

## SOLE SOURCE PROCUREMENT POLICY

### Definitions

A Sole Source purchase exists when research has determined there is only one potential provider for an item or service. To be a bona fide exemption to the Texas Education Code purchasing law requirements, there must be no other like items available for purchase that would serve the same purpose or function, and only one price for the product because of exclusive distribution or marketing rights. The fact that a particular item is covered by a patent or copyright is but one factor in determining if the purchase falls under the sole source exemption to the purchase requirements.(44.031(j)(1), Texas Education Code).

The purchase of an item/service could be considered a sole source procurement when one of the following circumstances exists:

Patent, Copyright, Secret Process or Monopoly: Identification and confirmation that competition in providing the item or service to be purchased is precluded by the existence of a patent, copyright, secret process or monopoly. (Not all items or services that have a patent, copyright or secret process are considered sole source. There may be other products that can provide the same purpose and/or function without infringing on the copyright, patent or secret process.)

Availability/One of a Kind: No competitive product exists or is available from another source.

Compatibility: Must match or be compatible with an existing piece or brand of equipment and is available from only one source.

Standardization: Equipment has been standardized to provide consistency in training across the District and the standardized product is only available from one source.

Educational Discounts: An educational discount is offered by the manufacturer of the product or service and no distributors are able to offer the same discounted price. In some cases, the manufacturer may designate one of their distributors to offer educational discounts that no other distributor can offer.

Investment in Existing Equipment: Often times, the District has made a substantial investment in equipment (often times this is software, such as Banner) from one provider and to switch to another provider would be more costly.

### Procedures

- Sole Source documentation must be current and may not be more than 12-months old.
- Market must be researched and results confirming the criteria for a sole source must be attached to the Sole Source Justification Form and attached to the requisition for the purchase of the item(s) or service(s). Some suggested ways for conducting a market search are:
  - Internet search by product/service

- Internet search of manufacturer's website for resellers/distributors
- Internet search for like product/service
- Communicate with other colleges, universities and/or public agencies to see if they have other sources.
- Check Trade publications
- Call other potential companies to see if they can provide the goods and services. Provide documentation of the company that was called, to whom you spoke with, their phone number, questions that you asked them and the responses that they provided you with.
- See if the item is available under a cooperative contract that the District utilizes. (See the list of cooperatives that the District uses in CougarWeb under Intranet Links, Business Administrative Services, Purchasing, General Procedures, Cooperative Purchasing Contracts ([http://inside.collin.edu/purchasing/general\\_procedures.html#coop](http://inside.collin.edu/purchasing/general_procedures.html#coop).) If so, this would not require a sole source justification form, but in all cases the terms and conditions of the contract must be reviewed to determine if the contract meets the requirements of the District, or in the case of a grant, the awarding agency.
- Provide a completed Sole Source Justification Form, which can be found in CougarMart in the Showcased Services area and approved by the Organization Manager, indicating the reasons that the item(s) and/or service(s) should be declared a sole source procurement.
- If available, a Signed Statement with proper rationale from the "vendor" certifying that one or more of the following conditions are true should be attached to the sole source justification form in CougarMart after selecting the supplier and entering a note on the form that the signed statement (letter) is attached:
  - The vendor is the manufacturer and is the only source for the item(s) and/or services(s) in question and they hold the production and copyrights to them.
  - Certification from the manufacturer that the vendor in question holds exclusive distribution rights for the item(s) or service(s).Note: Just because a vendor holds territorial rights does not mean they are sole source. There could be similar items (or equal), for example John Deere has resellers that can only sell their tractor in their territory, but you can purchase another manufacturer's tractor.
- A copy of the completed, approved sole source justification form should be attached to each purchase requisition and will be reviewed by the Buyer assigned the requisition. Should there be any question related to the validity of the sole source justification, the Buyer will consult with the Director of Purchasing or the Assistant Director of Purchasing for guidance.
- If it is determined that the justification does not provide sufficient information to support a sole source procurement, the Buyer may ask for additional information from the requestor and/or the vendor.
- If it is determined by the Director of Purchasing or the Assistant Director of Purchasing that there is not enough evidence and/or documentation to support a sole source procurement,

then a competitive solicitation will be issued for the goods or services. “When in doubt, bid it out!”

- In the case of a grant, prior to issuing a competitive solicitation, a request for authorization from the granting agency may be sought and if approved, the competitive solicitation process can be bypassed. Documentation of the approval must be attached to the purchase requisition.
- If the sole source procurement is approved, then the Buyer, along with the requesting department, shall perform a cost and price analysis. Price analysis may be accomplished in various ways, including the comparison of price quotations submitted, market prices and similar indicia together with discounts. Cost analysis is the review and evaluation of each element of cost to determine reasonableness, allocability, and allowability. This entails verification of the proposed cost data and evaluation of the specific elements of costs and profits, including comparison with the District’s prior independent price estimate. Information on the price paid by similar agencies for the same product or service may be obtained to support cost and price analysis.
- Profit must be separately negotiated in the award of a sole source procurement.
- The Buyer, along with the requesting department shall negotiate a contract, to the extent practicable, to achieve a contract with the single supplier that is advantageous to the District.