**Section 1600.2025 Sole Economically Feasible Source Procurement**

a) Application

The provisions of this Part apply to procurement from a sole economically feasible source (referred to as sole source) unless the estimated amount of the procurement is within the limit set in Section 1600.2020 (Small Purchases) or unless emergency conditions exist as defined in Section 1600.2030 (Emergency Procurements) of this Part.

b) Conditions for Use of Sole Source Procurement

Sole source procurement is permissible when a requirement is available from only a single supplier or when only one supplier is deemed economically feasible. A requirement for a particular proprietary item does not justify a sole source procurement if there is more than one potential bidder or offeror authorized to provide that item. The following are examples of circumstances that could necessitate sole source procurement:

1) the compatibility of equipment, accessories, replacement parts, or service is a paramount consideration;

2) a sole supplier's items are needed for trial use or testing;

3) a sole supplier's item is to be procured for commercial resale;

4) public utility regulated services are to be procured;

5) the item is copyrighted or patented and the item or service is not available except from the holder of the copyright or patent;

6) the procurement of the media for advertising;

7) the procurement of art or entertainment services; and

8) changes to existing contracts (see subsection (c) below).

c) Changes

1) Changes to an existing contract that are germane and reasonable in scope and cost in relation to the original contract or program, that are necessary or desirable to complete the contract or program, and that can be best accomplished by the contract holder may be procured under this Section when the Procurement Officer determines that the cost of delay or disruption to the contract or program, and the cost of a new solicitation, clearly indicate that the existing vendor is the sole economically feasible source.

2) A change (whether in cost or rate) that does not exceed the applicable small purchase limit as defined in Section 1600.2020 of this Part or that is an emergency as defined in Section 1600.2030 of this Part may be made in accordance with procedures governing those Sections and need not comply with these sole source procedures. A change in the length of the contact that does not exceed 30 days and other minor, immaterial changes to the scope or administrative provisions of a contract shall not be considered changes subject to these sole source procedures.

d) Procurement Officer to Determine

The determination as to whether a procurement shall be made as a sole source shall be made by the Procurement Officer. Such determination and the basis therefore shall be in writing. Such officer may specify the application of such determination and the duration of its effectiveness.

e) Publication of Sole Source Notice

The Procurement Officer shall submit to CMS for publication in the Bulletin notice of intent to contract with that vendor at least 14 days prior to execution of the contract.

1) If no challenge to this determination is made by a vendor within the 14 day period, the Procurement Officer may execute a contract with that vendor.

2) If a challenge is received, the Procurement Officer shall consider the information and shall commence a competitive procurement if the Procurement Officer determines that more than one economically feasible source may be available and the sole source designation is, therefore, not appropriate, unless an emergency situation exists.

f) Negotiation in Sole Source Procurement

The Procurement Officer shall conduct negotiations, as appropriate, to reach contract terms, including price, and shall maintain a record of each sole source procurement showing:

1) the vendor's name;

2) the amount and type of the contract;

3) what was procured; and

4) the identification number of the contract file.