

**SECTION 7: ACQUISITION PROCEDURES**

**SUBJECT: SOLE SOURCE PROCUREMENTS PROCEDURE 7.3.8**

**POLICY:**The University seeks to use competitively awarded contracts wherever possible. However, in some cases, only a single source is available for a particular commodity or service. All purchases that are legitimately limited to a single or sole source of supply may be acquired through direct negotiation. All sole source purchases over the direct buy limit (see [Procedure 2.1](#)) shall have appropriate documentation justifying such method of acquisition. Additional reporting is required for sole source procurements using state-appropriated funds; see [Policy 7.4.7 Sole Source Reporting](#).

**PROCEDURE:**

Sole source purchases are defined by [RCW 39.26.010\(22\)](#) as “a contractor providing goods or services of such a unique nature or sole availability at the location required that the contractor is clearly and justifiably the only practicable source to provide the goods or services.

The following list of criteria may be used to determine whether a legitimate sole source exists. This list is not exhaustive, and other factors may be considered:

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.<sup>1</sup>
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.

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<sup>1</sup> 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

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.
9. A Market Survey has been conducted to determine whether other potential sources capable of satisfying the requirement exist. Market survey may be conducted by phone or in writing. The extent of the market survey depends on what constitutes a reasonable effort under the circumstances to ensure that competition is not feasible. A list of the suppliers contacted, along with the reason why each supplier *could not meet* the requirement may justify a sole source purchase.

All sole and single source purchases, except for emergency 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) A sole source eform justifying a sole source purchase from the department requesting such purchase. This memo must be reviewed and approved by the buyer. The appropriate eform may be found on the [UW Procurement Services page on Sole Source Purchases](#) After the eform 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; or

- 2) The buyer makes 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 the purchase order (PO), Ariba order or contract file.

For purchases over \$10,000, obtain a written proposal from the prospective supplier.<sup>2</sup> The buyer should negotiate with the prospective supplier to improve the proposal (price, service levels, warranty, payment terms and other factors or potential variables) and ensure appropriate Terms and Conditions, including insurance requirements are incorporated in the final contract document.

Because a sole source purchase precludes competition, some other form of price validation and reasonableness must be conducted and documented accordingly.<sup>3</sup> The following are the types of price validation performed at the University of Washington: price warranty or price/cost analysis. The 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”), and is summarized in the table below.

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](#))

ORDER THRESHOLD	METHOD FOR PRICE VALIDATION
All sole source purchases	<a href="#">University of Washington Terms and Conditions “Warranty,” subpart B</a>  Buyers may also include a note on the face of the requisition directing attention to UW General Term and Condition 40B.

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<sup>2</sup> All proposals and vendor information, including qualifications and references, must be in English to be appropriately evaluated. If a proposal is not in English, the department is responsible for appropriately translating the proposal.

<sup>3</sup> 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).

<p>Unit price &lt;\$25,000 and total order cost of &lt;\$250,000</p>	<p>The Buyer shall have the supplier provide one of the following three items:</p> <p>1) Sign a Price Warranty Checklist stating that the supplier shall comply with the following condition:</p> <p style="padding-left: 40px;">“Catalog or Published Price List – The quotation is based on an established catalog or published price list of a commercial item sold in substantial quantities to the general public.” Or</p> <p>2) A copy of a current catalog/published price list.</p>
<p>Unit price &gt;\$25,000 and total order cost of &gt;\$250,000</p>	<p>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 purchased 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 <a href="#">Cost Analysis Procedure #7.4.2.</a>)</p>

<p>Contract/Subcontract/Modification<sup>4</sup> for a non-commercial item expected to exceed \$700,000<sup>5</sup></p>	<p>The University shall require compliance with the Truth in Negotiations Act (TINA), 10 USC 2306a, 41 USC 254b. Require the contractor or subcontract to submit cost or pricing data—all facts that could be expected to have a significant effect on price negotiations under FAR 15.401.</p> <p>The University must also require that the contractor certify that the data is accurate, current and complete. FAR 15.401, 15.406-2.</p>
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<sup>4</sup> Unless the price is set by law or regulation, or a waiver has been granted. FAR 15.403-1(b)

<sup>5</sup> FAR 15.403-4(a)(1)