**SECTION 7: ACQUISITION PROCEDURES**

**SUBJECT:** SOLE SOURCE PROCUREMENTS

**PROCEDURE 7.3.8**

**POLICY:**
It is the policy of the University of Washington Purchasing Department (Purchasing) that all purchases over Direct Buy Limit (see **Procedure 2.1**) that are legitimately limited to a single or sole source of supply may be acquired through direct negotiation. Such purchases shall have appropriate documentation justifying such method of acquisition.

**PROCEDURES:**

A. **SOLE SOURCE DEFINED BY THE GUARDING STATUTES**

The table below contains definition(s) of Sole Source as it’s outlined in each respective statute or in the empowered by the statute regulatory state policy(ies), arranged side-by-side for ease of comparison:

<table>
<thead>
<tr>
<th>RCW 43.19 – Acquisition of Goods and Purchased Services</th>
<th>RCW 43.105 – Acquisition of Information Technology</th>
<th>RCW 39.29 – Acquisition of Personal Services</th>
</tr>
</thead>
</table>
| Sole Source definition and special requirements in the RCW 43.19: Purchases which are clearly and legitimately limited to a single source of supply and purchases involving special facilities, services, or market conditions, in which instances the purchase price may be best established by direct negotiation. | Sole Source definition and special requirements in the IT Investment Standards (Department of Information Services (DIS) Policy No: 201-S1):  Sole Source method may be used when there is one supply source and at least one of the following conditions is present:  - Technological compatibility with the current installed base.  - Demonstrated evidence of technical or economic advantage.  The sole source method may also be used when at least one of the following conditions is present:  - Recovery from a disaster.  - A law or grant requires a single source.  - Unique functionality. | Sole Source definition in Office of Financial Management (OFM) Policy 15.10:  Sole Source is a contract awarded without competition, because the consultant providing the professional or technical expertise has skills, knowledge or ability of such a unique nature that the consultant is clearly and justifiably the only practical source to provide the service. The sole source award may also be based on the uniqueness or highly specialized nature of the services, sole availability of a consultant at the location required, or other special circumstance.  Sole Source advertisement requirements in the OFM Policy 15.20:  RCW 39.29.018 requires that sole source personal service contract in the amount of $20,000 or
more be advertised for a minimum of one day in either a statewide or regional newspaper. The advertising requirement is base on the individual contract amount of $20,000 or more and is not a cumulative total of sole source contracts with a contractor in a fiscal year. Advertising is required regardless of the source of funds of the contract. If a formal response to sole source advertisement is received from a firm, other than the proposed contract, and the agency determines the firm is also qualified to provide services, competitive solicitation, as set forth in Subsection 15.20.30.a, shall be conducted. Exemptions from the requirement for advertising sole source contracts include:

- Contracts for services where selection of the contractor is based on an exceptional personal accomplishment or characteristic, such as national experts on a specialized topic or issue, authors of acclaimed books or articles, guest speakers, performers, and artists. This does not apply, however, to contracts for services such as training, facilitation, etc.

- Contracts for services where the funding source mandates with whom the agency shall contract.

- Contract for services
B. DETERMINING SINGLE OR SOLE SOURCE

The following list of criteria may be used, but is not restricted to, in determining if a single or sole source situation exists:

1. Only **one manufacturer** makes the item meeting the salient specifications; and that manufacturer only sells direct or exclusively through one regional or national representative.
2. The item required must be identical to equipment already in use by the end user, to insure **compatibility of equipment**, and that item is only available from one source; same reasoning applied in the continuation of research situation.
3. Collaborative project, interagency agreement or clinical trials where the identical equipment is required for compatibility and **continuity of research**.
4. **Maintenance** or repair calls by the original equipment manufacturer (O.E.M.) are required for a piece of equipment, and the manufacturer does not have multiple agents to perform these services.
5. **Replacement or spare parts** are required from the O.E.M., and the O.E.M. does not have distributors for those parts.
6. Patented items or **copyrighted materials**, which are only available from the patent or copyright holder.
7. A medical/surgical decision by a medical/dental professional, where a specific brand is required for patient care, and the manufacturer has no multiple distributors for the product.
8. **Only one quote** or bid response is received as a result of a competitive solicitation.

**Note:** An item being a “sole brand” or a “sole manufacturer” does not automatically qualify to be a “sole source”. Many manufacturers sell their products through distributors. Therefore, even if a purchase is identified as a valid “sole brand” or “sole
manufacturer”, the buyer should verify whether the manufacturer has multiple
distributors. If the manufacturer does have multiple distributors, competition should be
sought among the distributors.

C. JUSTIFICATION FOR SINGLE OR SOLE SOURCE
All sole and single source purchases, except for purchases related to the emergency
type of acquisitions, must have sole source justification documentation included in the
file. There are two different methods with which the above mentioned documentation
requirement may be accomplished:
1) With a memo justifying a sole source purchase, which came from the
department requesting such purchase. This memo must be reviewed and
approved by the buyer. Note: The following two documents may be
recommended to campus users as format for sole source justification memo
(Sole Source Justification Checklist -- Goods and Services and Sole Source
Justification Checklist -- Consultant Services). After the memo justifying a sole
source purchase is reviewed and accepted by the buyer, the buyer shall include a
signed statement regarding the validity of the justification on the face of the
memo; or
2) With the buyer making a decision that a given purchase is a sole source. In this
case, a signed statement and explanation from the buyer shall be included with a
purchase order (PO) or a contract file.

D. PROPOSAL/QUOTE AND NEGOTIATIONS
For any purchase over $10,000 a written proposal must be secured from the prospective
supplier. Also, the buyer is strongly encouraged to negotiate with the prospective
supplier to improve the proposal (price, service levels, warranty, payment terms and
other factors or potential variables).

E. PRICE VALIDATION OF SINGLE OR SOLE SOURCE
Because a sole source purchase precludes competition, some other form of price
validation must be conducted and documented accordingly. Note: Emergency or
disaster recovery procurements conducted as a sole source do not need price validation
(see Procedure 7.3.11 for more details on Emergency Purchases). The following are the
types of price validation performed at the University of Washington: price warranty, or
price or cost analysis (see the table below). Which method to use is determined by the
dollar amount and whether the item is a “commercial” or “non-commercial item” (see
FAR Section 2.101 for definition of a “commercial item”).

1. Price Validation table for Commercial Items:

<table>
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<tr>
<th>ORDER THRESHOLD</th>
<th>METHOD FOR PRICE VALIDATION</th>
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<tbody>
<tr>
<td>Over Direct Buy Limit and up to $10,000</td>
<td>The buyer includes a note on the face of the purchase order directing the supplier’s attention to the University of Washington Term and Condition #39B.</td>
</tr>
</tbody>
</table>
| Unit price <$25,000 and total order cost of <$250,000 | The Buyer shall have the supplier provide one of the following three items:  
1) Sign a Price Warranty Checklist (See Attachment 7.3.8A), stating that the supplier shall comply with the following condition: “Catalog or Published Price List – The quotation is based on an established catalog or |

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<tr>
<th>Published price list of a commercial item sold in substantial quantities to the general public.</th>
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<tr>
<td>Or</td>
</tr>
<tr>
<td>2) A copy of a current catalog/published price list.</td>
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<tr>
<td>Or</td>
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<tr>
<td>3) List price included in the quote and variable 304! included in the PO.</td>
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<tr>
<td>Or</td>
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<tr>
<td>4) If neither of the above two items can be provided by the vendor, a price analysis is required.</td>
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</tbody>
</table>

| Unite price > $25,000 and total order cost of > $250,000 | The buyer shall conduct a price analysis. The purpose of the analysis is to establish price reasonableness. This may be accomplished by price comparison with other similar items from other sources; or, if the item has been purchase competitively in the past, by determining how much the price has escalated over past years in comparison to the Consumer Price Index (CPI) or another trade price index; or by comparing the price with a cost estimate developed independently by the Buyer after consultation with other professional staff at the University. In any event, the Buyer must make a positive statement that the price is fair and reasonable. If no price analysis is available, a cost analysis may be performed instead. (See Cost Analysis Procedure #7.4.2). |

2. Price validation for Non-Commercial items over the Direct Buy Limit (see Procedure 2.1):
   For any purchase contract for a non-commercial item over the Direct Buy Limit, cost analysis is required. (See Cost Analysis Procedure #7.4.2).

F. SINGLE OR SOLE SOURCE PURCHASE DOCUMENTATION
Once you have completed the justification and price validation part of the Sole Source purchase documentation, you may follow the regular purchase documentation process outlined in the Procedure 7.4.1.
Price Warranty
for Commercial Items/Services

Attn: _____________________________________________________________

Reference/Quote/Proposal Number: ______________________________________

The University of Washington has determined that a sole source justification exists for the
items/services covered by the above referenced document. Per State of Washington RCW 43.19,
the University is responsible for ensuring that the rates/prices quoted are fair and reasonable. To
this end, Seller is requested to complete and return this Price Warranty to the Buyer noted below.

Please provide the following information (check one please) and return as
soon as possible:

_____ Established Catalog or Published Price List
Seller warrants that the prices for the items covered in this offer are based on established
catalog or market prices of commercial items sold in substantial quantities to the general
public.
Title and Date of applicable catalog pricelist: ________________________________

_____ Electronic Price List
Seller warrants that the prices for the items covered in this offer are based on established
electronic price list or market prices of commercial items sold in substantial quantities to
the general public.
Title of electronic price list: _______________________________________________
Latest revision date: _____________________________________________________

NOTE 1: Provide a copy of your published catalog/price list for these items if available.

NOTE 2: If you are offering an educational discount, volume discount, charitable contribution
or other deduction from your published price list/catalog for this purchase, please note
in the space below or on your quotation/bid:
___________________________________________________________________________

SIGNED:
BY: ____________________________________________
Printed Name: _________________________________
Title: __________________________________________
Company Name: _______________________________
Phone: ________________________________
Email: ________________________________
Date: ________________________________

Please complete and return this form to:
University of Washington, Purchasing Department
Attn: ________________________________ (Buyer)
Via Fax: ________________________________ or email: ________________________________