

OFFICE OF PROCUREMENT SERVICES

Administration and Fiscal Services

Policy Title Noncompetitive Negotiations/Sole Source

Revised 01/12

A contract may be made by noncompetitive negotiation only for sole source purchases, or when competition is not feasible, as determined by the purchasing officer in writing. Sole source requests shall not be used for the purpose of expediting a purchase which would not otherwise qualify as a sole source.

Sole source is a situation in which there is only one (1) known capable supplier of a commodity or service due to the unique nature of the requirement, the supplier, or market conditions. Special or unique features may be used as a consideration, however, price, quality and/or delivery terms may not be used as a basis for sole source justification.

The following items are specifically determined to be exempt from bidding provided written justification clearly substantiating the item(s) are available from only one source.

- 1. Instructional materials, equipment, supplies, or services for which only one source of supply is available.** A written statement describing the need as it relates to a particular program is required. Items commonly covered under this policy include: classroom and training aids such as films, special books, maps, tests and testing services.
- 2. Patented equipment for which a single source of supply is available.** A written statement describing the need as it relates to the particular service or equipment is required and must justify the procurement on a noncompetitive basis.
- 3. Proprietary equipment and supplies.** Items that must be compatible with existing equipment or systems and which are available from one source only. A written statement describing the need as it relates to a particular system or piece of equipment is required and must justify the procurement on a noncompetitive basis.

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4. **Equipment lease or rental for which a single source of supply is available.** A written statement describing the need as it relates to the particular equipment is required and must justify the procurement on a noncompetitive basis.
5. **Proprietary service and maintenance agreements.** Preventative, scheduled, and unscheduled maintenance or services agreements with either manufacturer or authorized service agent. Written justification must identify provider as manufacturer or authorized service agent.
6. **Advertisements and public media.** Dissemination of information, advertisements or promotional items (includes newspaper, periodical, advertising).
7. **Dues and organizational fees.** Fees payable to a professional society or national organization engaged in established activities related to the authorized function in the area of the University. This policy does *not* apply to an individual employee's dues to a local organization.
8. **Computer software which is copyrighted and available from only one source.** Sole source copyrighted software for which only that software will meet the need of the application.
9. **Other commodities, equipment and services available from only one source.** A written statement describing the need as it relates to the particular commodity, equipment or service is required and must justify the procurement on a noncompetitive basis.

In addition to the written justifications noted above, the Justification for Sole Source Purchase Form must be completed and signed by the departmental supervisor and the appropriate director/dean/vice president. All documentation should be forwarded to the Office of Procurement Services for review.

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Any requests received to procure commodities, services, or equipment based on a sole source determination will be posted to the Current Bid/Proposal Opportunities section of the Procurement Services' website for at least 7 days prior to award. During that time any vendor may challenge a single source justification and provide documentation which demonstrates that they can in fact supply an equivalent commodity, service or equipment. In such cases, the procurement of the commodity, service or equipment will be competitively bid in accordance with KRS 45A.080.

If the single source justification is not challenged by any other vendors, the buyer will issue a single source determination, in writing, awarding the purchase to the vendor.

Both the University and its agents could be held liable for contracts issued through the single source procedure if the decision is based on false or incomplete information. All requests must be fully substantiated. If there is any doubt to the full justification of the purchase a sole source, the procurement of the commodity, service or equipment will be competitively bid in accordance with KRS 45A.080.

KRS 45A.095
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