
A Look at Sole Source Procurements

**Fiscal Year 2018
Annual Report of Sole
Source Procurements**



Chief Procurement Office for General Services

August 1, 2018

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A Look at Sole Source Procurements

Introduction

To the general public, the use of the sole source procurement method is a sensitive and often misunderstood means of awarding a State contract. After all, sole source procurements are non-competitive and sometimes characterized derogatorily as “no-bid” contracts. This may lead to the suspicion that the State improperly selected the awarded vendor by excluding competition. This begs the questions: When can sole source procurements be conducted? How does the Chief Procurement Officer for General Services (CPO-GS) ensure that this procurement method is used appropriately?

Section 20-25 of the Illinois Procurement Code (30 ILCS 500/20-25) allows contracts to be awarded without using a competitive method of source selection when there is only one economically feasible source for an item. While the Procurement Code makes procurements with competition the preferred method of awarding contracts, it recognizes that sole source procurements are appropriate when there is only one known source or only one single supplier that can fulfill the State’s requirements. For example, a sole source is appropriate when procuring public utilities or where the item is proprietary and available only from the manufacturer.

However, because sole source is an exception to the preferred practice of competitive solicitation using Invitation for Bids or Requests for Proposals, the CPO-GS requires State agencies to follow strict procedures to ensure the appropriateness and necessity of the sole source procurement method. These procedures are designed to thoroughly vet the State agency’s request that the sole source method is appropriate under the circumstances.

Justifications for Using a Sole Source Procurement

No Substitutions Available

Patented

Lack of Competition

Radio or TV Broadcast Rights

Specific Characteristics Limit to One Supplier

Time is of the Essence and only One

Supplier’s Unique Capability

Supplier can Meet Needs within Timeframe

Proprietary Technology

Grant Requires Contract with Designated Supplier

Copyrighted

A Look at Sole Source Procurements

The Numbers

- What We've Learned

When evaluating the numbers associated with sole source procurements, caution should be used before drawing conclusions that some numbers are good while others are bad. In other words, if a State agency has a need to which there is only one legitimate supplier, then that sole source contract is appropriate whether the value of it is \$200 thousand or \$2 million.

State agencies under the jurisdiction of the Chief Procurement Officer for General Services (CPO-GS) conduct thousands of procurements each year valued at approximately \$7 billion. In Fiscal Year 2018, the CPO-GS authorized State agencies to award 103 contracts by the sole source procurement method. This is a 37.2% decrease from Fiscal Year 2017 and a 57.4% decrease from Fiscal Year 2016. It's worth noting that the number of sole source awards from Fiscal Years 2013 through 2015 was 277, 210, and 235 respectively.

	FY18	FY17	FY16
Agencies Awarding Sole Source Contracts	29	29	31
Dollar Value of Sole Source Contracts	\$250,594,890	\$196,160,269	\$290,854,729
Sole Source Contracts Approved	103	164	242
Average Dollar Value of Sole Source Contracts	\$2,432,960.10	\$1,188,850	\$1,201,879
Number of Sole Source Contracts Denied	0	0	0

However, while the number of sole source awards decreased, the value of the 103 contracts is 27.8% greater than the previous fiscal year.

The largest award of \$67.5 million (26.9% of the total award value) was made by the Department of Healthcare and Family Services (HFS) to Deloitte Consulting to continue implementation of the State's Integrated Eligibility System (IES). IES is an integrated system that replaces old computer systems and enables Illinois residents to apply for and manage their Medicaid benefits, Supplemental Food and Nutrition Program benefits, and cash assistance.

At the request of the Office of the Illinois Comptroller, the CPO-GS held a public hearing to evaluate HFS' justification for awarding the sole source. Comments were received by HFS, the Comptroller's Office, and the Procurement Policy Board.

A Look at Sole Source Procurements

After receiving testimony and conducting thorough analysis, the hearing officer determined the justification to be sufficient and recommended that the CPO-GS approve the award.

The five largest of the 103 sole source awards total \$158.1 million and constitute 63.1% of the \$250.6 million total award value. It's no coincidence that four of the five awards were for services related to Information Technology, an industry that's built on innovation, proprietary information, and customization.

- 1) Healthcare and Family Services award of \$67,531,687 to Deloitte Consulting
- 2) Toll Highway Authority award of \$32,000,000 to Vantiv LLC
- 3) Toll Highway Authority award of \$24,500,000 to Electronic Transaction Consultants Corporation
- 4) State Board of Education award of \$19,618,500 to New Meridian Corp.
- 5) Revenue award of \$14,500,00 to Fast Enterprises LLC

Ellen Daley is the Chief Procurement Officer for General Services. CPO Daley is also the State of Illinois' representative to the National Association of State Procurement Officials (NASPO). NASPO facilitates active participation, access, and benchmarking with all 50 states' procurement officials and their policies. In 2014, NASPO studied (<http://www.naspo.org/solesourceprocurement/index.html>) 41 states' practices regarding sole source procurements. Survey highlights and Illinois' comparative practice follows.

- Sole source procurements are not permitted without justifications in most states. The CPO-GS requires extensive justification and public hearing.
- Criteria to allow sole sources procurement are established in statute for most states. The Illinois Procurement Code and CPO-GS' rules and policies establish criteria.
- When processing a sole source procurement, 50 percent of respondents require that some form of public notification (i.e. "intent to sole source") be published. The CPO-GS requires publication of an intent to sole source, and an award notice.
- Only 15 responding jurisdictions limit the length of a sole source procurement contract. CPO-GS limits sole source contract terms to one year without further justification.
- Twenty-six responding state central procurement offices maintain a record listing all sole source contracts. Only five of those who maintain records of sole source contracts submit a copy of this record to their legislature. The CPO-GS tracks all sole source procurements and produce and distribute an annual report of sole sources.
- Final approval for sole source procurement requests in most states resides with the Chief Procurement Official. The CPO-GS provides final approval in Illinois.

When only one responsible and economically feasible source for a supply or service exists, and no other supply or service will satisfy the State's requirements, a sole source procurement is used.

A Look at Sole Source Procurements

The Numbers - And Whose Behind Them

Agency	Dollar Value Con- tracts FY18	# Contracts FY18	Dollar Value Contracts FY17	# Contracts FY17	Dollar Value Con- tracts FY16	# Contracts FY16
AGING	\$258,923	1	\$240,000	1	\$645,105	2
AGRICULTURE	\$187,831	3	\$2,595,611	19	\$509,556	6
ABRAHAM LINCOLN LIB AND MUS	\$492,500	1	N/A	N/A	N/A	N/A
CAPITAL DEVELOPMENT BOARD	\$524,630	1	N/A	N/A	N/A	N/A
CENTRAL MGMT SERVICES	\$7,988,656	6	\$43,616,529	9	\$45,380,904	51
CHILDREN AND FAMILY SERVICES	\$4,853,485	2	\$7,805,630	10	\$4,619,137	5
COMMERCE AND ECONOMIC OPP	\$325,306	1	\$953,363	6	\$1,847,239	9
CORRECTIONS	\$195,800	1	\$84,500	1	\$25,783,644	5
CPO GENERAL SERVICES	\$574,996	2	\$0	0	\$395,570	1
CRIMINAL JUSTICE INFO AUTHORITY	\$543,000	3	\$690,000	5	\$127,400	2
EMERGENCY MGMT AGENCY	\$450,000	2	\$600,000	4	\$648,600	5
EMPLOYMENT SECURITY	\$0	0	\$377,187	4	\$12,059,587	7
ENVIRONMENTAL PROT AGENCY	\$0	1	\$150,000	1	\$187,500	1
FINANCE AUTHORITY	\$165,000	1	\$320,000	2	\$300,000	1
FINANCIAL AND PROF REGULATION	\$3,300,000	1	\$6,611,058	5	\$1,463,336	5
HEALTHCARE & FAMILY SERVICES	\$75,871,277	7	\$2,311,217	3	\$69,339,998	8
HISTORIC PRESERV AGENCY	\$0	0	\$0	0	\$0	0
HOUSING DEV AUTHORITY	\$151,350	1	\$819,754	5	\$2,032,335	8
HUMAN SERVICES	\$1,545,000	5	\$3,266,929	5	\$8,051,146	14
INSURANCE	\$0	1	\$4,000,000	11	\$11,479,184	21
JUVENILE JUSTICE	\$0	0	\$0	0	\$137,145	2
LOTTERY	\$4,000,000	2	\$0	0	\$380,000	2
MATH AND SCIENCE ACADEMY	\$0	0	\$58,569	1	\$76,725	1
MILITARY AFFAIRS	\$0	0	\$0	0	\$100,000	1
NATURAL RESOURCES	\$5,500,000	1	\$5,716,200	4	\$6,274,110	8
PRISONER REVIEW BOARD	\$210,000	1	N/A	N/A	N/A	N/A
PUBLIC HEALTH	\$2,199,473	10	\$2,547,123	9	\$6,801,633	23
REVENUE	\$14,500,000	1	\$1,290,998	3	\$1,264,132	4
STATE BOARD OF EDUCATION	\$25,806,700	8	\$3,940,800	5	\$9,972,194	13
STATE FIRE MARSHALL	\$0	0	\$300,000	1	\$750,000	2
STATE POLICE	\$409,598	2	\$7,651,694	12	\$6,396,303	12
STUDENT ASSISTANCE COMMISSION	\$0	0	\$0	0	\$5,171,000	7
TOLL HIGHWAY AUTHORITY	\$61,202,513	6	\$53,603,059	7	\$62,850,680	11
TRANSPORT (NON-CONSTRUCTION)	\$2,295,185	4	\$2,521,357	6	\$5,310,291	3
VETERAN'S AFFAIRS	\$0	0	\$330,000	2	\$500,274	3
WORKER'S COMP COMM	\$609,700	2	\$195,000	1	\$0	0
INNOVATION AND TECHNOLOGY	\$36,433,968	34	43563690	22	N/A	N/A

A Look at Sole Source Procurements

Regulating the Process - How We Do It

Prior to award of the 103 sole source contracts, the Chief Procurement Officer for General Services (CPO-GS) ensured that each received the highest level of scrutiny and was justified as either being available only from a single supplier, or only one supplier is deemed economically feasible. All requests to use the sole source procurement method must follow procedures prescribed in law and by the CPO-GS. These procedures not only ensure the openness and legitimacy of sole source awards, but frequently lead to a competitive procurement instead or a reduction of the request to only the pieces that justify being sole sourced.

1. The State agency identifies a need and researches options to fulfill the need.
2. The State agency believes the need qualifies as a sole source and submits a Sole Source Justification Form (Appendix A) to their State Purchasing Officer.
3. The State Purchasing Officer (SPO) discusses the request and agrees or disagrees with the State agency's request. If the SPO disagrees with justification, then they work with the State agency on procurement alternatives. The CPO-GS discourages sole source contracts lasting longer than one year. This policy forces State agencies to review their own needs and the marketplace frequently. The premise is that the marketplace is dynamic, and ever-changing technologies and vendors present an opportunity for the State to conduct a competitive procurement.
4. If the SPO agrees with the justification, then the SPO publishes for at least 14 days to the Procurement Bulletin in BidBuy (<https://www.bidbuy.illinois.gov/bso/>) that the State agency intends to make a sole source award.
5. The publication of the intent to award the sole source includes the date and time for a public hearing for anyone to listen to, question, and challenge the reasons justifying the sole source. The Procurement Policy Board also receives this notice.
6. If no one requests that the public hearing be held, then the CPO-GS cancels the hearing date and permits the State agency to make the award.
7. If a public hearing is held, the hearing officer provides minutes of the hearing and a written recommendation to the CPO-GS to proceed or not proceed to award. The CPO-GS then decides to allow the sole source to proceed or not proceed.
8. The SPO publishes the CPO-GS' decision to award or not award the sole source to the Procurement Bulletin in BidBuy.

A Look at Sole Source Procurements

Public Hearings

In Fiscal Year 2018, SPOs published 124 intents to award sole sources (Step 5 above). Of the 124 opportunities to request a public hearing, only two hearings were requested. After both hearings, the hearing officer recommended to the CPO-GS that both procurements proceed to award. Several of the 124 published sole sources had issues and had to be re-posted or were cancelled.

Regulating the Process - Making An Impact

The Chief Procurement Office for General Services and the State agencies it regulates operate ethically, transparently, and fairly. By working collaboratively and following procurement procedures, this report presents the 103 sole source awards in Fiscal Year 2018. This number would have been greater without the collaboration and regulation in place. Here are a few examples where a procurement did not proceed as a sole source.

- The Department of Corrections presented justification to sole source electronic medical records from Cerner Health Systems. The value of the sole source was \$22.8 million. The State Purchasing Officer (SPO) agreed with the reasons for the sole source. But, by the time the proposed IT system received approval from the Department of Innovation and Technology per protocol, the facts supporting the sole source had changed. The SPO now requires a competitive solicitation.
- The Department of Human Services requested a \$250,000 sole source to obtain software licenses. The State Purchasing Officer denied the request because other vendors in the marketplace are able to sell the software.
- The Toll Highway Authority (THA) sought a \$247,130 sole economically feasible source procurement with Kronos to replace their employee time-keeping system. The State Purchasing Officer denied the sole source request as she had instructed THA the previous year to conduct a competitive solicitation since the marketplace contains many vendors offering solutions.
- The Department of Public Health (DPH) requested a \$243,750 sole source for IT consulting on an as need basis for DPH's HIV/AIDS Enterprise Development. The vendor is expected to address system issues due to changes in federal or State program requirements. However, DPH could not identify any specific consulting need at the time of the request. Because DPH is close to publishing a competitive RFP for the same consulting services, the SPO denied the sole source for blanket approval for unspecified changes to the current system.

A Look at Sole Source Procurements

Contact Us

Chief Procurement Office for General Services (CPO-GS)

Ellen Daley is the Chief Procurement Officer for General Services. She is the ultimate authority and regulator of procurement for 58 state agencies, boards, and commissions. She has a fiduciary duty to the taxpayers and is statutorily mandated to ensure the lawfulness of each transaction under the Procurement Code. She leads a handpicked team of procurement experts.

401 South Spring Street Suite 712

Springfield, Illinois 62706

T: 217.558.2231

www.cpogs.illinois.gov

BidBuy

This is the website where vendors will find information about what the State wants to buy and who has received contract awards. In BidBuy, vendors are also allowed to bid electronically for many solicitations.

www.bidbuy.illinois.gov

T: 888.455.2897

E: Il.bidbuy@illinois.gov

Illinois Procurement Gateway (IPG)

Why should vendors submit mounds of paperwork each time they bid for a state contract? The IPG allows vendors to submit annually the certifications and disclosures required for bidding through an online website. The best part is that the CPO-GS will assist vendors understand what's required and approve the vendor's administrative information before they ever bid.

<https://ipg.vendorreg.com>

T: 782.1270

E: ipg@illinois.gov

Unified Procurement Program (UPP)

This is the CPO-GS' joint and cooperative purchasing program. Through UPP, the CPO-GS participates with other states to provide favorable contract prices and terms to state agencies, local units of government, and non-profit agencies.

E: cpo.upp@illinois.gov

Small Business Set-Aside Program (SBSP)

The CPO-GS sets-aside contracts that are only available to Illinois small businesses. In FY 2017, 911 Illinois businesses received \$146.6 million in payments through SBSP.

<https://www.facebook.com/StateOfIllinoisSmallBusinessSetAsideProgram>

E: eec.smallbusiness@illinois.gov

Sole Source Justification Form

Bulletin Reference Number

Requesting Agency/University

Sole Source Justification Form - Part I

Section I - General Information

Department/Bureau/Section:

Need Identified Date: Supply/Service Need By Date:

Project Title:

Vendor:

Provide a description of the supplies or services required:

Value: Value of Initial Term, this Change Order or Amendment:

Will this Sole Source amend a Professional or Artistic Services contract? Yes No

*Sole Source may not be used for amendments for Professional or Artistic Services if the amendment would increase the value by more than 5% of the initial award or extend the term by more than 60 days.

Type:

Section II - Proposed Term

One-Time Purchase Term Contract

Section III - Funding Source

Select the type of funding to be used (Check all that apply): State Appropriate Funds Federal Funds Other (Explain):

Section IV - Sole Source Justification

This purchase is economically only available from a single source **primarily** because it is: (If "Other" explain in one sentence)

Are there secondary justification(s) for this sole source? Yes No

Section V - Purchase History

Has the Agency or University Purchased these supplies or services in the past? Yes No

Section VI - Business Rationale

1. Provide a detailed explanation of the need for the supplies or services:

2. Provide a list and describe in detail the specifications required to satisfy the need:

3. Provide detail explaining the justification selected in Section IV to explain why the requested supplies or services are the only ones available that can satisfy the agency or university requirements?

4. What are the unique features of the supplies or services that are not available in any other product or by any other vendor? Provide specific quantifiable factors/qualifications:

5. Has the Agency or University considered alternative supplies or services to satisfy their need? Yes No

Sole Source Justification Form

Bulletin Reference Number

Requesting Agency/University

6. Are there resellers or distributors?

Yes No N/A

7. What efforts were made to get the best possible price (i.e. did the agency/university negotiate) and how did you determine the price for this purchase is considered fair and reasonable?

8. Will this purchase obligate the State to this vendor for future purchases such as maintenance, licensing or continuing need?

Yes No

9. What will be the financial or other impact to the State if this sole source is not approved and a competitive bid is required?

10. Is there any additional information you would like to add to justify this sole source?

Sole Source Justification Form

Bulletin Reference Number

Requesting Agency/University

Section VII

Requesting Department Signature Required

I know and understand the contents of this Sole Source Justification and attest that all statements are true and correct and the fairness and reasonableness of the price was adequately confirmed.

Requesting Department Representative Phone Number Date

Printed Name E-mail Address

State Agency Bureau/Division Head or University Purchasing Director Approval and Signature Required

I know and understand the contents of this Sole Source Justification and attest that all statements are true and correct and the fairness and reasonableness of the price was adequately confirmed. (All prior form fields will lock once this e-signature is completed)

Agency Bureau/Division Head or University Purchasing Director and Not a Designee Phone Number Date

Printed Name E-mail Address

SPO Approval and Signature Required

I have reviewed and understand the contents of this Sole Source Justification and agree with the State Agency or University determination.

I have reviewed and understand the contents of this Sole Source Justification and do not agree with the State Agency or University determination. As a result, the State Agency or University must explore other sourcing methods to satisfy their need.

State Purchasing Officer Signature Phone Number Date

Printed Name E-mail Address

Sole Source Justification Form

Bulletin Reference Number

Requesting Agency/University

Sole Source Justification Form - Part II

Section II - Sole Source Hearing Details

Hearing Date

Hearing Time

Hearing Location

The State posted to the Illinois Procurement Bulletin a description of the State's need, the justification for the sole source decision, and information regarding the opportunity to submit comments and testify at a public hearing. Notice of the hearing was also posted outside of the hearing room 48 hours prior to the hearing.

- No members of the public or other entities testified or provided written comments.
- Members of the public or other entities testified and/or provided written comments. See attached.

The public hearing was conducted for the purpose of receiving testimony regarding the sole source determination. The Hearing Officer recommends the following:

The following relevant documents are attached:

- Written comments submitted prior to, at or after the Sole Source Hearing
- Decision Memo or Written Recommendation of the Hearing Officer
- Hearing Minutes (if minutes were recorded)
- Other:

Hearing Officer Signature Printed Name

Hearing Officer Telephone Hearing Officer E-mail

Section I - General Information

Project Title

Vendor

Initial Date of Procurement Bulletin Posting

Was a Sole Source hearing held per 30 ILCS 500/20-25?

- Yes - Complete Section II and III below (Section II will only be visible when this option is selected)
- No - Section II not required, go to Section III below

Section III - CPO Approval and Signature Required

- Based on my review, I authorize the Agency/University to proceed in accordance with the published Notice referenced above.
- Based upon my review, I authorize the Agency/University to proceed with the following Changes.
- Based on my review, the Agency/University is not authorized to proceed with this sole source as presented and my recommendation is that it be cancelled.
- Other

CPO Signature CPO Phone

Printed Name Date

CPO E-mail