



State of Louisiana
Office of the Governor
**Louisiana Commission on Law Enforcement
and Administration of Criminal Justice**

**Noncompetitive Practices “Sole Source Request”
Limited exceptions to the Competitive Procurement Rule**

Effective May 2016

The Louisiana Commission on Law Enforcement 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, noncompetitive proposals (or, “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.

Sole Source procurement should be used only when use of competitive solicitations procedures like sealed bids, or competitive proposals is not applicable to the requirement or is impracticable.

All sole source procurements in excess of the Simplified Acquisition Threshold set in accordance with 41 U.S.C. 1908 (currently set at \$150,000), must receive prior approval from the grant-making component before entering into contract.

Circumstances where Sole Source may be applicable

The service or item can be obtained from only one responsible source when one or more of the following circumstances apply:

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. Competition is determined inadequate after solicitation of a number of sources; or
4. Louisiana Commission on Law Enforcement expressly authorizes noncompetitive proposals in response to a written request (must be explained in detail and rise to the level of sole source) from the subgrantee agency.

Note: Time constraints will not be considered a factor if the subgrantee has not sought competitive bids in a timely manner.

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 2 CFR 200: Uniform Guidance – Uniform Administrative Requirements, Cost Principles, and Audit Requirements and the most current DOJ Grants Financial Guide (as applicable).

Required Information

- I. A brief description of the project and to include the expected procurement amount. 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, including at least one of the four circumstances listed above in "Circumstances where Sole Source may be applicable." The following information must be included:
 - Organizational expertise of the contractor or uniqueness of the item
 - Management (not required for equipment)
 - Knowledge of the project (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
 - Experience of contractor personnel (not required for equipment)
 - Results of a market survey to determine competition availability; if no survey is conducted, and 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
 - What impact it will have on the program (for example, length of time it would take an alternative contractor to reach the same required level of competence (estimate cost to the project if desired)
 - Include the financial impact in dollars

Note: Time constraints will not be considered a factor if the subgrantee has not sought competitive bids in a timely manner.

- IV. Outline the unique qualities of the contractor
- 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 CFR 200: Uniform Guidance – Uniform Administrative Requirements, Cost Principles, and Audit Requirements and the most current DOJ Grants Financial Guide (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. Conflict of Interest Review
- IX. 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 \$150,000 Requires the LCLE Program Manager and Sole Source Committee approval. The Executive Director will present the approved sole source to the Priorities Committee for approval. The Executive Director will include the sole source request in the Executive Director Priorities Committee’s Report to the Commission.

Note: The Sole Source Committee consists of a three member panel:
 1. The Executive Director or Deputy Director
 2. Accountant Administrator
 3. Section Supervisor is appointed by the Executive Director or Deputy Director and who has no oversight of the sole source request.

Procurement of \$150,000 and over The LCLE Program Manager submits sole source request to the Sole Source Committee for consideration. The Executive Director will present the Sole Source Committee’s recommendation of approval to the Priorities Committee. The Executive Director will include the sole source recommendation in the Executive Director Priorities Committee’s Report to the Commission. The Commission’s final approval will be required.

Note: If applicable, the LCLE Program Manager will advise their Advisory/Policy Board of the sole source request.

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 schedule Commission meeting, provided all other criteria of the sole source process are met. The Executive Director will include such cases in the Executive Director's Priorities Committee's Report to the Commission

Contracts or purchases for which sole source approval is sought from LCLE shall be reasonable in nature and are 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 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 CFR 200: Uniform Guidance – Uniform Administrative Requirements, Cost Principles, and Audit Requirements and the most current DOJ Grants Financial Guide. 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 contact 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 the recommended that an external peer review process be utilized to avoid even the appearance of conflict of interest.