



# Fact Sheet

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## Sole Source Justification

### What is "sole source" procurement?

Procurement by noncompetitive proposals, referred to as sole source procurement, is procurement through solicitation of a proposal from only one source. Sole source procurements must adhere to the standards set forth in 2 C.F.R. § 200.320(c) in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, as adopted by the U.S. Department of Justice in 2 C.F.R. § 2800.101. To help determine when a sole source procurement may be used, see OJP's *Sole Source Review Checklist*.

### When is the sole source approval required by OJP

***All sole source procurements require adequate written justification that meets the criteria listed below and documentary support in the procurement file to be allowable.***

A recipient must also request and receive written approval from OJP **prior to** purchasing equipment, technology, or services; obligating funding for a contract; or entering into a contract with award funds related to sole source procurements in excess of the simplified acquisition threshold, as determined by 2 C.F.R. Part 200 (currently \$250,000). For the purchase of equipment, technology, or services under an OJP award – to include but not limited to noncompetitive ('sole source') procurements, recipients must use their own documented procurement procedures that reflect applicable state and/or local laws and regulations, as long as those requirements conform to the federal procurement standards set forth in 2 C.F.R. § 200.318. A sole source justification request should only be submitted if a recipient determines that the award of a contract through a competitive process is infeasible.

Sole source procurement should be used only when competitive solicitation procedures like sealed bids or competitive proposals are not applicable to the requirements or are impracticable.

Recipients may conduct noncompetitive ('sole source') procurement through solicitation of proposals from only one source when one or more of the following circumstances apply:

- The item/service is available only from one source.
- The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation.
- Competition is determined inadequate after solicitation of a number of sources.

### What documentation must be submitted to OJP for sole source approval?

An award recipient must initiate a *Sole Source Approval* Grant Award Modification (GAM) in the Department of Justice (DOJ) Justice Grants System (JustGrants) to request approval to enter into a noncompetitive contractual relationship with a contractor under a Federal award, where the contracted cost exceeds the Simplified Acquisition Threshold (currently \$250,000).

To assist in OJP's review, include a copy of the completed Sole Source Review Checklist with the GAM submission along with the written justification. The outline below may be helpful in preparing your agency's sole source request and ensuring that all the necessary information is included. The request should include the following information:

**Section I.** A brief description of the project, the amount to be designated for the sole source procurement, the purpose of the contract and an itemized budget for the contract amount.

**Section II.** (a) An explanation as to why it is necessary to contract in a noncompetitive manner and (b) Which one (or more) of the three circumstances identified below, for which OJP will consider approval of a sole source contract, applies to the procurement transaction (include supporting information as identified below under the applicable section(s)):

1. If the item or service is available only from one source, please include the following:
  - Uniqueness of items or services to be procured from the proposed contractor or vendor (e.g., compatibility or patent issues)
  - How the agency determined that the item or service is only available from one source (e.g., market survey results, independent agency research, patented or proprietary system)
  - Explanation of need for contractor's expertise linked to the current project (e.g., knowledge of project management, responsiveness, experience of contractor personnel, and/or prior work on earlier phases of project)
  - Any additional information that would support the case.
2. If the public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation, please include the following:
  - Description of the public exigency or emergency
  - Need for the contract and period of performance
  - Impact on project if deadline/dates are not met

- How long it would take an alternate contractor to reach the same required level of competence (equate to dollar amounts, if desired)
  - Any additional information that would support the case
3. If competition is determined inadequate after solicitation of several sources, please include the following:
    - Results of a market survey to determine competition availability; if no survey is conducted, please explain why not
    - Any additional information that would support the case

**Section III.** A declaration that this action/choice is in the best interest of the agency.

Failure to provide all the necessary information will delay the processing of your request. Your agency will be contacted if any of the identified information is missing or if additional supporting information is required. If OJP determines that the request does not meet the standards set forth above, the request will be denied.

Please be advised that conflicts of interest are prohibited under the procurement standards set forth in 2 C.F.R. § 200.318(c). In addition, program funds should not be awarded to any party that is debarred or suspended from participation in federal assistance programs.

If you have any questions regarding the federal requirements that guide procurement procedures, please contact your Grant Manager.

### Contact OJP

For further information on procurement under awards, please see *Chapter 3.8: Procurement Under Awards of Federal Assistance*, in the [Department of Justice \(DOJ\) Grants Financial Guide](#).

***Note: Time constraints will not be considered a factor if the award recipient has not sought competitive bids in a timely manner. Examples of public emergencies include natural disasters or other incidents requiring an urgent or immediate response.***



# Sole Source Review Checklist

Tool to assess the merits of a sole source approval request

An award recipient must initiate a *Sole Source Approval* Grant Award Modification (GAM) in the Department of Justice (DOJ) Justice Grants Systems (JustGrants), to request approval to enter into a noncompetitive contractual relationship with a contractor under an award where the contracted cost exceeds the Simplified Acquisition Threshold (currently \$250,000). The sole source justification should include adequate information to address the elements below. In addition to the written justification, attach to the *Sole Source Approval* GAM a copy of the itemized budget for the contract amount.

Below is a checklist of qualifying situations intended to help evaluate sole source requests. The sole source approval request only needs to meet one of these qualifying situations. **However, all the conflict of interest items must be addressed in the justification.** To further assist OJP's review, attach a copy of this completed checklist to the GAM.

## Item Only Available Through a Single Source

- Does independent research through internet searches or discussions with subject matter experts corroborate that the item is available only from a single source?
- Does the request demonstrate the uniqueness of items or services to be procured from the proposed contractor or vendor (e.g., compatibility or patent issues, etc.)?
- Does the request demonstrate and support how it determined that the item or service is only available from one source (e.g., market survey results, independent agency research, patented or proprietary system)?
- Does the request demonstrate a significant need for contractor's expertise linked to the current project (e.g., knowledge of project management, responsiveness, experience of contractor personnel, and/or prior work on earlier phases of project)?

## Public Emergency

- Is there a public emergency such as a natural disaster or catastrophic event?
- Has there been a declared state of emergency in which these goods and services will be needed?
- Is there an immediate health or safety concern?

## Inadequate Competition

- Does the request adequately describe the efforts to competitively contract for this item? For example, were requests for proposals or bids conducted and what was the nature of the responses?
- Does the request adequately describe the efforts to ensure the contract pricing is fair and reasonable?
- Does the request provide results of a market survey to determine competition availability or explained why no survey was conducted?

## Conflict of Interest/Suitability/Procurement Standards *(justification must address all items)*

- Does the request ensure there is no conflict of interest with the proposed vendor?
- Does the request indicate that the Excluded Parties List was checked and that the proposed vendor has not been debarred from receiving federal funds?
- Does the request include evidence that the procurement will be competed in compliance with the organization's procurement policies and the procurement standards outlined in the DOJ Grants Financial Guide and 2 C.F.R. Part 200, including the required contract provisions?

