Sole Source Procurements

September 29, 2023

dps Division of
Procurement Services

What is a sole source?

And what isn't a sole source?

What is a sole source?

▶ A legitimate need that only a specific supply or service can meet

▶ Only one vendor can provide that specific supply or service

What is not a sole source?

▶ A specific supply or service which may be available from multiple sources (for example – brand name)

▶ A need which may be satisfied by various supplies or services available from multiple sources

BEST SOURCE ≠ SOLE SOURCE

Examples – Regulation 19-445.2105

▶ Where compatibility of equipment, accessories, or replacement parts is paramount consideration

▶ Where a sole supplier's item is needed for trial use or testing

▶ Where item is one of a kind

How do I decide something is a sole source?

▶ Acquisition Planning & Market Research

  ▶ End User/Personal knowledge

  ▶ Exchanges with Industry

  ▶ Review contracts for similar products/services

  ▶ Review industry publications

Requirements for a Sole Source Acquisition

▶ Section 11-35-1560 & Regulation 19-445.2105

▶ A Written Determination

  ▶ Describes the supply or service

  ▶ States the actual need that is being met

  ▶ Identifies the source

  ▶ Explains why no other supply or source will meet the need (this is the basis)

  ▶ Accompanied by the market research that supports the determination

  ▶ Signed by the Agency Head or Designee above the level of the procurement officer

  ▶ Prepared <u>and</u> dated before contracting

JUSTIFICATION FOR
SOLE SOURCE PROCUREMENT

Agency: Click or tap here to enter text.

Sole Source Vendor: Click or tap here to enter text.

Based upon the following determination, Agency proposes to acquire the supplies, construction, information technology, and/or services described herein from the Vendor named above per S.C. Code Ann. §11-35-1560 and S.C. Regulation 19-445.2105, Sole Source Procurement.

Description of the Agency need that this procurement meets: Click or tap here to enter text.

Description of market research Agency performed to determine the availability of products or services that would meet the Agency's needs: Click or tap here to enter text.

Description of supplies, construction, information technology, and/or services Vendor will provide under the contract: Click or tap here to enter text.

Detailed explanation why no other vendor's supplies, construction, information technology, and/or services will meet the needs of the Agency: Click or tap here to enter text.

_____

Authorized Signature
Printed Name: Click or tap here to enter text.
Title: Click or tap here to enter text.
Date: Click or tap to enter a date.

Advertising Requirements – Intent to Award without Competition

▶ Less than or equal to $50,000 – Advertising is not required

▶ Greater than $50,000 but less than or equal to $250,000 – Advertise in SCBO for 5 business days

▶ Greater than $250,000 – Advertise in SCBO for 10 business days

Advertising Requirements

- Must include the determination <u>OR</u> how to obtain the determination *immediately* upon request

- Must include a statement of right to protest

Reporting Requirements – Section 11-35-2440

"A governmental body… shall submit quarterly a record of all contracts made pursuant to Section 11-35-1560 (Sole Source Procurement)"

The record must contain:

(i) each contractor's name

(ii) the amount and type of each contract

(iii) a listing of supplies, services, information technology, or construction procured under each contract

What if you don't comply?

▶ 11-35-1560 (C)

"A violation of these regulations by a purchasing agency, upon recommendation of the Division of Procurement Services with approval of the majority of the board, must result in the temporary suspension, not to exceed one year, of the violating governmental body's ability to procure supplies, services, information technology, or construction items pursuant to this section."

Common Issues

- ▶ Insufficient basis for the Sole Source
- ▶ Incorrect approvals
- ▶ Sole Source is approved/dated after the advertisement
- ▶ Written determination is not immediately available