

Sole Source CONTRACT Filing Justification Template

Use the following justification template for preparing to file sole source contracts in the [Sole Source Contracts Database](#) (SSCD). Once completed, copy and paste the answers into the corresponding SSCD question and answer fields. You will also need to include a copy of this completed form in the documents you post to your agency website and in [WEBS](#).

What is a sole source contract?

"Sole source" means a contractor providing goods or services of such a unique nature or sole availability at the location required that the contractor is clearly and justifiably the only practicable source to provide the goods or services. (RCW 39.26.010)

Unique qualifications or services are those which are highly specialized or one-of-a-kind.

Other factors which may be considered include past performance, cost-effectiveness (learning curve), and/or follow-up nature of the required goods and/or services. Past performance alone does not provide adequate justification for a sole source contract. Time constraints may be considered as a contributing factor in a sole source justification however will not be on its own a sufficient justification.

Why is a sole source justification required?

The State of Washington, by policy and law, believes competition is the best strategy to obtain the best value for the goods and services it purchases, and to ensure that all interested vendors have a fair and transparent opportunity to sell goods and services to the state.

A sole source contract does not benefit from competition. Thus the state, through RCW 39.26.010, has determined it is important to evaluate whether the conditions, costs and risks related to the proposal of a sole source contract truly outweigh forgoing the benefits of a competitive contract.

Providing compelling answers to the following questions will facilitate the evaluation.

Specific Problem or Need

- What is the business need or problem that requires this contract?

Background:

The Department of Revenue (DOR) is the custodian and administrator of Washington's Unclaimed Property (UCP) program per Chapter 63.29 RCW. DOR is a member of the National Association of Unclaimed Property Administrators (NAUPA) – an organization with membership consisting of the unclaimed property program administrators of each state and representing the interests of state unclaimed property programs. NAUPA is an unincorporated

affiliate of the National Association of State Treasurers (NAST) – a 501(c)(6) not-for-profit organization with membership composed of the state treasurers or comparable fiscal officers of each state. The Washington State Treasurer’s office is a member of NAST.

Historically, private sector retirement plans have not reported unclaimed property to states, citing preemption under the Employee Retirement Income Security Act (ERISA), 29 U.S.C. § 1001 *et seq.* However, in November 2019, the ERISA Advisory Council (Council) recommended to the U.S. Department of Labor (USDOL) that private sector retirement plans be permitted to voluntarily report uncashed plan distribution checks to state UCP programs. The Council also noted that variations in state reporting requirements and systems create a barrier to this voluntary reporting.

As the only duly authorized organization representing state unclaimed property programs, NAUPA (through NAST) is working to create a common approach to the reporting of unclaimed private sector retirement plan property among all states. NAUPA is also interacting with the USDOL on implementation of nationwide reporting protocols (including the promulgation of administrative rules) through a centralized collaborative approach that promotes the interests of each state.

Additionally, the states need a centralized, efficient means for the reporting and collection of unclaimed retirement plan property, which greatly streamlines plan reporting and optimizes costs for participating states. To fill this need, NAST, through its membership, created the States’ Unclaimed Retirement Clearing House (SURCH) system. This centralized, internet-based reporting and remittance platform will be managed by NAST and addresses the multi-state compliance functions.

Business Problem:

SURCH is the only technology system developed for the reporting and processing of unclaimed retirement plan property. As the Washington State UCP Administrator and member of NAUPA, DOR intends to participate in the collection and administration of unclaimed property held by private sector retirement plans. DOR wants to support the nationwide centralized and collaborative approach. To do so, DOR intends to enter into an agreement with NAST to participate in the use of the SURCH solution. Without participation with NAST and use of the SURCH solution, DOR is unable to participate in the nationwide collaborative effort to collect, process, and ultimately return to the rightful owner unclaimed private sector retirement account funds.

Sole Source Criteria

- Describe the unique features, qualifications, abilities, or expertise of the contractor proposed for this sole source contract.

NAST and NAUPA are the only source that exists to provide the SURCH services as a cooperative arrangement for all state UCP programs. SURCH was created by NAST and NAUPA, along with its member states, to address and ultimately resolve the pre-conditions established by the USDOL and retirement plans for the transfer of unclaimed retirement plan funds to state unclaimed property programs.

NAST and NAUPA, under the direction of their member states, will work with the USDOL to arrive at uniform reporting protocols. NAST and NAUPA will provide an Internet-based reporting utility to allow retirement plans to report unclaimed retirement plan distributions to all states contemporaneously, utilizing the uniform reporting protocols that NAST and NAUPA negotiated with the USDOL and which the USDOL has sanctioned.

Through the SURCH solution, NAST and NAUPA will cause the unclaimed retirement plan property to be reported to each participating state (in the state's preferred reporting format) to be accompanied by the underlying funds. NAST, NAUPA, and member states have considered other alternatives to the SURCH model but failed to identify another approach that would align with the USDOL and Council's recommendation for a single, centralized reporting mechanism.

- What kind of market research did the agency conduct to conclude that alternative sources were inappropriate or unavailable? Provide a narrative description of the agency's due diligence in determining the basis for the sole source contract, including methods used by the agency to conduct a review of available sources such as researching trade publications, industry newsletters and the internet; contacting similar service providers; and reviewing statewide pricing trends and/or agreements. Include a list of businesses contacted (if you state that no other businesses were contacted, explain why not), date of contact, method of contact (telephone, mail, e-mail, other), and documentation demonstrating an explanation of why those businesses could not or would not, under any circumstances, perform the contract; or an explanation of why the agency has determined that no businesses other than the prospective contractor can perform the contract.

Since federal law exempts these retirement plan distributions from state unclaimed property laws, DOR has not considered or researched any other options. As a member of NAUPA, DOR wants to support and be a part of the collaboration on nation-wide reporting rules and centralized solution approach.

NAST and NAUPA members considered how an unclaimed retirement clearing house could ever become operational if it were subject to individual state competitive procurements. All 50 states, the District of Columbia, Puerto Rico, and the Virgin Islands of the United States all have enacted unclaimed property laws. If all 53 different jurisdictions undertook procurements for a clearinghouse solution, it is very likely there would be awards to multiple contractors. This would result in multiple retirement plan reporting solutions, a failure to achieve the required economies of scale, the potential for variations in reporting requirements and functionality for each system, and lack of a uniform, nationwide

approach, risking withdrawal of support from the USDOL, the Council, and the private retirement plan industry.

NAST and NAUPA released a Request for Information on April 30, 2020. Seven proposals were received. Subsequently, a Request for Proposal (RFP) competitive solicitation was released by NAST and NAUPA on July 31, 2020. Three proposals were submitted in response to the RFP with two proceeding to the interview portion of the evaluation. An ASV was selected, and the NAST Executive Director signed a contract with a vendor responsible to provide the SURCH solution on February 11, 2021.

- What considerations were given to providing opportunities in this contract for small business, including but not limited to unbundling the goods and/or services acquired.

N/A

This contract will be between NAST and DOR for DOR's participation in the use of the SURCH system and processing of reported unclaimed retirement funds. The contract focuses on the roles of each party. Because NAST has subcontracted with a vendor for creation and maintenance of a SaaS SURCH solution, there is no option for DOR to provide opportunities to other vendors. DOR has a UCP solution for processing unclaimed property per current regulations. This system was obtained by way of a competitive procurement conducted in 2019 per Chapter 39.26 RCW.

- Provide a detailed and compelling description that includes quantification of the costs and risks mitigated by contracting with this contractor (i.e. learning curve, follow-up nature).

The costs to DOR for participation in the centralized collection and administration of unclaimed private sector retirement plan funds through the SURCH solution is 8% (eight percent) of the funds remitted to Washington State. In time periods when nothing is reported for Washington, there is no fee to DOR.

It should be noted that DOR's UCP program is self-funding, per [Chapter 63.29.230 RCW](#), subsection 2. From the unclaimed funds received by DOR, part is deposited in the general fund of the state and part is retained in a separate trust fund used for prompt payment of approved claims by property owners. RCW 63.29.230(2) states:

The Department of Revenue may pay from the trust fund provided in subsection (1) of this section any costs of administering this chapter.

Because the participation in SURCH and the processing of unclaimed private sector retirement funds falls under the state's unclaimed property program, the 8% fee will be funded per RCW 63.29.230(2).

The learning curve for this solution is relatively low. The reported retirement fund information and funds will be reported from SURCH to DOR's UCP solution. DOR will complete all its administrative work in its current UCP solution.

There will be some training of DOR in relation to the reports and data transfer from SURCH to DOR's UCP solution. Also, some training in regard to the reconciliation of the funds received will be necessary. DOR does not have concerns regarding training, use of the SURCH solution, or reconciliation of the collected funds. These processes are similar to processes DOR uses for other UCP remittances.

- Is the agency proposing this sole source contract because of special circumstances such as confidential investigations, copyright restrictions, etc.? If so, please describe.

DOR is proposing this sole source contract with NAST because:

- NAST is the only provider of a centralized reporting mechanism for unclaimed private section retirement funds.
 - NAUPA is an unincorporated affiliate of NAST. NAST and NAUPA are working together to implement a nationwide, voluntary reporting of unclaimed retirement funds for administration and processing by state UCP programs.
 - DOR is a member of NAUPA and has a statutory obligation to administer unclaimed property for Washington State.
- Is the agency proposing this sole source contract because of unavoidable, critical time delays or issues that prevented the agency from completing this acquisition using a competitive process? If so, please describe. For example, if time constraints are applicable, identify when the agency was on notice of the need for the goods and/or service, the entity that imposed the constraints, explain the authority of that entity to impose them, and provide the timelines within which work must be accomplished.

No.

- Is the agency proposing this sole source contract because of a geographic limitation? If the proposed contractor is the only source available in the geographical area, state the basis for this conclusion and the rationale for limiting the size of the geographical area selected.

No.

- What are the consequences of not having this sole source filing approved? Describe in detail the impact to the agency and to services it provides if this sole source filing is not approved.

If DOR does not participate with NAST/NAUPA in the use of SURCH for unclaimed private sector retirement funds, DOR will not be fulfilling its obligation as the UCP administrator.

Based on NAST research, this table shows the estimated amount of unclaimed retirement funds that may be reported to Washington State in the first three years of participation. If the state does not participate in this program these funds will

never be reported to Washington State. Without the central location to search and claim the funds, which participation in the SURCH solution will provide, Washington State citizens who these funds belong to may never know the funds exist.

Year	Estimated Collection	8% fee	
1	\$0.00	\$0.00	
2	\$1,150,000.00	\$92,000.00	
3	\$4,600,000.00	\$368,000.00	
	\$5,750,000.00	\$460,000.00	total for 3 year term
4, 5, and 6	\$13,800,000	\$1,104,000	3-year contract extension, assumes annual collection is same as year 3.
	\$19,550,000	\$1,564,000	Grand totals

Sole Source Posting

- Provide the date in which the sole source posting, the draft contract, and a copy of the Sole Source Contract Justification Template were published in WEBS.

August 3, 2022

- Were responses received to the sole source posting in WEBS?

Not as of this date.

Reasonableness of Cost

Since competition was not used as the means for procurement, how did the agency conclude that the costs, fees, or rates negotiated are fair and reasonable? Please make a comparison with comparable contracts, use the results of a market survey, or employ some other appropriate means calculated to make such a determination.

DOR contracts with vendor auditors who charge a contingent fee for their services. The fee ranges from 9 - 15%. The fee structure of 8% for the SURCH services is designed similar to the vendor audit fee structure. The fee charged will be used by NAST to pay the bank processing the payments received and NAST's administrative costs.