

Sole Source Request: Limited exceptions to the Competitive Procurement Rule

Effective November, 2008

The Louisiana Commission on Law Enforcement generally requires all subgrantees to utilize open, competitive, and transparent procurement procedures. In those rare cases where all other more open and competitive procurement methods lead to an unrealistic process or result, or are not applicable at all, sole source procurement procedures are allowed.

All sole source procurement requires the prior approval of LCLE and then only under specifically defined and restricted circumstances relating materially to the success of the subgrant for which they are to be used.

Circumstances where Sole Source may be applicable

The service or item can be obtained from only one responsible source for one of the following reasons:

1. Uniqueness: The service or item is unique and can only be provided from one specific vendor;
2. Emergency or public exigency: There is a particularly urgent need for the service or item and the delays resulting from using other methods of procurement would materially effect the success of the subgrant;
3. Timing: The delays resulting from the use of another vendor (e.g. training time);
4. Competition is determined inadequate after solicitation of a number of sources;
5. Other Exigent Circumstances (must be explained in detail and rise to the level of sole source).

Prerequisites

The subgrantee agency must submit a signed copy of the contract for which sole source approval is sought. This contract shall not be in effect until after sole source approval is granted and all other applicable legal or regulatory requirements have been met.

The subgrantee agency must have fulfilled all state or local laws and regulations pertaining to every type of sole source procurement, for either

services, equipment, materials or supplies, applicable to that agency before submitting a request to LCLE. A certification to this effect must be submitted with the sole source application.

The subgrantee must follow their own procurement procedures and policies so far as they conform to the federal procurement requirements set forth in 28 CFR 66.36 and 28 CFR 70.44 (as applicable).

Required Information

- I. A brief description of the project. For contracts which sole source is sought for services, a description of the contractor's role in the project must be provided. For procurement of equipment, materials, or supplies, a description of items sought and purpose within the project are required.
- II. An explanation as to why it is necessary to contract, or procure in a noncompetitive manner. The following information must be included:
 - Expertise of the contractor or uniqueness of the item
 - Management (not required for equipment)
 - Responsiveness or in the case of an item an explanation why that particular item is required to the exclusion of others
 - Knowledge of the project (not required for equipment)
 - Experience of contractor personnel (not required for equipment)
 - Results of a market survey to determine competition availability; if no survey is conducted, an explanation as to why.
- III. Time Considerations
 - When the contractual coverage is required by your subgrant and why
 - Impact on the project if deadline/dates are not met
 - Length of time it would take an alternative contractor to reach the same required level of competence (estimate cost to the project if desired)

- IV. Uniqueness
- V. Exigent Circumstances supporting the request for Sole Source
- VI. Declaration that all applicable state and local laws and regulations have been met, and that the policies and procedures followed conform to the federal procurement requirements set forth in 28 CFR 66.36 and 28 CFR 70.44 (as applicable).
- VII. A declaration that this choice and sole source action is in the best interest of the agency and the State of Louisiana.
- VIII. Contractor / Vendor Information
Including:
 - Identifying information;
 - Certification to do business in the State of Louisiana;
 - Full disclosure of company ownership if the proposed contractor is not a publicly traded corporation;(Not required for equipment)

Process

Procurement under \$100,000 LCLE Program Manager with Advisory Board Approval and Commission Approval, (Advisory Board to present recommendation as part of the Report to the Commission).

Procurement \$100,000 and over LCLE Staff review (three member panel Composed of the Program Manager, Section Head and one other); LCLE Priorities Committee approval; Advisory Board Approval and Full Commission Approval subject to a specific vote.

Exception: LCLE staff and Priorities Committee may make a final determination in any case where federal or state funds would expire before the next regularly scheduled Commission meeting, provided all other criteria of the sole source process are met.

Contracts or purchases for which sole source approval is sought from LCLE shall be reasonable in nature and not artificially divided to determine the process. Certifications attesting to the circumstances for sole source and supporting source documentation listed in prerequisites are required to be submitted with the request for Sole Source procurement before the process will commence.

The LCLE committee will notify the Subgrantee of the decision within five working days of the request for review.

If sole source is denied, the decision can be appealed to the full Commission at a regular or special meeting.

Anyone desiring to protest the award of a sole source contract has ten working days to submit their protest, including the reasons therefore, to LCLE. The protest will be forwarded to the Priorities Committee, and if the Priorities Committee should find substantial and sustainable reasons for denying the sole source, the matter will be placed on the agenda next regular or special meeting of the Commission.

Conflict of Interest

Conflicts of interest are strictly prohibited under the procurement standards set forth in 28 CFR Part 66 and 28 CFR Part 70.44. It is the policy of the LCLE to not approve any sole source request where a current employee, association member, or officer of the subgrantee agency is a shareholder in a non-publicly traded company. This does not in any manner prohibit, condition, or discourage the awarding of the same contract to such a vendor through a competitive procurement process, provided the employee, association member, or officer is entirely isolated from the decision making process. In the case where the shareholder is the CEO, CAO, CFO, or other person in a position to influence the decision of the subgrantee agency, it is recommended that an external peer review process be utilized to avoid even the appearance of conflict of interest.

FIRST ADDENDUM TO SOLE SOURCE POLICY

The three member panel of the Sole Source Committee
Referred to in the Sole Source Policy will consist of:

1. Deputy Director
2. Accountant Administrator
3. Program Manager/Supervisor

Revised 5/16/2011