



## NON-COMPETITIVE CONTRACTING

### Sole Source

In all instances where bids are not solicited, the legal authority to use an exception to soliciting bids must be fully justified by the client prior to the request being considered:

1. Referencing the applicable [Government Contracting Regulations](#)
2. Providing responses to the [Annex 3.1: Treasury Board questions for sole source](#)

### Procurement Objective

The objective of government contracting is to acquire goods, services and construction in a manner that:

- Enhances access
- Provides competition
- Treats industry fairly and,
- Results in the best value or optimal balance of overall benefits to the Crown and Canadian people.

As per the [Government Contracting Regulations](#) a contracting authority must solicit bids prior to entering into a contract. There are four exceptions that permit the contracting authority to set aside the requirement to solicit bids.

- a. the need is one of pressing emergency in which delay would be injurious to the public interest;
- b. the estimated expenditure does not exceed \$25,000 for goods, and \$100,000 for services and construction contracts;
- c. the nature of the work is such that it would not be in the public interest to solicit bids; or
- d. only one person or firm is capable of performing the contract.

When invoking exception 6(d) of the GCR s for procurements above \$25K for goods and \$100k for services, the responses to the questions contained in the Treasury Board questions for sole source must be part of your file submission. This exception is primarily used for compatibility or proprietary issues such as:

- a. for software compatibility issues
- b. you are dealing with the original equipment manufacturer (OEM) and they do not authorize value-added resellers or distributors for their equipment.
- c. patent or copyright is held
- d. technical compatibility factors suggest only one contractor exists

### Advance Contract Award Notice (ACAN)

An ACAN is a public notice to the supplier community the intent to award a contract by soliciting a bid from and negotiating with only one supplier, believed to be the only one capable of performing the work or providing the goods. However, potential suppliers who feel they can also meet the requirements can submit a Statement of Capabilities to challenge the award. If no valid challenge is received, the contract



can be awarded and is deemed competitive. If a valid challenge is received, the requirement must be tendered through a full RFP process. The notice must be posted on CanadaBuys for a minimum of 15 calendar days. [Supply Manual 3.15.5 Advance Contract Award Notice](#)

### No ACAN Process

An ACAN may be published only for requirements where Canada is able to accept a statement of capabilities from another supplier. Contracting officers must ensure that Canada is in a position to accept a statement of capabilities before publishing an ACAN. In circumstances where there is no possibility of another supplier submitting a statement of capabilities or where Canada cannot, for program or policy reasons, accept a statement of capabilities from another supplier, an ACAN must not be published. [Supply Manual 3.15.5.10 Statement of Capabilities \(challenge process\)](#)

### No Substitute

A “No Substitute” request is when the client considers only one specific product or good that will meet their requirement. A “No Substitute” requirement is usually related to a compatibility or interchanging of parts, integral to existing equipment or performing specific functions critical to the operational success of a program. A “No Substitute” requires a specific product or good, but that good may be fulfilled competitively by multiple suppliers. Answers to the [Annex 3.1: Treasury Board questions for sole source](#) should be provided to clarify the requirement.