA is anticipated to exceed \$75,000, the PR is routed to TSS OSP to execute, typically, an IFB or RFP.

Some State agencies may have the authority to execute purchases on their own that surpass the \$75,000 ICA threshold. There are two instances in which this is allowed:

1. When the agency has an Agency Procurement Official (APO) on staff.
2. When the agency has been granted a Delegation Order from the TSS OSP Director.

An Agency Procurement Official (A.C.A. § 19-11-203) is authorized to execute solicitations with a dollar amount that exceeds \$75,000.

- Typically, APO positions are with State public colleges and universities.
- A list of agencies with APO positions may be found in A.C.A. § 19-11-220.

A Delegation Order (A.C.A. § 19-11-218) is a written authorization from the TSS OSP Director allowing a person or agency to make purchases above the standard thresholds and policy limits, up to a specified dollar amount.

- Delegation Orders are issued for a maximum of two years.
- A current list of Delegation Orders may be found on the TSS OSP website under Laws, Rules, and Guidelines.

Buyers for the State of Arkansas work at many different State agencies and have varying levels of authority for the types of purchasing they may execute.

For example, an agency buyer at a State agency may be authorized to execute purchases up to \$75,000, and an APO may execute a purchase of an unlimited dollar amount.

Whether you are a buyer at a State agency, an APO buyer, a buyer at an agency with a delegation order, or a buyer at TSS OSP, Arkansas Procurement Law is equally applicable to all State purchases and procurement contracting that you may execute.

### **3.3 Preparing a Solicitation**

When a contract is not already in place for a needed purchase, a buyer must issue a solicitation to establish a new contract (OA or an independent PO).

It's critical that a buyer review all the data and attachments in the PR, and plan an efficient procurement, to achieve a final contract that meets the needs of the State and provides best value.

Two of the key items that need to be considered when initiating a procurement through a solicitation are:

1. The type of procurement method to be used.
  - To ensure an advantageous resultant contract.
2. The timeline requirements of the chosen procurement method.

- To efficiently plan the procurement tasks involved, and to ensure the commodity or service is received when it is needed.

When selecting the most appropriate procurement method, it is important to note:

- The total projected cost.
- The information provided regarding the required function of the commodity or nature of the service (Attached specifications.)
- The contractor selection factors.
  - Lowest cost, or evaluation of proposals to select the best solution/value.

Use the [Typical Procurement Methods](#) job aid as a guide to help you determine the most suitable procurement method. The job aid is provided on the TSS OSP website under AGENCIES, Laws, Rules, and Guidelines.

The job aid provides a reference to the procurement law where you can find further details and direction for each method.

### **Creating a Solicitation**

A preliminary step in procuring services or commodities is clearly specifying what you need. Getting a clear understanding from the agency of what is being sought can help you develop clear specifications. “Specifications” means any technical or purchase description or other description of the physical or functional characteristics, or of the nature, of a commodity or service. See Ark. Code Ann. 19-11-241. As defined in Arkansas Procurement Law, the term “specification” can also be used to refer to any description of any requirement for inspecting, testing, or preparing a commodity or service for delivery.

#### **REMINDER**

*The solicitation you create, especially the specifications section, becomes a crucial part of the resultant contract.*

The PR should provide you with at least a general idea, but you may need to contact the agency and perform some market research to get a clear idea of what is available in the marketplace. Market research the process of gathering qualitative and quantitative information about a commodity or service, and it can provide broad product knowledge that may help you develop clear and well-informed specifications.

For more information on Market Research, go to [Market Research](#).

# Chapter 4: Small Order Procurements

## 4.1 About Small Orders (SO)

According to A.C.A § 19-11-204 (13)(A)(i), a small procurement means a procurement not exceeding a purchase price of \$20,000.

In the procurement community, the terms “small order procurement”, “small procurement”, “small order”, and “SO” are used interchangeably to reference this procurement method.

Refer to A.C.A. § 19-11-231 for laws and rules regarding Small Procurements.

A small order is the quickest and easiest procurement method to execute, and it can be used to purchase either commodities or services under the threshold.

Small Orders do not require:

- Creating a PR to initiate the purchase (typically).
- Posting a formal, public solicitation.
- Obtaining formal price quotes from multiple prospective contractors.

To obtain best value for the State, TSS OSP strongly encourages:

- Checking multiple sources to find the best price.
- Requesting a lower cost. (For more information, go to [Negotiation](#).)

### HELPFUL HINT

*An easy way to accomplish competitive shopping is to use the State's Amazon Business account to shop online. Here, you can easily compare pricing on commodities.*

## 4.2 Executing a Small Order Procurement

Because a small order (SO) purchase is typically under \$20,000, a Purchase Requisition (PR) is not required.

- If an end user makes a request for a purchase which falls under this amount, the buyer can move forward to shop for best value and make the purchase.

Sometimes an end user may not know the anticipated cost of a purchase, therefore a PR is created for it.

- If you are assigned a PR for a purchase that could potentially be a small order, one of the first things you should determine is the expected total dollar amount of the purchase. You can accomplish this through market research.

- If you find the item or service available for under \$20,000, you may begin the process of executing an SO.

The quickest and easiest way to make a small order purchase is with a State credit card. The credit card is often referred to as a purchasing card, or p-card.

You may execute the purchase with a p-card:

1. In person at a retail location.
2. Online.

Be sure to:

- Save all receipts and submit them to your accounting department according to your agency's directives.
- Ask your supervisor about any additional internal credit card procedures that may be required by your agency.

#### HELPFUL HINT

*State agencies are typically encouraged to use a p-card for most small orders. To obtain a card, see your agency's credit card liaison or contact OSP at 501-324-9316 and ask to speak with someone from the credit card services team.*

Though it is preferable to use a p-card for most small orders, if your agency does not have a p-card, or the type of purchase cannot be purchased with a p-card, you will create a purchase order document for the purchase.

A purchase order is a legal document submitted to a contractor either through email or in person that:

- Authorizes the contractor to deliver commodities or services.
- Binds your agency to pay for the commodities or services at a later time.
  - Creating a PO commits your agency's budget to a purchase.

The contractor will fulfill the order by shipping the commodities or providing the services documented on the PO. Your agency will receive an invoice from the contractor, and payment will be handled by your accounting office.

For direction about how to create a PO in AASIS, go to the OPM eLearning class "Creating a PO".

#### HELPFUL HINT

*Some contractors do not accept POs for purchases. Check with the contractor first before creating a PO for a purchase.*

For agencies who are AASIS users, create the PO by signing into AASIS and completing the PO transaction. The resultant PO document can be printed from AASIS and sent to the contractor. For non-AASIS users, follow your agency's accounting procedures to create a PO for the contractor.

Be sure to clearly identify the commodity or service being purchased. Use an accurate AASIS material number and include an identifying item or model number, and a precise description, to ensure a correct purchase.

### 4.3 Small Orders with Certified Contractors

There is a provisional condition that applies to extend the upward limit of \$20,000 for SO procurement. Purchases up to \$40,000 may be made from a contractor who is a *Certified* Minority-Owned Business Enterprise (CMBE) or a *Certified* Women-Owned Business Enterprise (CWBE) under the small order procurement method. Refer to TSS R1: 19-11-231 for more information about CMBEs and WMBEs.

A minority-owned business is defined by A.C.A § 15-4-303 as a business owned by a lawful permanent resident of this State who is:

- African American
- American Indian
- Hispanic American
- Pacific Islander American
- A Service-Disabled Veteran as designated by the United States Department of Veteran Affairs

Being "certified" means that a minority-owned or woman-owned contractor has been vetted by the Arkansas Economic Development Commission (AEDC) and has been issued an Arkansas certification number from AEDC.

To see a list of Arkansas certified contractors, see the AEDC website:

<https://www.arkansasedc.com/community-resources/Minority-and-Women-Owned-Business-Enterprise-Resources>.

When executing a small order from a certified contractor which is between \$20,000 and \$40,000, you must document the certification number in your procurement records.

To help support equal opportunity and economic development in every sector of the State, A.C.A § 15-4-302 requires State agencies to strive to ensure that their expenditures in State-funded and State-directed public construction programs and in the purchases of commodities and services each fiscal year are paid to Minority Business Enterprises and Women-Owned Enterprises with the following goals:

10% of the agency's annual expenditures for minority enterprises, allocated in the following amounts:

- 2% for Service-Disabled Veteran-Owned Minority Business Enterprises
- 8% for all other minority business enterprises

This includes 5% of the agency's annual expenditures for Women-Owned Business Enterprises

Agencies are required to report their spending with Minority and Women-Owned businesses on their Minority Spend Report. By utilizing the certified vendors listed on the AEDC website, these goals are more easily achievable.

See your supervisor for direction on how your agency documents and tracks these purchases.

It is not common to use a p-card to execute a SO between \$20,000 and \$40,000 from a CMBE or a CWBE, but if you do, you may make the purchase either in-person or online as you would any other SO purchase with a p-card.

To document spending with a certified contractor, submit your receipts to your agency's contact and be sure that your agency's credit card reviewer compiles the necessary data regarding the purchase so that it can be included in your agency's report.

### REMINDER

Procurements that exceed \$20,000 require a PR to initiate the purchase. If you are using a PO for a small order purchase from a Minority or Women-Owned business that exceeds \$20,000, a PR must be created prior to creating the PO. After the PR is approved and assigned to a buyer, the buyer typically creates the PO to submit to the contractor.

Small orders are the simplest and quickest way to make a purchase and will most likely be the method used for the majority of your agency's small procurements. Use the job aid flowchart, [Small Order Procurement Process](#), to help you determine whether a simple small order purchase is permitted.

For direction on the possible required documentation for a small order, see the Job Aid [Required Supplemental Documents for Contracts](#).

## 4.4 Small Order Purchasing Patterns

With small order procurements, be aware of your purchasing patterns. A purchasing pattern refers to the usual way in which commodities and services are purchased. Purchasing patterns include:

- Frequency: How often a purchase is made.
- Quantity: The amount of the commodity or service for each purchase.
- Purchasing method: The repetitive use of the SO method for identical purchases.

Be cautious not to allow split purchasing.

Split purchasing means artificially dividing a purchase that exceeds a purchase limit or threshold into two or more transactions as a means of avoiding the rules or restrictions that apply to purchases above the limit or threshold.

Splitting a purchase into smaller purchases to avoid controls based on purchasing thresholds is a crime under Arkansas law (A.C.A. §19-11-231).

Regular purchases of a commodity or service should be set up as an outline agreement where multiple purchases can be made over a period of time.

To help you determine if the small order procurement method is appropriate for your purchase, review the [Small Order Policy](#) on the TSS OSP website. The policy is under the AGENCIES category on the Laws, Rules, and Guidelines page.

### **Procurement Law Governs**

Remember that procurement law always governs all purchases, and there may be some rare exceptions to different types of small order purchases; for example, leases and printing.

If you have questions, always refer to procurement law and seek the guidance of your supervisor or your agency's legal counsel.

### **Other Considerations in the SO Process**

A P-Card does not track assets in AASIS. Any purchase of capital assets made with a P-Card will require the additional step of tracking that asset. See your supervisor for direction.

## **Chapter 5: Competitive Bid Procurements**

### **5.1 About Competitive Bids (CB)**

A competitive bid (CB) is a procurement method used for purchases between \$20,000 and \$75,000. CBs require the buyer to request price quotes (bids) from at least three different prospective contractors to allow for competitive pricing. Low cost determines the successful contractor. Refer to A.C.A. § 19-11-234 for laws and rules regarding competitive bids.

When you receive a request to make a purchase for which a contract does not already exist, first evaluate the anticipated total dollar amount of the purchase. The cost estimate of the PR and market research should help you determine if the cost will be in the range to execute a competitive bid. If the anticipated total exceeds \$20,000 and is less than \$75,000, then you should initiate the competitive bid procurement method.

#### **HELPFUL HINT**

*Competitive bids are also commonly referred to as "quote bids" or "3 quote bids". "Price quote", "quote", and "bid" are used interchangeable with CBs.*

The two typical ways to execute a CB are:

1. Comparison shopping, which may consist of:
  - Calling prospective contractors to get a price quote.
  - Emailing prospective contractors with a simple request for a price quote.
  - Shopping online.

2. Distributing a formal competitive bid solicitation document to prospective contractors and receiving an email response with an attachment of the completed response packet with pricing.

Comparison shopping is the quickest and easiest way to execute a competitive bid; however, this procedure is not feasible for all competitive bid situations.

## 5.2 Executing a Competitive Bid Through Comparison Shopping

You will need to identify at least three prospective contractors who have online pricing available or from whom you will request a price quote/bid. The end user typically provides one or more suggested contractors.

### REMINDER

Three quotes is the *minimum*, but it is best practice to contact as many prospective contractors as feasible to ensure you are obtaining best value for the State.

As you identify prospective contractors:

- Create a list of prospective contractors who provide online pricing.  
and/or
- Notate the following contact information for each business so that you can contact each for a price quote.
  - Business name
  - Business address
  - Business phone number and email
  - Contact person, if available
  - Contact person's direct phone number
  - Contact person's email address

### HELPFUL HINT

Remember to check the Minority-Owned and Women-Owned Business Enterprises on the Arkansas Economic Development Commission website to see if any of those businesses may provide the commodity or service you will be purchasing.

### Comparison Shopping

Examples of suitable purchases for comparison shopping are specific books, certification classes, and simple equipment that doesn't have customizable options.

These items can be easily described without ambiguity, such as:

- 90 OSHA-Compliant Forklift Training Manuals, 2020 edition.
- 100 bow rakes and 100 approx. 45" handle digging shovels.

- Lifeguard training and certification for 50 people.

One of the quickest and easiest ways to complete your comparison shopping is by researching online pricing. This works well for commodities where multiple prospective contractors will offer the same item, such as a basic shovel.

Make a screenshot of the online product page for the shovel (which shows the pricing) from at least three suppliers (contractors). This can serve as the required documentation you need to make the purchase from the prospective contractor with the lowest price.

To speed up locating three price quotes online, authorized users may utilize the State's Arkansas Amazon Business website. Here, you can select three items for comparison and screenshot the webpage of the comparison listing to have your quote documentation.

To participate in the State's Amazon Business website, you must receive authorization and approval from TSS OSP. Contact TSS OSP's State Credit Card team for more information about becoming an authorized user.

### **Phone Call or Email Shopping**

If online pricing is not available for your purchase, the phone call or email request methods may provide you with the pricing information you need. This method consists of simply calling or emailing a prospective contractor to ask the cost of a specific item or service. This method is best when the commodity or service being purchased does not require customized functionality or provisions.

A buyer must also properly document the bid pricing for the phone call or email methods. With phone calls, the buyer will document each prospective contractor's price quote information on a tabulation sheet. With email, you may print the email responses from each prospective contractor as documentation, but it is still best practice to complete a tabulation sheet for this method as well.

#### **HELPFUL HINT**

*No matter what method you use to obtain pricing for a CB, it is best practice to always use a tabulation sheet to have a concise, one-page record of all the price quotes.*

## **5.3 The CB Tab Sheet**

A critical step with comparison shopping as part of a CB is tabulating the competing price quotes. This tabulation documentation serves as the verification that the buyer received, or attempted to receive, *at least 3 bids*.

TSS OSP provides a template for documenting price quotes. It is commonly referred to as a "tab sheet". A tab sheet helps you organize the price quote information on one document. It must be kept in the official procurement record for the purchase. The [Competitive Bid Tabulation \(Verbal or Written\)](#) template is posted on the TSS OSP website under the AGENCIES category, Forms and Reporting page. The link to the form is in the Solicitation Templates section on the web page.

Below is an example of the tab sheet where the buyer filled in the information in blue.

Competitive Bid Tabulation				Bid #: provided by your supervisor		Date: Month xx, 2020		Page 1 of _1_	
AASIS Vendor No.				none		none		none	
Vendor Name				Cooper Books		Wolowitz Manual Supply, Inc.		Hofstadter Training Supplies	
City, State				Topeka, Kansas		Fort Smith, AR		Memphis, TN	
Phone #				555-123-4567		555-234-5678		555-456-7890	
Email Address				SheldonC@CooperBooks.com		Howard@WMS.com		LenH@Hofinc.com	
Contact Name				Don Mason		Jerry Miles		Sue Banks	
Date/Time Vendor was Contacted				6-18-20 2:00pm		6-18-20 2:15pm		6-19-20 8:30am	
Method Used to Contact Vendor				phone		phone		email	
Minority Vendor				<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Item No.	Description	Qty	UM	Unit Price	(Copy formula as needed) Extension	Unit Price	(Copy formula as needed) Extension	Unit Price	(Copy formula as needed) Extension
1	OSHA Forklift Training Manual	40	EA	\$180.00	\$7,200.00	\$176.00	\$7,040.00	\$192.00	\$7,680.00
2	OSHA Advanced Forklift Training Manual	20	EA	\$195.00	\$3,900.00	\$200.00	\$4,000.00	\$205.00	\$4,100.00
Total					\$11,100.00		\$11,040.00		\$11,780.00

There are three columns to document vendor information and multiple rows for when you need to obtain pricing on multiple items. Add additional columns, rows, and/or pages as needed. The extended cost and totals will automatically calculate. If purchasing multiple items, the award goes to the prospective contractor with the lowest total price (bottom row).

## 5.4 Obtaining at Least Three Price Quotes

On occasion, a buyer may find that even though three prospective contractors were contacted, one or more may not respond with a price quote (bid). In these cases, the buyer should attempt to contact additional prospective contractors. If, after a thorough search for additional prospective contractors, none are found, or if more providers are found, but they are not interested in offering a bid, a buyer may end up with only one or two bids.

Receiving only one or two bids is acceptable only if the buyer documents his/her good-faith efforts to attempt to receive at least 3 bids. This documentation verifies that a buyer has completed his/her due diligence to obtain best value for the State.

The documentation for attempts to obtain three bids may include, but is not limited to:

- Notating the specific efforts taken to identify additional prospective contractors, such as market research, asking others in the industry, checking with the end user, and checking with procurement personnel at other State agencies.
- Listing all the prospective contractors who were contacted, or for whom contact attempts were made.
- Notating the dates, times, and means (phone, email, etc.) of attempts to contact prospective contractors.
- Documenting the prospective contractor's reason for not bidding.

### IF IN DOUBT...

See your supervisor for direction on how your agency documents cases where less than three bids are received and make sure all the necessary information is included in the procurement record.

## 5.5 When to Use the CB Solicitation Template

When a commodity requires customized functions or qualities, or when a service necessitates providing a detailed description or requirements, it is best practice to use TSS OSP's CB solicitation template to execute the procurement.

The following could be examples of these kinds of purchases.

- Specialized equipment.
- Scanning records for electronic archiving.
- Tree removal for a parcel of land.

The CB template may be emailed to prospective contractors, unlike the IFB or RFP solicitations which are required by law to be publicly posted.

For more information about the solicitation templates, and about the competitive bid template specifically, go to [The Competitive Bid \(CB\) Template](#).

## 5.6 Awarding a Competitive Bid

The apparent successful contractor is the one who meets all solicitation specifications and requirements and has submitted the lowest bid.

The end user, or your agency's designated approver for the contract, must approve:

- The prospective contractor who is anticipated to receive the contract award.
- The pricing for the contract.

Upon review of the apparent award, the end user/approver has the option to request a price negotiation with the apparent successful contractor. If negotiation is requested, the buyer will handle the negotiation with the apparent successful contractor.

This negotiation process is simple, but it must be executed and documented correctly.

For details about how to correctly execute and document a negotiation, go to [Negotiation](#).

Regardless of the method used to reach this point in the CB process (online comparison, phone call, email request, or formal solicitation), prior to contract award, the buyer must confirm that all approvals and documentation are in order for the award.

Preparing for contract award may include, but is not limited to:

1. Directing the contractor to register in AASIS. (For more information, go to [Finding or Creating a Vendor Record in AASIS](#).)
2. Obtaining all required supplementary documentation. (For more information, go to [Supplemental Documentation for Contracts](#).)

After all pre-award considerations and requirements are addressed and complete, the contract may be awarded.

To award a CB:

1. Notify the prospective contractors of the award determination. An email is typically the most efficient means for this communication.
2. Create the PO or OA (with reference to the PR, if a PR was created) and attach a copy of the successful contractor's bid submission and/or the bid tab to the PO or OA.
  - For step-by-step instruction for creating a PO or OA, see the OPM online classes.
3. Obtain the AASIS approvals necessary for the contract to be released.
  - Along with the approvals in AASIS, remember that service contracts meeting the mandated dollar thresholds for legislative review must go through the review process prior to the final AASIS release. This would apply only to higher-dollar awards to certified contractors.

For more information regarding legislative review, go to [Legislative Review and Reporting Requirements](#).

4. Activate the contract (PO or OA) by executing the print function in AASIS. Provide a copy of the PO or OA to the contractor.
5. Save all hard copies of any relevant procurement documents in the procurement record.

For more information about requirements for the official procurement record, go to [Components of a Procurement Contract and the Procurement Record](#).

If your organization is not an AASIS user, follow your organization's procedures to award an IFB.

## Chapter 6: Invitation for Bid (IFB) Procurements

### 6.1 About Invitation for Bids (IFB)

An Invitation for Bid (IFB) is a procurement method used for purchases of \$75,000 and up where low cost determines the successful contractor. An IFB requires that:

1. Minimum specifications are provided to prospective contractors in the IFB solicitation document via a public posting.

2. Bid pricing from prospective contractors is received sealed and opened publicly at the designated place and time as stated in the solicitation document.
3. The contract is awarded to the lowest-bidding, responsive and responsible prospective contractor.

Refer to A.C.A. § 19-11-204 (6) and 19-11-229 for laws and rules regarding IFBs.

### HELPFUL HINT

This procurement method is sometimes called a *competitive sealed bid*.

## 6.2 When to Use the Invitation for Bid Procurement Method

When you receive a request to make a purchase for which a contract does not already exist, first evaluate the anticipated total dollar amount of the purchase. The cost estimate of the PR and market research should help you determine if the cost will be in the range to execute an IFB.

If the anticipated total exceeds \$75,000, and the purchase is one for which the specifications and/or requirements are known and can be stated clearly, and you simply need to find the commodity or service with the lowest cost, then your best option is to use the IFB procurement method.

The following are examples of purchases that could be made with an IFB:

- Equipment with functionality that can be clearly defined.
- Security guard services, janitorial services, or other simple services that can be clearly defined.

## 6.3 Executing an IFB

When initiating a solicitation, a buyer should consider the timing factors involved with the procurement. Scheduling the procurement to meet the deadline for the receipt of the commodity or service can often be a critical concern. In addition, a buyer often manages multiple procurements at once and can work much more efficiently when the tasks are effectively planned and scheduled. To understand more about procurement planning, go to [Planning a Solicitation: Timing Factors](#).

### **Step 1**

Download the IFB templates posted on the TSS OSP website to create your solicitation. These templates are found on the Forms and Reporting page under the Solicitation Templates section. Save the template documents to your computer using your agency's naming convention for solicitations.

For more information about the IFB template, go to [The Invitation for Bid \(IFB\) Template](#).

## **Step 2**

Work with the end user to ensure that the specifications and pricing structure are designed to meet the purchasing need and are approved to post.

## **Step 3**

When the solicitation documents are approved by the end user to post, the IFB must be publicly posted to an approved State website. Some agencies may have their own website for posting bids, and if so, your supervisor can provide directions for the process. Other agencies should post their bids on the TSS OSP website.

Per Arkansas Procurement Law, solicitation postings must be not fewer than five (5) calendar days nor more than ninety (90) calendar days.

For more information about posting a solicitation on the TSS OSP website, go to [Publicly Posting Solicitation Documents](#).

### **Protest of a Solicitation**

Prior to 72 hours before the bid due date and time, a prospective contractor may submit a protest regarding the solicitation. This is not common, but it is allowed by A.C.A. § 19-11-244 when a prospective bidder is aggrieved in connection with the solicitation. Typically, a prospective contractor will protest in regard to the specifications.

The TSS OSP Director or head of the procurement agency must promptly issue a protest determination in writing to the protestor either denying or sustaining the protest. The determination is final and conclusive.

A contract award must not be executed until after the protest determination has been issued.

For more information about protests, go to [Protests and Protest Resolution](#).

### **Receiving Solicitation Responses**

Prospective contractors will complete the posted Bid Packet and submit it to you per the instructions in the solicitation. Each agency should have a process in place for recording the receipt of responses and storing them securely until the bid opening time. Should a response be received after the submission deadline, that response is not timely, and cannot be considered for award. It must be returned to the prospective contractor.

For more information on properly receiving and storing responses, as well as late bid receipts, go to [Receiving Solicitation Responses](#).

## **Step 4**

Open the timely-received bids at the place and time as specified in the IFB and tabulate the bids. This procedure is open to the public and requires the presence of two State employees. See your supervisor for your agency's direction on publicly opening the bids.

Bid pricing for each submission must be read aloud for all who are present.

Each pricing submission (bid) must be documented on an official bid tabulation document for IFBs. The [IFB Bid Tab](#) sheet is posted with the templates on the TSS OSP website.

Both state employees must verify and sign the official bid tabulation document.

The opened bid pricing is public information, and a copy of the official bid tab document can be provided to anyone who is present or who later requests a copy.

### **Step 5**

After the public opening, review all submissions to confirm each is a responsive and responsible prospective contractor. The review should confirm that all submission and solicitation requirements are met, such as:

- Required signatures have been received.
- Any required documents are completed and submitted.
- Contractor meets all specifications and requirements as written.
- Price sheet is filled out correctly and completely.

### **Non-responsive and Non-responsible Prospective Contractors**

Non-responsive and non-responsible prospective contractors' bids are rejected. See A.C.A. § 19-11-204 for information regarding responsive and responsible prospective contractors.

Should you need to reject a prospective contractor's proposal for failure to meet a requirement, the prospective contractor must be contacted and advised of the rejection. A phone call is acceptable, but an email should follow to document the rejection. The email should include the reason for rejection as well as a reference to the specific language from the IFB which contains the requirement that was not met.

### **Step 6**

The lowest bidding, responsive and responsible bidder is the apparent successful prospective contractor. Notify the appropriate agency parties of the prospective contractor's name and bid price and request approval to award to this contractor. It is best practice to provide this notification and request for approval by email. This approval reply will create the written documentation you need for the procurement record.

At this point, the end user or agency may request to negotiate pricing.

For more about negotiating a contract, go to [Negotiation](#).

### **Step 7**

Upon approval of the apparent successful contractor and bid price (or negotiated pricing), publicly post the anticipation to award (ATA) on the same website where the solicitation was posted. It is a best practice to email each prospective contractor who submitted a bid to advise them of the ATA posting. You may include the link to the ATA posting in the email.

For more information about posting an ATA on the TSS OSP website, go to [Publicly Posting Solicitation Documents](#).

Keep in mind that a prospective contractor who feels aggrieved by the anticipated award has the right to protest the award prior to the end of the 14-day ATA period. Only a prospective contractor who submitted a bid may protest, and the protest must be resolved prior to the award of the contract.

For more information about the protest of an anticipated award, go to [Protests and Protest Resolution](#).

## 6.4 Awarding an IFB

To award an IFB:

1. After the end of the ATA period, and after any protests have been resolved, create the PO or OA in AASIS (with reference to the PR, if a PR was created) and attach a copy of the following:
  - a. The solicitation with all attachments.
  - b. The successful contractor's bid submission including price sheet.
  - c. The bid tab sheet.
  - d. Any other pertinent documents, such as a negotiation agreement.

For step-by-step instruction for creating a PO or OA, see the OPM eLearning classes.

2. Obtain the approvals necessary for the contract to be released.
  - Along with the approvals in AASIS, remember that service contracts meeting the mandated dollar thresholds for legislative review must go through the review process prior to the final AASIS release.

For more information regarding legislative review, go to [Legislative Review and Reporting Requirements](#).

3. Activate the contract (PO or OA) by executing the print function in AASIS. Provide a copy of the PO or OA to the contractor via email.
4. Save all copies of any relevant procurement documents in the official procurement record.

For more information about requirements for the official procurement record, go to [Components of a Procurement Contract and the Procurement Record](#).

If your agency is not an AASIS user, follow your agency's procedures to award an IFB.

# Chapter 7: Traditional RFP Procurements

## 7.1 About the Traditional RFP

A Request for Proposals (RFP) is a procurement method that can be used when the prospective contractor's technical proposal solution and the cost are both considered in determining which contractor to award the contract to.

An RFP requires that:

1. Minimum requirements, evaluation criteria, and scoring/selection criteria are provided to prospective contractors in the RFP solicitation via a public posting.
2. Sealed technical proposals from prospective contractors are opened publicly at the designated place and time as stated in the solicitation document.
  - The separately sealed pricing is opened later, after the proposals are evaluated.
3. The contract is awarded to the prospective contractor with the highest total score after:
  - Each technical proposal is evaluated and scored.
  - Each pricing submission is scored.

Proposals must be evaluated based on the factors identified in the RFP. No other factors can be considered; therefore, it is very important to identify the factors that will fairly, reasonably, and effectively distinguish the good from bad proposals (and the better from the good proposals) in the RFP.

Refer to A.C.A. § 19-11-230 for laws and rules regarding RFPs.

### HELPFUL HINT

This procurement method is sometimes called a *competitive sealed proposal*.

When you receive a request to make a purchase for which a contract does not already exist, first evaluate the anticipated total dollar amount of the purchase. The cost estimate of the PR and market research should help you determine if the cost will be in the range to execute an RFP.

An RFP is the most applicable method of procurement when:

- The anticipated total purchase price exceeds \$75,000.
- The State knows what results a service must achieve but wants prospective contractors to propose a specialized, technical solution for achieving the results.
- When the technical solution and cost are both important to the selection of the successful contractor.

The following are examples of purchases that could be made with an RFP:

- Insurance claims processing and administration.
- The management of multiple medical clinics throughout the State.
- The creation and administration of a new website.

## 7.3 Executing a Traditional RFP

When initiating a solicitation, a buyer should consider the timing factors involved with the procurement. Scheduling the procurement to meet the deadline for the receipt of the commodity or service can often be a critical concern. In addition, a buyer often manages multiple procurements at once and can work much more efficiently when the tasks are effectively planned and scheduled.

To understand more about procurement planning, go to [Planning a Solicitation: Timing Factors](#).

**Step 1** – Download the RFP templates posted on the TSS OSP website to create your solicitation. These templates are found on the Forms and Reporting page under the Solicitation Templates section. Save the template documents to your computer using your agency’s naming convention for solicitations.

For more information about the solicitation templates, and about the RFP template specifically, go to [The Request of Proposal \(RFP\) Template](#).

**Step 2** – Work with the end user to ensure that the specifications, evaluation criteria and scoring, and pricing structure are designed to meet the purchasing need and are approved to post.

Because proposals for an RFP are scored by an evaluation team, the agency should begin selecting the members of the team. The evaluators should have knowledge or experience that will allow them to contribute meaningfully to the evaluation process. They can also assist in reviewing the RFP to help ensure it is geared toward achieving the desired outcome.

For more information about the evaluation team selection, see the State’s [Evaluation of Proposals Policy](#) on the TSS OSP website Law, Rules, and Guidelines page.

It’s important to note that the upcoming solicitation, and especially the contractual requirements, should be kept confidential, and that only internal stakeholders should have access to the document prior to it being publicly posted. This ensures that no prospective contractor gains an advantage in the bidding process by having inside information earlier than others.

**Step 3** - When the solicitation documents are approved by the end user to post, the RFP must be publicly posted to an approved State website. Some agencies may have their own website for posting bids, and if so, your supervisor can provide directions for the posting process. Other agencies may post their bids on the TSS OSP website.

Per Arkansas Procurement Law, solicitation postings must be not fewer than five (5) calendar days nor more than ninety (90) calendar days.

For more information about posting a solicitation on the OSP website, go to [Publicly Posting Solicitation Documents](#).

### **Protest of a Solicitation**

Prior to 72 hours before the bid opening date and time, a prospective contractor may submit a protest regarding the solicitation. This is not common, but it is allowed by A.C.A. § 19-11-244 when a prospective bidder is aggrieved in connection with the solicitation. Typically, a prospective contractor will protest in regard to the specifications.

The TSS OSP Director or head of the procurement agency must promptly issue a protest determination in writing to the protestor either denying or sustaining the protest. The determination is final and conclusive.

A contract award must not be executed until after the protest determination has been issued.

For more information about protests, go to [Protests and Protest Resolution](#).

### **Receiving Solicitation Responses**

Each agency should have a process in place for recording the receipt of responses and storing them securely until the bid opening time. Should a response be received after the submission deadline, that response is not timely, and cannot be considered for award. It must be returned to the prospective contractor.

For more information on properly receiving and storing responses, as well as addressing late bid receipts, go to [Receiving Solicitation Responses](#).

#### **HELPFUL HINT**

It's best practice to time stamp each sealed submission as it is received. This provides a record of the timely-received bids as well as those which were received late. See your supervisor for your agency's procedure for time-stamping sealed bids.

**Step 4** - Open the timely-received proposals at the place and time as specified in the RFP. This procedure is open to the public and requires the presence of two State employees. See your supervisor for your agency's direction on publicly opening the proposals.

Read aloud only the names of the prospective contractors submitting timely proposals and document these on the official bid tabulation document. Both State employees must verify and sign the official bid tabulation document.

The proposal content is confidential and must be kept secure throughout the evaluation process and until after an anticipated award is announced.

The proposed pricing, which should be separately sealed, is *not* opened. It remains sealed until after the technical evaluation is complete and pricing points are ready to be calculated, and it cannot be disclosed publicly until after an anticipated award is announced.

The list of prospective contractors who submitted a proposal is public information, and a copy of the listing on the official bid tabulation document can be provided to anyone who is present or who later requests a copy.

A template for the tabulation document, [RFP Bid Tab](#), which contains fields for all required information, is on the “Procurement Forms and Reporting” page of the TSS OSP website.

**Step 5** - After the public opening, review all submissions, including the proposal content, to confirm each is from a responsive and responsible prospective contractor. The review should confirm that all submission and solicitation requirements are met, such as:

- Required signatures have been received.
- Any required documents are completed and submitted.
- Contractor meets all specifications and requirements as written.

### **Non-responsive and Non-responsible Prospective Contractors**

Non-responsive and non-responsible prospective contractors’ bids are rejected. See A.C.A. § 19-11-204 for information regarding responsive and responsible prospective contractors.

Should you need to reject a prospective contractor’s proposal for failure to meet a requirement, the prospective contractor must be contacted and advised of the rejection. A phone call is acceptable, but an email should follow to document the rejection. The email should include the reason for rejection as well as a reference to the specific language from the RFP which contains the requirement that was not met.

The qualifying proposals move on to evaluation.

**Step 6** – Facilitate the evaluation of proposals.

This evaluation and scoring is for the technical proposal only, not cost. The cost proposal remains sealed until after the technical evaluation is complete.

The basic evaluation steps are:

1. The agency selects the evaluation team.
  - Evaluation committee members should be selected based on their ability to make meaningful contributions to the evaluation of the competing proposals.
  - 3-5 evaluators is typically best. The number may vary and there is no upward limit, but TSS OSP strongly encourages a minimum of three members whenever possible. Seven or more could become difficult to schedule and may prolong the process.
  - An agency may request employees of:

- Other state agencies.
  - State boards and commissions.
  - Colleges and universities.
  - For more information regarding the evaluation committee selection, go to [Evaluation Committee Structure](#).
2. The evaluators must attend an Evaluator Conference facilitated by their agency APO or TSS OSP.
    - This meeting lasts about an hour or less and provides guidance to the evaluators regarding the proper procedure for evaluation as required by procurement law.
  3. The evaluators individually score all proposals.
    - The solicitation template contains language that explains the general scoring process for evaluation. Although evaluation of competing proposals inherently involves a certain degree of subjective judgment and discretion, proposals should be evaluated ethically, fairly, lawfully, and reasonably.
    - Using the Individual Score Worksheet, each evaluator will complete individual scoring of each proposal on his/her own time. After individual scoring is completed, the Individual Score Sheets (or copies) from all the evaluators must be provided to the buyer/facilitator in preparation for the consensus meeting.
  4. The evaluators attend the consensus meeting to discuss their scoring. Ideally this will allow the committee members a chance to offer their individual perspectives as well as potentially remedy any confusion or misunderstandings.
    - The evaluators will have the opportunity to adjust their individual scores based on the discussion.
    - The facilitator will enter any adjusted individual evaluator scores into the Consensus Score Sheets, which will calculate the technical score for each prospective contractor and the ranking of the prospective contractors' proposals according to their score.
    - Once all consensus scores are finalized, the evaluators will sign and date all score sheets.
    - The buyer will collect all signed score sheets for the procurement record, as well as all documents that were provided to the evaluators in training or that the evaluators used in the evaluation process.

### **Evaluation Score Sheets**

The buyer must create the score sheets for the evaluation. This must be completed prior to the evaluation training so that the individual score sheets can be provided to the evaluators at the evaluator conference. **The individual score sheets should be closely proofread prior**

**to distribution to evaluators since errors in the price sheets may affect the accuracy of the evaluation outcome.**

If demonstrations are included in the evaluation, the demonstration score sheets are typically created after the technical scoring portion of evaluation is completed and the list of prospective contractors who are invited to demonstrations is determined.

TSS OSP has created an Excel template for the score sheets, called [Evaluation Score Sheets](#). This is available to download from the TSS OSP website in the Solicitation Templates section on the Forms and Reporting page.

This Excel file consists of multiple spreadsheets that are required to execute the correct scoring process. A buyer may add to/adjust the score sheets for the number of evaluation questions, the number of evaluators, and the number of proposals.

The score sheets have the necessary formulas already plugged in. When adding to/adjusting the scoring tables, be sure that the formulas are updated in the correct cells as needed. See your supervisor if you need assistance with Excel formulas.

The TSS OSP Forms and Reporting web page also provides a link to instructions for preparing the score sheet correctly, called [Evaluation Score Sheets Instructions](#). Refer to these instructions when you are creating the score sheets for your RFP.

A copy of all final, signed score sheets must be kept in the official procurement record. The Summary Score Sheet shows the final technical score for each proposal.

For more information about the score sheets and how to use them correctly, go to [Evaluation Score Sheets](#).

## **Procurement Roles in Evaluation**

The role of procurement personnel in the evaluation process will differ depending on the agency and the type/dollar value of the solicitation.

As a general rule, the following applies to procurement roles in evaluation:

- For solicitations executed at the agency level when an APO is *not* on staff:
  - OSP provides the evaluator conference.
  - The agency buyer facilitates the scoring process and consensus meeting, and the demonstrations if applicable. He/she also compiles all the evaluation documents for the procurement record.
- For solicitations executed at the agency level when an APO *is* on staff:
  - The APO provides the evaluator conference.

- The agency buyer and/or the APO facilitates the scoring process and consensus meeting, and the demonstrations if applicable. He/she also compiles all the evaluation documents for the procurement record.
- For solicitations executed by TSS OSP:
  - The TSS OSP buyer provides the evaluator conference.
  - The TSS OSP buyer facilitates the scoring process and consensus meeting, and the demonstrations if applicable. He/she also compiles all the evaluation documents for the procurement record.

For more information about how to facilitate an evaluation, go to [Role of the Facilitator in Evaluation](#).

## Demonstrations

Demonstrations are an optional part of the technical evaluation and scoring. If an agency wants the option to require demonstrations, this should be stated in the RFP. Demonstrations generally take place *after* the initial evaluation of proposals is complete, and they are often the second scored phase of a technical evaluation. When handled in this fashion, the scoring totals from the technical proposals typically determine which prospective contractors will move forward to this phase of evaluation and be invited to provide a demonstration.

After each demonstration, evaluators may adjust their initial technical scores for that prospective contractor to reflect the information provided during the demonstration. If demonstrations are *not* going to be a part of the technical evaluation, then the scores from the evaluation of proposals are averaged and totaled to produce the *final technical score* for each proposal. If demonstrations *are* going to be included in the evaluation, then the adjusted technical score after the demonstration is the *final technical score* for each proposal.

For more information about how to facilitate demonstrations as part of an evaluation, go to [Facilitating Demonstrations in Evaluation](#).

**Step 7** – After the technical evaluation scores are finalized, open the sealed pricing with your supervisor or another procurement team member and calculate the grand total score for each proposal. The formula for calculating the points for cost is provided in the RFP template. The proposal with the highest grand total score (sum of the technical score and cost score) is the apparent successful prospective contractor.

When buyer notifies the end user/agency of the highest scoring prospective contractor, the end user or agency may request to negotiate contractual terms and/or pricing.

For more about negotiating a contract, go to [Negotiation](#).

**Step 8** – the buyer will officially notify the appropriate agency parties of the final negotiated price and contract terms and request approval to award to this prospective contractor. It is best practice to provide this notification and request for approval by email. This approval reply will create the written documentation you need for the procurement record.

**Step 9** - Upon approval of award to the apparent successful contractor, publicly post the anticipation to award (ATA) on the same website where the solicitation was posted. It is a best practice to email each prospective contractor who submitted a bid to advise them of the ATA posting. You may include the link to the ATA posting in the email.

For more information about posting an ATA on the TSS OSP website, go to [Publicly Posting Solicitation Documents](#).

Keep in mind that a prospective contractor who feels aggrieved by the anticipated award has the right to protest the award prior to the end of the 14-day ATA period. Only a prospective contractor who submitted a bid may protest, and a contract may not be awarded until after the protest is resolved.

For more information about the protest of an anticipated award, go to [Protests and Protest Resolution](#).

## 7.4 Awarding a Traditional RFP

To award an RFP:

1. After the end of the ATA period, and after any protests have been resolved, create the OA in AASIS (with reference to the PR, if a PR was created) and attach a copy of the following:
  - a. The solicitation with all attachments.
  - b. The successful contractor's bid submission including proposal and price sheet.
  - c. The bid tab sheet.
  - d. Any other pertinent documents, such as a negotiation agreement.

For step-by-step instruction for creating a PO or OA, see the OPM eLearning classes.

2. Obtain the AASIS approvals necessary for the contract to be released.
  - Along with the approvals in AASIS, remember that service contracts meeting the mandated dollar thresholds for legislative review must go through the review process *prior* to the final AASIS release.

For more information regarding legislative review, go to [Legislative Review and Reporting Requirements](#).

3. Activate the contract (OA) by executing the print function in AASIS. Provide a copy of the OA to the contractor via email.
4. Save all copies of any relevant procurement documents in the official procurement record.

For more information about requirements for the official procurement record, go to [Components of a Procurement Contract and the Procurement Record](#).

If your agency is not an AASIS user, follow your agency's procedures to award an RFP.

# Chapter 8: Issuing a Solicitation through TSS OSP

The steps for the procurement methods outlined thus far apply where an agency is issuing the solicitation and managing the procurement process on the agency level. Where TSS OSP is managing the solicitation process (typically solicitations exceeding \$75,000), the process may differ. That process generally follows the steps below:

1. Create a Purchase Requisition (PR).
2. Attach the required documents to the PR. Refer to the TSS OSP job aid [Document Attachments for a Purchase Requisition](#).
3. Change the Purchasing Group on the PR to “C00.”
  - This designation routes the PR to TSS OSP through the AASIS workflow where it will be assigned to a TSS OSP buyer.
  - It is still imperative that the agency assign a contract administrator who will work with TSS OSP during the solicitation process and who will be accountable for the contract at the agency level.
4. The TSS OSP buyer will use the solicitation templates to create the solicitation documents from the attached information and will work with the agency contact to finalize all the documents.
5. After agency approval of the final documents, the TSS OSP buyer will post the solicitation on the TSS OSP website.
6. Bids/responses will be received at TSS OSP, and the TSS OSP buyer will continue to work as the procurement facilitator with the agency to manage the evaluation and/or contractor selection and notification.
7. TSS OSP will typically create the resulting PO or OA for the agency.
8. The agency contract administrator will be responsible for all agency level activities relative to the new contract and for oversight of contractor performance.

## Chapter 9: Additional Procurement Methods

### 9.1 Request for Qualifications (RFQ)

A request for qualifications (RFQ) is a solicitation that focuses on qualifications or specialized expertise without any initial consideration of price. Other than as provided in § 19-11-801 et

seq., the RFQ process may only be used when, under rules promulgated by the State Procurement Director, the director determines in writing that the request for qualifications process is warranted (Ark. Code Ann. 19-11-204 (10)).

- Per Ark. Code Ann. § 19-11-802, the RFQ is the mandated procurement method when contracting for architectural, engineering, land surveying, legal, and interior design services.

An RFQ also be used as the selection method for other Professional Consultant Services contracts when it is determined to be the most suitable method of contracting by the State Procurement Director. It can be designed to award to a single contractor or to qualify a pool of contractors. (See TSS OSP R1:19-11-204.) Minimum qualifications must be provided to prospective contractors in the RFQ solicitation document.

### **RFQ Approval**

Obtain prior written approval from the State Procurement Director to utilize this procurement method ***unless it is for the procurement of legal, financial advisory, architectural, engineering, construction management, and land surveying services.***

Directions and steps for executing this type of procurement will be provided by TSS OSP once the RFQ procurement method has been approved.

### **Other Considerations – Legislative Review**

Some service contracts must be reported to the legislature or submitted for legislative review. If a service being procured meets the conditions for legislative review, prior to the final AASIS release, a contract submission in the PCS or TGS portal is required. After it has been submitted for review, the contract needs final approval from TSS OSP so that the final AASIS releases can be made to begin the contract. Attach the executed Services form to the PO or OA. See the TSS OSP website for additional information regarding legislative review of services contracts.

## **9.2 Request for Information (RFI)**

An RFI is a formal request to prospective contractors to provide information about a commodity or service prior to a possible solicitation.

*This is not a procurement method.* It is a tool for getting information about the market prior to issuing a solicitation. It does not directly result in a contract award. There are no dollar thresholds for this process.

Use an RFI when an agency is considering issuing a solicitation but needs further information about commodities or services available on the market.

A scope of work with general minimum requirements is provided to prospective contractors in the RFI template from the buyer.

Requests can be made for pricing information and for recommendations regarding pricing structure, but any prices provided are not binding in the same way that bids are.

The buyer must post the RFI and/or deliver the RFI to prospective contractors, and the prospective contractors provide a written response in the same manner as a competitive

sealed bid.

Templates for each of the procurement methods listed in this section are available on the “Procurement Forms and Reporting” page of the OSP website.

For Exempt by Law, Sole Source, or Special Procurements, see Chapter 5: Other Procurement Methods.

1. Contact TSS OSP for the current RFI template. (This template will soon be available on the “Procurement Forms and Reporting” page of the TSS OSP website.)
2. Update the RFI Template to reflect your agency’s addresses, contact information, and other references, as well as entering the necessary information in the designated places regarding dates, times, etc.
3. Enter the specifications in the designated section of the document. Although RFI specifications are typically more general than those for an actual solicitation, they need to be specific enough so that prospective contractors can easily respond with relevant information.
4. Create the questions or an information outline for the information you wish to receive from prospective contractors. This section is extremely important as it will be the guiding factor in the type and amount of information you get back from the prospective contractors.
5. Work with your end user to ensure that the specifications and the requested information criteria are designed to meet the agency’s informational needs and are approved to be sent to prospective contractors. Publicly post the RFI as you would a competitive sealed bid.

There are certain instances in which none of the procurement methods described in prior sections of this manual apply. These are cases in which the commodities or services being procured meet special criteria as defined by procurement law, or in which the competitive bid process cannot be used. These are:

1. Exempt by Law (EL)
2. Sole Source (SS)
3. Special Procurement (SPECIAL)

### **9.3 Exempt by Law (EL)**

The purchase of some commodities or services are exempt from the standard procurement procedures by law. These commodities and services are specified in Arkansas law (Ark. Code Ann. § 19-11-203). The purchase still must follow established “exempt” purchasing procedures and may require special approvals. Follow the steps below for the purchase of these exempt commodities or services.

1. Review 19-11-203 (14) to confirm the commodity or service is exempt. Seek the advice of your agency's legal counsel if you are unsure.
2. Create the purchase requisition (PR) for the purchase.
3. After all approvals are received on the PR, create the purchase order (PO) or outline agreement (OA) using the EL procurement code in the Our Reference field. The EL code will ensure the document is routed through the appropriate approval process for this method of procurement. After all internal releases/approvals are executed, the PO or OA will automatically be routed through AASIS to the Office of State Procurement (OSP) for the State Procurement Director's approval.
4. If the purchase meets the criteria for Arkansas Legislative Council (ALC) review, prior to the final AASIS release at TSS OSP, a contract submission in the portal is required. Once reviewed, the contract will be executed by TSS OSP, and then the final TSS OSP releases can be made to begin the contract.
5. Attach the executed Services form to the PO or OA. See the TSS OSP website for information regarding legislative review of services contracts.

### Determining if a Commodity or Service is Exempt by Law

According to Ark. Code Ann. 19-11-203 (14), "Exempt commodities and services" means

- Advertising in multiple media formats
- Animals procured for medical research
- Commodities and services for use in research, education, and treatment for the diagnosis, cure, and prevention of disease
- These may be procured with administrative approval through a group purchasing entity serving other public health institutions when substantial savings are available
- A report shall be filed annually with the Division of Legislative Audit reflecting the justification of and the estimated savings accruing due to the use of this exemption
- Commodities procured for resale in cafeterias, commissaries, bookstores, gift shops, canteens, and other similar establishments
- However, these commodities procured shall not be sold or transferred to any agency with the intent of circumventing applicable procurement procedures
- Contracts awarded by agencies for the construction of buildings and facilities and for major repairs
- These contract exemptions shall not extend to the procurement of any commodities not otherwise exempt that are to be furnished by the agency under any such contract
- Contracts awarded by the Arkansas State Highway and Transportation Department for the construction, reconstruction, and maintenance of roads and bridges in the state highway system and for the county, rural road aid, and city street aid programs
- Farm products procured or sold by a state agency having an agency procurement official
- The current trade customs with respect to the procurement or sale of cotton, cotton seed, rice, and other farm products shall be followed when it is necessary to obtain the best price for the commodities procured or sold
- Fees, including medical fees and physician fees

Foster care maintenance services provided by foster family homes approved by the Division of Children and Family Services of the Department of Human Services for children whose placement and care are the responsibility of the Division of Children and Family Services of the Department of Human Services

Freight and storage charges and demurrage

Licenses required prior to performance of services

Livestock procured by an agency having an official experienced in selection and procurement of livestock

Such procurement will be reported to the State Procurement Director, giving details of the purchase

Livestock procured for breeding, research, or experimental purposes

Maintenance on office machines and technical equipment

Medical items specifically requested by a physician for treatment or diagnosis of patients in his or her care, including prosthetic devices, surgical instruments, heart valves, pacemakers, radioisotopes, and catheters

Membership in professional, trade, and other similar associations

Perishable foodstuffs for immediate use or processing

Postage

Published books, manuals, maps, periodicals, films, technical pamphlets, and copyrighted educational aids for use in libraries and for other informational or instructional purposes in instances in which other applicable law does not provide a restrictive means for the acquisition of these materials

Services of visiting speakers, lecturers, and performing artists

Taxes

Travel expense items such as room and board and transportation charges

Utility services or equipment that is defined, recognized, and regulated by the Arkansas Public Service Commission as a monopoly offering

Works of art for museum and public display

Capital improvements valued at less than twenty thousand dollars (\$20,000), subject to minimum standards and criteria of the Arkansas Building Authority

Services related to work force development, incumbent work force training, or specialized business or industry training

The following commodities and services relating to proprietary software after the initial procurement:

Technical support

Renewals

Additional copies

License upgrades

Commodities and raw materials purchased by Arkansas Correctional Industries intended for use in goods for resale

Commodities purchased by the Department of Correction for crop production, including without limitation fertilizers, seed, seedlings, and agricultural-related chemicals

Repair services for hidden or unknown damages to machinery already purchased

## 9.4 Sole Source (SS)

Occasionally, the purchase of a commodity or service may fall under the designation of a sole source. SS procurements are those which are available only from a single source and cannot be competitively procured. Brand name or design specifications are not sufficient justifications for SS procurements. The definition for what qualifies as a SS purchase is provided in 19-11-

232. The purchase still must follow established SS purchasing procedures and may require special approvals. Follow the steps below for the purchase of a SS commodity or service.

1. After it has been determined that the purchase can only be made from a sole source, create a sole source justification letter providing detailed answers to the following seven questions:
  - a. Why is this commodity or service needed?
  - b. What method(s) were used to determine that a lack of responsible competition exists for this commodity or service?
  - c. How was it determined that this commodity or service can only be provided by one source?
  - d. Can requirements be modified so that the commodity or service may be competitively bid? If not, why?
  - e. Are there patent, copyright or proprietary rights which make the required commodity or service unavailable from other sources?
  - f. What would the agency do if the commodity or service was no longer available?
  - g. Detail any program considerations, which make the use of a SS procurement critical to the agency.
2. The SS justification letter must be reviewed and signed by the agency Director, CFO, Deputy Director or Administrator.
3. Create a PR using the SS code. Attach the justification letter. The SS code will route the PR to TSS OSP for final release.
4. Once the PR has been released by TSS OSP, create your PO or OA in reference to the PR.
5. Attach the justification letter to the PO or OA in AASIS for State Procurement Director review and approval.

**Note:** Some purchases require Legislative reporting or review. If a service being procured meets the stipulations for Legislative Review, prior to the final AASIS release, a contract submission in the portal is required. Once reviewed, the contract will be executed by TSS OSP, and then the final AASIS releases can be made to begin the contract. Attach the executed Services form to the PO or OA. See the TSS OSP website for information regarding legislative review of services contracts.

## 9.5 Special Procurement (SPECIAL)

Occasionally, 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 initiate a special procurement pursuant to Arkansas law (Ark. Code Ann. § 19-11-263). The Special Procurement procedures are as follows.

1. The head of a procurement agency must make a written determination that an unusual or unique situation exists that makes applying the requirements of competitive bidding contrary to the public interest. The request must explain the unique or unusual circumstances justifying special procurement and for the selection of the requested prospective contractor. The request must identify or explain:
  - a. The contract number (PO or OA).
  - b. The amount to be spent, expressed as the total projected cost.
  - c. The unusual or unique situation that justifies special procurement.
  - d. Why a competitive procurement is contrary to the public interest.
  - e. The proposed start date and end date (validity dates on the PO/OA).
  - f. How long the unusual or unique situation that justifies special procurement as an alternative to competitive procurement is expected to last.
  - g. 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.
  - h. 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.
  - i. The contractor selected and the reasons for the selection of the contractor.
2. Create a purchase requisition for the procurement and process as normal.
3. After you have received appropriate approvals on the PR, create your PO or OA using procurement code SPECIAL in the Our Reference field. This code will route the PO or OA to TSS OSP through AASIS workflow once all internal approvals are complete.
4. Attach the letter to the Purchase Order or Outline Agreement. Upon receipt of the PO or OA at TSS OSP, this letter will be reviewed by the State Procurement Director for approval. Once approved, TSS OSP will execute the final release on the PO or OA.

**Note:** Some purchases require Legislative reporting or review. If a service being procured meets the stipulations for Legislative Review, prior to the final AASIS release, a contract submission in the portal is required. Once reviewed, the contract will be executed by TSS OSP, and then the final AASIS releases can be made to begin the contract. Attach the executed Services form to the PO or OA. See the TSS OSP website for information regarding legislative review of services contracts.