

Prepared by Office of Procurement and Real Property Management.
This replaces Administrative Procedure No. A8.255 dated
July 2012

A8.255

A8.200 Procurement

October 2013

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A8.255 Sole Source Procurement

1. Conditions for Use

- a. When there is only one source available from which particular goods or services may be obtained, University policy permits purchases from qualified vendors without soliciting competitive quotations, if the following criteria are met:
 - 1) The University department has a unique requirement which is essential in order for the department to accomplish its work.
 - 2) This requirement can only be met by particular goods, services, or construction which have the required unique feature, characteristic, or capability, e.g.,
 - a) Proprietary items;
 - b) Compatibility with existing equipment; or
 - c) Public utility repairs or construction that can only be provided by the utility company.
 - 3) The particular goods, services, or construction having the unique feature, characteristic, or capability are available from only one supplier or source.
- b. When goods or services are necessary in a limited quantity for test or evaluation, the purchase of the item or service may be on a sole source basis.

- c. When an item is referred to by an exact brand, but there are other brands that qualify as "acceptable alternates" or "equals," the purchase shall be subject to a competitive solicitation.
- d. When an item is unique, but is available from more than one supplier, the purchase shall be considered a "sole brand" purchase rather than a sole source purchase and shall be subject to a competitive solicitation. The required item, however, will be designated by brand name and model number. Except for purchases not exceeding \$2,500 and exempt purchases under Section A8.220, all requests for sole brand purchases must be justified. OPRPM Form 144, Sole Brand Justification (**Attachment 255.2**) shall be completed for this purpose. Sole brand purchases not within a fiscal administrator's purchasing authority shall be submitted to a designated departmental fiscal administrator with greater purchasing authority or to the OPRPM, as applicable, for review and execution.
- e. The fact that a person or organization is or has been furnishing services to a purchasing agency does not, by itself, render such person or organization the only source for the type of service required.
- f. The potential loss of funds at the end of a fiscal year shall not be a basis for sole source exemption.
- g. When an item is specified by brand name and model number in a federal grant, this merely constitutes approval to use such funds for acquisition of the item and does not constitute approval for a sole source purchase.
- h. The Office of Procurement and Real Property Management (OPRPM) shall maintain a list of sole source procurements that may be procured without obtaining a sole source approval pursuant to item 2 of this section. The list is attached at the end of this section as Exhibit A titled "Procurements Approved for Sole Source".

University programs shall cite on the purchase order or on the contract as "Approved for Sole Source Procurement pursuant to Administrative Procedure A8.255, Sole Source No. _____ (cite applicable sole source number from attached list)".

- i. For the procurement of construction on a sole source basis, please refer to Section A8.281(5).

2. Requesting Sole Source Approval

- a. When requesting a sole source purchase, the requisitioner must complete and submit the following documents:
 - 1) Request For Sole Source, OPRPM Form 65 (**Attachment 255.1**). An authorized designee shall certify to the best of his/her knowledge that the information provided is true and correct;
 - 2) Original approvals from any other administrative directive, circular, or guideline (i.e. telecom approval, President's approval, etc.);
 - 3) Determination of Cost or Price Reasonableness, OPRPM Form 95 (**Attachment 285.1**), to verify that price offered is considered fair and reasonable;
 - 4) If federal funds will be expended, Authorization to Purchase Equipment with Federal Contract or Grant Funds, UH Form 39, and copies of the award document from the granting agency and budget sheet indicating the approved line item;
 - 5) A KFS purchase order completed to the extent possible for encumbrance purposes if a contract is to be issued;
 - 6) A written original, a FAX transmittal or an e-mail quotation which should include method of delivery, freight costs, delivery time, insurance, all applicable taxes, and discounts, if any; and

7) Notice of Sole Source, OPRPM Form 110 (**Attachment 255.3**), which shall serve as a notice of intent to issue a sole source purchase order/contract for purchases of \$25,000 or more for goods, services and construction. A copy of the Notice of Sole Source shall be posted for public notice by the Office of Procurement and Real Property Management for a period of seven calendar days prior to any approval action. Instructions for preparation of this form are at **Attachment 255.4**.

- b. If federal funds will be expended under this contract, the program shall submit copies of the award document from the granting agency and budget sheet indicating the approved line item.

Departments shall indicate any special federal provisions which must be included in the contract terms, and, if necessary, secure clearance from the Office of Research Services.

The Request should also cite the name of the granting agency and grant/contract number.

- c. Fiscal administrators are authorized to approve sole source purchases under \$25,000 and falling within their signing authority. Fiscal administrators operating within their delegated purchasing authority shall ensure that each sole source purchase is fully justified, the price is determined to be fair and reasonable, and the basis for decision is included in the purchase order file.
- d. Sole source purchases not within the fiscal administrator's authority shall be submitted to a designated departmental fiscal administrator with greater purchasing authority or to the OPRPM, as applicable, for review and approval. All sole source requests which exceed departmental purchasing authority shall be reviewed and approved by the Chancellor or Vice President under whose jurisdiction the request originates prior to submission to the Office of Procurement and Real Property Management.

- e. Sole source purchases of \$25,000 or more shall be submitted to the OPRPM for review and forwarding to the President for approval. Upon review and approval of sole source justification and contract terms, a purchase order or contract documents shall be issued to the contractor for execution.

3. Amendments to Sole Source Contracts

- a. Amendments to sole source contracts exceeding departmental purchasing authority that would change the original scope of the contract or increase the original contract price by ten percent or more may only be made with the approval of the President. The annual renewal of a sole source contract for services should be submitted as a new request.
- b. When requesting an amendment to a sole source purchase order/contract, the requestor shall complete and submit the following documents to the Office of Procurement and Real Property Management:
 - 1) A written explanation for the amendment including reasons why the sole source basis for the contract is still valid, why a change is required, and detailed specifications to be included in the contract modification. An authorized designee shall certify to the best of his/her knowledge that the information provided is true and correct. The request shall be reviewed and approved by the Chancellor or Vice President under whose jurisdiction the request originates; and
 - 2) If the expenditure was subject to approval from any other administrative directive, circular, or guideline, the University department must obtain and submit an amended approval.
 - 3) A copy of the original purchase order or reference to the appropriate contract number between the department and the contractor.
 - 4) Determination of Cost or Price Reasonableness, OPRPM Form 95 (**Attachment 285.1**).

- 5) A Notice of Amendment to Sole Source Contract, OPRPM Form 111 (**Attachment 255.5**). Instructions for preparation of this form are at **Attachment 255.6**.

4. Objections to a Request for Sole Source Procurement

- a. Any objections to the request for sole source shall be submitted in writing and received by the OPRPM within seven days from the date the notice was posted. The OPRPM shall place the sole source request on hold, review the objection, and forward to the President to provide a written determination to the person submitting the objection. All documents relating to the objection, including a written summary of the disposition of the objection, shall be kept with the sole source file.
- b. The determinations required by this section shall be final and conclusive unless they are clearly erroneous, arbitrary, capricious, or contrary to law.

EXHIBIT A

PROCUREMENTS APPROVED FOR SOLE SOURCE
OCTOBER 2013

The following procurements are not subject to the procedure for obtaining sole source approval, APM Section A8.255.2:

**SOLE
SOURCE
NUMBER**

SOLE SOURCE

1. Rental of booth space for exhibits at conventions and trade shows when organized by a single sponsor.

Criteria: When rental is available only through a single organizer or sponsor of the convention or trade show.

2. For the repair, replacement, installation (connection, activation or hookup), or relocation of public utility company equipment or facilities.

Criteria: When the equipment or facilities are owned or controlled by utility companies such as an electric, telephone, gas or cable television company.

3. Annual license renewal and maintenance for computer software.

Criteria: When the license renewal and maintenance can be obtained from only a single source, normally the developer of the software.

4. Procurement of computer software conversions, modifications, and maintenance for existing programs from the manufacturer of the software.

Criteria: When the conversion, modification, or maintenance can only be obtained from the manufacturer of the software.

5. Transcripts of court proceedings.

Criteria: When the transcripts of court proceedings are only available from the respective assigned court reporter provided by the Judiciary.

6. Repair and maintenance services and supplies from the original equipment manufacturer or its designated representative; when the manufacturer or its designated representative is required to provide the services and supplies to retain the manufacturer's warranty or guarantee.

Criteria: When the services or supplies can only be obtained from the manufacturer or its designated representative to retain the manufacturer's warranty or guarantee.

7. Procurement of equipment upgrades from the original manufacturer to existing equipment and information technology hardware, when the upgrades can only be obtained from the manufacturer.

Criteria: When the upgrades are available only from the manufacturer.