



Sole Source CONTRACT Filing Justification Template

Division or Region: Aquatic Resources Division

Date: August 21, 2024

Solicitation Number: 93-107737

Company Name: Kenmore Air Harbor Inc.

Sub-object good/services will be charged once approved: ER

Funding Source (federal/state/local): State

Vendor FIN/TIN (Federal ID#/ Taxpayer ID#): 91-0525776

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 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 DES' evaluation.

Specific Problem or Need



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

The Washington State Department of Natural Resources (DNR) received an appropriation in the FY24 legislative supplemental budget to fund the removal of tires from docks serving floatplanes in salmon-bearing waterways. These tires contain an anti-degradant called 6PPD. 6PPD stands for the chemical N-(1,3-dimethylbutyl)-N'-phenyl-p-phenylenediamine. This chemical prevents automotive tires from breaking down and helps them last longer. As described on Washington State Department of Ecology's website, when 6PPD is exposed to air, it reacts with ozone to create 6PPD-quinone (6PPD-q) which is lethal to coho salmon and can leach into water systems, resulting in contamination (<https://ecology.wa.gov/waste-toxics/reducing-toxic-chemicals/addressing-priority-toxic-chemicals/6ppd>). Coho salmon have a complex life history and are known to be vulnerable to various environmental stressors including habitat degradation and toxic contamination in both marine and river systems in which they live.

Kenmore Air Harbor Inc. (henceforth "Kenmore Air") has worked with DNR to find alternatives to using tires on their seaplane docks. DNR conducted documented outreach to potential vendors in 2010, 2018, and most recently in 2022 to identify if any contractors would be interested or able to design and implement a product that could fit the specific needs of the seaplane industry. These outreach exercises resulted in no additional fendering options or vendor interest.

The seaplane industry historically utilized tires containing the 6PPD chemical as a fendering system on docks because of the aluminum floats on seaplanes. Seaplane floats are typically hollow and, if an impact occurs at a dock with typical boat fendering systems, the float can become punctured.

Tires have historically acted as a pivoting point for the alignment of the seaplane and must be placed low on the docks below the water. This is especially of concern during strong wind events due to the propulsion system on the seaplane. This prevents the seaplane floats from lodging under the dock causing extensive damage. The average 2024 price for the replacement of a single float can cost up to \$500,000 according to Seaplanes West a division of Acorn Welding who is a manufacturer and distributor of aviation parts. Price quotes obtained in 2011 ranged from \$36,000 to \$100,000 for a single float replacement. These prices are dependent on the type of seaplane.

In 2023, Kenmore Air successfully installed and began utilizing a black rubber fendering system at Kenmore Air and the Puyallup Tribe's seaplane terminal in



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Commencement Bay. This is the first known successful implementation of an alternative to tire-based fender systems for float planes.

The scope of work includes the removal and recycling of approximately 600 used tires containing 6PPD in salmon-bearing waterways at three Kenmore Air-owned seaplane floats in South Lake Union, Kenmore & Roche Harbor in Washington State. These sites are located on or near state-owned aquatic lands and thus potential environmental impacts from the tires currently in use will affect DNR property.

Sole Source Criteria

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

Kenmore Air worked with DNR to find alternatives to using tires on their seaplane docks. DNR previously compiled lists of potential vendors in 2010, 2018, and 2022, before this legislative funding was available. At that point in time, DNR was not been able to find another vendor who could fit the specific needs of the seaplane industry. In 2023, Kenmore Air successfully installed and began utilizing a black rubber fendering system at Kenmore Air and the Puyallup Tribe's seaplane terminal in Commencement Bay, located in Washington State. This is the first known successful implementation of an alternative to tire-based fender systems for float planes. This system is the only system that will meet DNR's needs to reduce environmental impact, comply with the conditions of the FY24 legislative funding provisions, and meet the needs of the seaplane industry.

- 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. Use DES' Market Research Template if assistance is needed.

DNR performed the searches below but was unsuccessful in locating another contractor who could perform the work as described in the contract.

- **Past solicitation**
 - DNR researched and did not locate any past solicitations for the type of work to be performed under this contract.
- **Internet Search**
 - DNR conducted an extensive search of the internet but did not locate any alternative tire replacements for seaplane docks that met the seaplane industry's needs. Fender searches result in options for boating only.



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- **Database Searches**
 - DNR searched WEBS using ‘Boat Fender’ Community Code and located no vendor that could perform the work as described in this contract
 - Kenmore Air does have a DES Statewide Contract, but it is not for this type of work. There are no DES Statewide Contracts for this type of project.
 - A search of the Office of Women and Minority Business Enterprises (OMWBE)’s certified business search tool did not produce any vendors capable of performing this project.

- **Request for Information (RFI) and Additional Market Research Techniques**
 - 2022 market research was performed by Rachel Skubel with no results.
 - 2018 market research was performed by Lalena Amiotte with no results.
 - 2010 seaplane dock tire alternative list was produced by Lalena Amiotte but list does not include any vendor with the capability to perform this work.

- As part of the market research requirements, include a list of statewide contracts reviewed and/or businesses contacted, 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.

DNR has researched alternatives to tire use at seaplane docks since 2010, long before the FY 24 funding was made available, and has not found any proven alternatives nor any companies that would have the capability to attempt to develop alternative solutions given the limited number of seaplane docks.

DNR searched OMWBE’s certified vendors, WEBS, internet search tools, and DES Statewide Contracts. The result was that the agency found no other company capable of providing an alternative solution to the problem of removing tires from float docks with an environmentally compatible alternative that still met the needs of the industry utilizing DNR’s state-owned aquatic lands.

Seaplane facilities require a specific float system different from boat fenders and other bumper systems. Seaplane operators risk expensive damage to the seaplane floats if utilizing a dock with inadequate fendering. Kenmore Air is the only known seaplane company that has successfully installed and utilized an alternative to tires at seaplane docks.



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- Per the Supplier Diversity Policy, DES-090-06: was this purchase included in the agency's forecasted needs report?

Yes, it will be in the report due October 2024.

- Describe what targeted industry outreach was completed to locate small and/or veteran-owned businesses to meet the agency's need?

Targeted industry outreach has been conducted multiple times by DNR staff since 2010 to identify potential contractors to fit the specific needs of the seaplane industry. This includes reaching out to small and/or veteran-owned businesses. Due to the lack of available contractors with the ability to perform the work, DNR agreed to use of tires specifically for seaplane docks in leasing agreements while researching alternatives until this contract can be put in place.

- What considerations were given to unbundling the goods and/or services in this contract, which would provide opportunities for Washington small, diverse, and/or veteran-owned businesses. Provide a summary of your agency's unbundling analysis for this contract.

DNR examined this project and determined that the work required does not lend itself to unbundling. The fendering material solution has been identified by Kenmore Air, which they are using at another location, and the project activities for this contract will occur on privately-owned property that is adjacent to state-owned aquatic lands. To unbundle this project, an alternative would need to be identified and approved, which would result in an extended research and development phase. The work also consists of removing tires and replacing them with an already identified appropriate fender material, which cannot be done by separate contractors, as this is a proprietary solution occurring on privately owned improvements. Unbundling the removal and replacement work would not only increase costs by mobilizing and demobilizing separate companies for only two phases of work but delay the removal of a known and documented lethal chemical from state waterways.

- 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).

If Kenmore Air is not selected as the contractor, another contractor would have to attempt to duplicate the solution already successfully implemented or come up with a comparable alternative. This would result in increased research and design costs, as well as longer implementation timelines. Continued leaching of toxic 6PPD chemicals into salmon-bearing waterways would be detrimental to aquatic species including Coho salmon. This species of salmon has been documented in scientific literature to have population declines linked to habitat degradation including exposure to highly toxic chemicals like 6PPD (<https://www.washington.edu/news/2020/12/03/tire-related-chemical-largely-responsible->



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[for-adult-coho-salmon-deaths-in-urban-streams/](#)). Increased timelines and a need to develop a solution independent of the one already in play would increase costs to the state significantly. Given that the solution already implemented by Kenmore Air has proven successful, going with a different contractor introduces the possibility of failure to meet the need of the agency and decrease the likelihood of success. In 2023, Kenmore Air successfully installed and began utilizing a black rubber fendering system at Kenmore Air and the Puyallup Tribe's seaplane terminal in Commencement Bay. The fact that this solution is already successful at one location reduces potential costs of trying to implement a solution that is untested.

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

Not Applicable.

- 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.

- 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 this filing is not approved, the tires that are currently being used as fenders will remain in place and continue to leach toxic chemicals into the waters of Puget Sound, including 6ppd, a lethal chemical to salmon. DNR would continue to work with the seaplane industry to include an improvement schedule in habitat stewardship recommendations in leasing agreements. This would decelerate the removal of toxic chemicals from salmon-bearing waterways due to associated cost constraints of seaplane dock owners and operators for tire removal and replacement and would increase negative impacts on aquatic species and their habitats.

Sole Source Posting

- Sole Source Posting on Agency Website - Provide the date in which the sole source posting, the draft contract, and a copy of the Sole Source Contract Justification Template were published on your agency's website.



- If failed to post, please explain why.
- 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.
 - If failed to post, please explain why.
- Were responses received to the sole source posting in WEBS?
 - If one or more responses are received, list name of entities responding and explain how the agency concluded the contract is appropriate for sole source award.

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.

If Kenmore Air is not selected as the contractor, another contractor would have to attempt to duplicate the solution already successfully implemented, likely resulting in increased research and design costs, as well as longer implementation timelines. Given that the solution already implemented by Kenmore Air has proven successful, going with a different contractor would result in higher costs for having another vendor come up with a solution that works and yet likely not be as successful.

Costs below are from Kenmore Air’s proposal and DNR determined that the costs fit within what the agency expected and below the amount allocated in FY 24 by the legislature.

QUANTITY	DESCRIPTION	UNIT PRICE	TOTAL
825	Rubber Fender 6”x6”x24”	128.88	106,326.00
600	Used tire disposal/recycling	6.00	3,600.00
1650	Attachment hardware	3.50	5,775.00
1200’	Untreated cedar dock attachment facing board	4.25	5,100.00
240 hrs.	Labor	40.00	9,600.00
	Consumables and Transportation		2,000.00



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SUBTOTAL	132,401.00
SALES TAX	13,902.11
SHIPPING & HANDLING	
TOTAL EST	146,303.11