

# Chapter 19. Sole Source

## Summary

This chapter identifies one of the situations when compliance with the competitive sealed bidding and competitive negotiation procedures is excused. The situation considered in this chapter exists when there is only a single vendor of the goods or services sought to be procured -- a sole source.

<b>Essential Information in this Chapter</b>	
<ul style="list-style-type: none"><li>• A sole source is the only vendor that is practicably available to provide the goods or services sought to be procured.</li><li>• The competitive sealed bidding and competitive negotiation procedures are excused when it is determined that the goods or services are practicably available only from a sole source.</li><li>• The determination of whether the goods or services may be procured only from a sole source shall be made by the purchasing agent.</li><li>•</li></ul>	
<b>Key References to the Code of Virginia Applicable to this Chapter</b>	
Section 2.2-4303(E): Procurement from a sole source	

### **19-1 General**

The competitive sealed bidding and competitive negotiation procedures are excused when it is determined that the goods or services are practicably available from a sole source. Other situations when these procedures are excused are discussed in Chapters 20 and 21.

### **19-2 Determination of a Sole Source**

If a using department desires to procure goods or services that it believes are available only from a sole source, it shall state in a writing provided to the purchasing agent: (1) a description of the goods or services in the form of the proposed specifications or a work statement; (2) the reasons why it believes that the goods or services may be procured only from a single vendor; and (3) an explanation of the efforts made to reach its conclusion that the goods or services may be procured only from a single vendor.

The determination of whether the goods or services may be procured only from a single vendor shall be made by the purchasing agent. In making this determination, the purchasing agent shall determine whether there is only one vendor practicably available to provide the goods and services, considering the following:

- The word “practicable” is synonymous with “feasible” or “possible”, not utter impossibility regardless of expense, time, or inconvenience.
- Whether the specifications or work statement has been so narrowly written so as to preclude multiple bidders or vendors from eligibility or to thwart competition.
- Whether, under the circumstances, the procurement of the goods or services is consistent with the letter and spirit of this manual, as set forth in Chapter 1, as well as the Virginia Public Procurement Act.

Prior to making his determination, the purchasing agent may conduct his own investigation, request additional information from the using department, and consult with the county attorney.

### **19-3 Procedure if it is Determined There is a Sole Source**

If the purchasing agent determines that the goods or services may be procured only from a single vendor, the following procedure shall apply prior to the actual procurement:

- Written determination: The purchasing agent shall make a written determination that only one vendor is practicably available to provide the goods or services and state the basis for the determination. This written determination shall be placed in the contract file.
- Public notice of determination: The purchasing agent shall post in a designated public area or the Purchasing Office’s webpage a written notice that: (1) states that only one vendor was determined to be practicably available; (2) identifies the goods or services that will be procured; (3) identifies the vendor selected; and (4) states the date on which the contract will be awarded.
- Notice period: Prior to award of the contract, the public notice of determination shall be posted for at least ten (10) days.

### **19-4 Contract Award**

The contract shall be awarded only after the expiration of the ten (10) day notice period required in Section 19-3. The procedure to award a contract shall be as follows:

- Contract award: The purchasing agent shall award the contract to the vendor selected.
- Notice of award: The purchasing agent shall post in a public place or the Purchasing Office’s webpage a written announcement of the award, which

may be identified as a notice of award. The notice of award shall also include a statement that the public records pertaining to the procurement have been and are available for inspection by potential vendors. The purchasing agent is not required to provide individual notice of the award to any potential vendors.

**19-5 Procedure if Purchasing Agent Determines Sole Source Procedure does not Apply**

If the purchasing agent determines that the sole source procedure does not apply because there are other vendors practicably available, he shall notify the using department of his determination. If the using department determines the need for goods and services is still present, it will coordinate with the purchasing agent to proceed with the proper method of procurement as outlined in this manual.