

## Section 4.2.1: Procedures for Sole Source, Impracticable to Compete and Other Waiver Requests

### PURPOSE AND POLICY

In some cases, a grantor may be unable to procure goods or services through a competitive process because a procurement requirement exists that makes compliance with procurement statute impracticable, unnecessary, or contrary to the public interest. Arizona Revised Statute (A.R.S.) [41-2703](#) authorizes procuring goods in these types of scenarios per the discretion of the director of the Department of Administration: sole-source, emergency and competition impracticable procurements.

**Sole Source Procurements.** A contract may be awarded for a material, service or construction item without competition if the ADOA director determines in writing that there is only one source for the required material, service or construction item. The ADOA director may require the submission of cost or pricing data in connection with an award. Sole source procurement shall be avoided, except when no reasonable alternative sources exist. A written determination of the basis for the sole source procurement shall be included in the contract file.

**Emergency Procurements.** The ADOA director may make or authorize others to make emergency procurements if there exists a threat to public health, welfare or safety or if a situation exists which makes compliance with procurement statutes impracticable, unnecessary or contrary to the public interest as defined in rules adopted by the director, except that such emergency procurements shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor must be included in the contract file.

**Competition Impracticable.** The director of the Arizona Department of Administration (ADOA) or the director's designee may waive the solicitation and award procedures if a situation exists that makes compliance with section [A.R.S. 41-2702](#) impracticable, unnecessary or contrary to the public interest, except that the grant solicitation and award shall be made with competition that is practicable under the circumstances.

A state agency seeking a waiver of solicitation and award procedures must prepare a written request documenting and explaining the situation justifying the waiver. The agency must submit the written request to the ADOA director or the director's designee, who will determine in writing whether to grant the request. If the request is granted, the determination shall state the manner in which the grant is to be solicited and awarded and the limits of the determination. A copy of each request and determination must be kept on file in the office of the agency requesting the waiver and the office of the ADOA director or the office of the director's designee.

### **Laws and Rules governing sole source, emergency and competition impracticable procurements.**

Arizona Revised Statute ([ARS](#)) [41-2536](#) and Arizona Administrative Code (AAC) [AAC R2-7-E301](#) provides the statutory authority and regulatory framework for sole source procurement. [ARS 41-2537](#) and [AAC R2-7-E302](#) provides the statutory authority and regulatory framework for emergency procurements. [ARS 41-2703](#) and [AAC R2-7-E303](#) provides the statutory authority and regulatory framework for competition impracticable.