

Title: State Funded Single/Sole Source Procurement Requests Policy	Policy Category: Financial
Issuing Authority: Administration & Finance	Responsibility: Procurement Office
Publication Date: 11/15/2022	Next Review Date: 11/15/2025

Printed copies are for reference only. Please refer to the electronic copy for the latest version.

Policy Statement/Background:

None

Policy:

If the required commodity or service cannot be obtained via a State preferred source, a State contract or a Local contract, the University requires a competitive procurement process demonstrating price reasonableness for all purchases regardless of dollar value when using State funds. When competition is not feasible due to either the existence of an emergency or the single or sole source nature of a commodity or service, the University must document in the procurement record the reason(s) why competition is not feasible and justify the selection of the vendor and establish the reasonableness of the pricing.

The NYS Office of the State Comptroller (OSC) and NYS law provides the following guidance in this regard:

- The University is required to conduct formal competitive procurements to the maximum extent practicable.
- Single or sole source procurements for commodities or services, or procurements made to respond to emergencies arising from unforeseen causes, may be made without a formal competitive process and shall only be made under unusual circumstances and shall include a determination by the University that the specifications or requirements for the purchase have been designed

in a fair and equitable manner. The University shall document in the procurement record the bases for a determination to purchase from a single or sole source, or the nature of the emergency giving rise to the emergency procurement. An example of substantiating a sole source procurement would be written documentation detailing the unique nature of the requirement, how it was determined only one vendor could meet the need, and how it was determined the price is reasonable.

- The University shall minimize the use of single source procurements and shall use single source procurements only when a formal competitive process is not feasible. The University shall document in the procurement record the circumstances and the material and substantial reasons why a formal competitive process is not feasible. An example of substantiating a single source procurement might be written documentation detailing prior substantial experience of the vendor in provision of the commodity or service customized to the University environment or a certain service that only one vendor provides in addition to the service or technology being procured. The term of the single source procurement contract shall be limited to the minimum period of time necessary to ameliorate the circumstances which created the material and substantial reasons for the single source award. Not later than thirty (30) days after the contract award, the University shall, for all single source procurement contracts, make available on its website a summary of the circumstances and material and substantial reasons why a competitive procurement is not feasible.
- For procurements that exceed the University's single/sole source discretionary authority (\$125,000.00) the resulting OSC approved Contract Reporter Exemption Request (CRER) / Contract shall be limited to the minimum time necessary to ameliorate the circumstances which created the request. The CRER must be approved by OSC prior to submitting the contract to OSC for approval. If the University receives exemption from advertisement it is still required to publish a notice of the contract award in the NYS Contract Reporter. The notice must include the name of the contract awardee and be placed as soon as practicable.

Procurement Justification Requirements

For each request for a single/sole source or emergency procurement, provide the following information to the Procurement Office:

- Describe what is being procured; include a detailed description of the need for the commodity or service.

- Provide a detailed explanation as to why a competitive procurement is not feasible (examples might include a legislative or Executive Order implementation requirement). Describe the material and substantial circumstances requiring the need for a single/sole source procurement.
- Describe how the commodity/service/vendor selected is unique in characteristics in comparison to other similar commodities/services/vendors and explain how such uniqueness is a fundamental part of the University's form, function and utility needs.

For emergencies, describe the nature of the emergency and confirm that the procurement is limited to addressing only the emergency nature of the problem and that a follow-up competitive procurement(s), where practical and possible, will be conducted to fully address the resolution of the emergency event. Provide a declaration of emergency issued by the head of the University or designee.

Price Justification Requirements

Notwithstanding the single/sole source or emergency nature of the requested procurement, the University needs to establish that the price paid for the commodity or service is fair and reasonable. Accordingly, provide information to the Procurement Office that demonstrates the reasonableness of the proposed pricing. Acceptable methods of demonstrating price reasonableness include, but are not limited to:

- Cost vs. benefit in monetary terms
- Purchases made by other NYS agencies
- Purchases made by other states
- Purchases made by similar facilities
- Discount from list prices
- OGS pricing
- Historical cost
- Manufacturers published price list
- Manufacturing costs plus profit
- Cost comparisons to similar projects, etc.
- Average weighted bid prices or similar average costs in a region
- A statement from the vendor documenting that such charges to the State are better, equal to or lower than that charged to other government agencies
- A description of the due diligence process
- Comparison to similar regions, other providers, like entities or prior year costs

Advertising Intent to Purchase in Excess of \$50,000.00

Notwithstanding the University's discretionary authority for single/sole source procurements, New York State law requires the University to advertise purchases estimated to exceed \$50,000.00 in the New York State Contract Reporter (NYSCR) prior to making an award. University approval of single/sole source procurements does not preclude this requirement.

The President has designated the following individuals authority to review and approve single/sole source procurements:

- Associate Vice President of Procurement
- Director of Strategic Procurement

Definitions:

Emergency: an urgent and unexpected requirement where health and public safety or the conservation of public resources is at risk.

Local Contract: commodities purchased via Consortia or Group Purchasing Organization (GPO) contracts as outlined in the NYS Procurement Council's Consortia Purchasing Guidelines (Rev. September 2009). Campus let service contracts less than \$250,000 in value.

Single Source: a procurement in which although two or more vendors can supply the required commodity or service it is determined that there are material and substantial reasons to award a contract to one vendor over another that are documented in a written justification.

Sole Source: a procurement in which only one vendor is capable of supplying the required commodity or service. The unique nature of the requirement and determination of why no other vendor could provide the commodity or service is required as part of a written justification.

Contact:

Additional information about this policy is available here:

Procurement Office

Research and Development Park, Building 17
Stony Brook, NY 11794-6000
(631) 632-6010

Relevant Standards, Codes, Rules, Regulations, Statutes and Policies:

- [Procurement Office Website, Purchasing - State Funds](#)
- [SUNY Procedure 7553: Procurement & Contracting](#)
- [NYS OGS Procurement Council Guidelines](#)
- [NYS OSC Guide to Financial Operations](#)