

Only One

State of Illinois
Chief Procurement Office

Sole Source Procurements Report
Fiscal Year 2015

August 1, 2015



There are times when only one responsible and economically feasible source for a supply or service exists, and no other supply or service will satisfy the State's requirements.

CHIEF PROCUREMENT OFFICE MISSION & VALUES

To work with agencies and universities to meet their procurement needs while exercising independent authority, oversight, and approval designed to continuously improve the procurement process and ensure: compliance with law, fair treatment, diversity, integrity, transparency and value.

The four Chief Procurement Officers, appointed pursuant to Section 10-20 of the Illinois Procurement Code and confirmed by the Illinois Senate, ensure that approximately \$10 billion in procurements made by the State are fair, transparent, accountable, and in the best interest of the State. Procurement using a competitive process is the preferred method, but sometimes that is not possible or practical. The Procurement Code specifically authorizes state agencies and universities to contract directly with vendors that are the sole economically feasible source.

Justifications for Using a Sole Source Procurement

No Substitutions Available
Lack of Competition
Specific Characteristics Limit to One Supplier
Supplier's Unique Capability
Proprietary Technology
Copyrighted
Patented
Radio or TV Broadcast Rights
Time is of the Essence and only One Supplier can Meet Needs within Timeframe
Grant Requires Contract with Designated Supplier

EXECUTIVE SUMMARY

In Fiscal Year 2015, the Chief Procurement Officers continued to streamline policies and practices to ensure that sole source awards received the highest level of scrutiny. Prior to the published notice of intent to award a sole source contract, State Purchasing Officers consult with agency and university procurement staff on the appropriateness of using a sole source procurement method. This consultation includes a review of the sole source justification. In some instances, the decision to alternatively use a competitive procurement is made.

In Fiscal Year 2015, 30 hearings were held compared to 26 hearings in Fiscal Year 2014 and 60 hearings in FY13. This low number of hearings, when compared to the overall number of sole source procurements, is due to the Chief Procurement Office's heightened scrutiny and sensitivity to sole source procurements.

A 2012 amendment of the Procurement Code permitting sole source awards without a hearing unless requested by an interested party continues to save the State approximately 250 hours of hearing time every year. Since each hearing involves preparation and participation by a state hearing officer, agency procurement staff, and a state purchasing officer, the number of actual labor hours saved is at least three times that of the actual hearing.

The value of the 701 awarded sole source contracts in Fiscal Year 2015 was \$697,860,818 compared to 519 sole source contracts valued at \$447,792,158 in Fiscal Year 2014. This was a 55.8% increase in the value of awards.

Vendors, the Procurement Policy Board, or the Chief Procurement Office questioned the procurement method in 30 (4.3%) of the 701 sole source awards published in Fiscal Year 2015. Evidence that the request to use the sole source procurement method is being properly vetted early in the procurement process is that only one source award was denied after hearing due to questions about the appropriateness of the procurement method.

<u>SOLE SOURCE CONTRACTS SUMMARY</u>				
Total Value of Sole Source Contracts	=			\$697,860,818
Total Number of Sole Source Contracts	=			701
Total Number of Agencies and Universities using Sole Source Contracts	=			41
Number and value of awards by CPO jurisdiction:				
• General Services	235 awards	=		\$327,738,459
• Higher Education	466 awards	=		\$370,122,359
• Capital Development Bd.	0 awards	=		\$0

SOLE SOURCE PROCUREMENT OVERVIEW

Section 20-25 of the Illinois Procurement Code (30 ILCS 500/20-25) allows contracts to be awarded without using a competitive method of source selection when there is only one economically feasible source for an item. For example, sole source is appropriate when procuring public utilities or where the item is proprietary and available only from the manufacturer. However, because these are exceptions to the normal practice of competitive bidding, sole source contracts require heightened scrutiny and may include a public hearing before they are executed. In the past, the award of a sole source contract was subject to some suspicion that the awarded vendor was improperly selected to exclude competitors. Now, the Chief Procurement Office follows practices ensuring that the sole source process is an open and transparent process.

Agencies must justify a sole source request using a standardized justification form. If the request appears to meet the criteria for sole source, a notice of intent to enter into a sole source contract is published in the publically available on-line Illinois Procurement Bulletin. This notice also goes to the Procurement Policy Board. The notice is published for at least 14 days and includes a description of the item to be procured, the intended sole source contractor, and the date, time, and location of a public hearing that would be held if requested by any interested party.

The 14 day notice allows time for interested parties to provide comments and request a hearing. Hearing participants may include the person who requested the hearing, the state purchasing officer, an agency representative, a representative of the Procurement Policy Board, the vendor identified as the sole source, and a hearing officer. Each party is given the opportunity to speak and raise any issues pertinent to the sole source intent.

After the hearing, the hearing officer makes a recommendation based on all the hearing and relevant documentation. The Chief Procurement Officer takes the recommendation under advisement and issues a decision to permit or disallow the award. This decision and related documentation is posted to the Procurement Bulletin. This current process provides transparency through notice and opportunity to potential competitors to respond in a manner similar to an Invitation for Bid or Request for Proposal.

A State contract may not be awarded as sole source unless approved by the Chief Procurement Officer.

SOLE SOURCE PROCUREMENTS—CAPITAL DEVELOPMENT BOARD

The CPO for the Capital Development Board (CPO-CDB) did not award any sole source contracts under the Illinois Procurement Code in Fiscal Year 2015. Utilizing competitive sealed bidding for contractors and qualifications-based selection for architects, along with diligent oversight of contract terms and expiration dates, the CPO-CDB creates a procurement environment that maximizes competition and minimizes the need to procure without competition. When factors exist that might result in a sole source contract, such as a short-time-frame to obtain a vendor to perform work, the CPO-CDB works with the Capital Development Board (CDB) to implement strategies that still promote competition to the maximum extent possible.

These strategies include:

- The use of the small purchase method of procurement to meet an immediate need while using the traditional competitive process for the full procurement.
- Employing an expedited procurement process which significantly reduces the time to perform administrative functions during a procurement.

The CPO-CDB and CDB are committed to ensuring that the greatest possible level of competition is achieved in each procurement.

	FY15	FY14	FY13
Number of Sole Source Contracts Published	0	2	9
Number of Sole Source Contracts Approved	0	2	8
Number of Sole Source Contracts Denied	0	0	0
Number of Sole Source Procurements Withdrawn	0	0	1
Dollar Value of Sole Source Contracts	\$0	\$51,655	\$1,722,200
Average Dollar Value of Sole Source Contracts	\$0	\$25,827	\$215,275

SOLE SOURCE PROCUREMENTS—INSTITUTIONS OF HIGHER EDUCATION

Due to the nature of universities' research and medical requirements, the need for sole source procurements is higher than that of state agencies. Unique research, medical, and technical items account for the majority of sole source transactions and dollar value.

In January 2015, a technical error allowed Section 1-13 of the Procurement Code to expire. This section granted certain exemptions to the universities to allow them to better meet their needs for specific items that were not conducive to another procurement method, such as research and medical needs. The expiration of these exemptions has forced those purchases back into sole source procurements. The impact is an increase in the number of sole source procurements being conducted. Until legislation is passed to reinstate those exemptions, the number and value of sole source procurements will remain higher.

For FY15, the CPO-HE began tracking the number and value of sole source renewals.

	FY15	FY14	FY13	FY12
Number of Universities Awarding Sole Source Contracts	13	12	13	13
Dollar Value of Sole Source Contracts	\$370,122,359	\$174,713,593	\$248,322,183	\$291,627,244
Number of Sole Source Contracts Published	466	307	368	571
Average Dollar Value of Sole Source Contracts	\$794,254	\$569,099	\$674,789	\$510,731

Sole Source by University

UNIVERSITY	Dollar Value		Dollar Value		Dollar Value	
	Contracts FY15	# Contracts FY15	Contracts FY14	# Contracts FY14	Contracts FY13	# Contracts FY13
Chicago State University	\$1,202,168	5	\$450,000	1	\$2,894,264	11
Eastern Illinois University	\$1,493,788	8	\$3,301,715	11	\$7,589,870	15
Governors State University	\$2,321,000	9	\$150,000	1	\$1,099,930	6
Illinois State University	\$6,589,054	26	\$5,648,688	24	\$4,310,733	20
Northeastern Illinois University	\$690,000	1	\$0	0	\$109,661	1
Northern Illinois University	\$13,002,499	13	\$2,180,697	15	\$10,148,659	26
Southern Illinois University Carbondale	\$7,447,713	28	\$10,497,713	25	\$5,506,606	20
Southern Illinois University Edwardsville	\$7,029,728	21	\$5,459,432	20	\$19,072,677	24
Southern Illinois University Medical School	\$3,981,493	17	\$4,212,137	20	\$1,596,817	11
University of Illinois Chicago	\$60,587,716	92	\$89,154,997	72	\$113,794,980	87
University of Illinois Springfield	\$2,565,495	14	\$434,310	5	\$754,347	7
University of Illinois Urbana Champaign	\$78,210,727	167	\$49,304,874	102	\$74,207,996	123
Western Illinois University	\$10,620,148	9	\$3,919,029	11	\$7,258,643	17
Illinois Math and Science Academy	\$0	0	\$0	0	\$0	0
Illinois Public Higher Education Consortium	\$173,374,500	55	\$0	0	\$0	0

SOLE SOURCE PROCUREMENTS—INSTITUTIONS OF HIGHER EDUCATION

cont.

<u>Sole Source Transaction Type</u>	<u>#</u>	<u>% of total</u>
Art, entertainment services, or athletic events	1	.21%
Compatibility of equipment, accessories, replacement parts, or service is a paramount consideration	58	12.45%
Copyrighted or patented and is not available except from the holder of the copyright or patent	120	25.75%
Critical changes to an existing contract are necessary and best accomplished by the contract holder	1	.21%
Federal or State grant requires a contract with the vendor	6	1.29%
Item is to be procured for commercial resale	33	7.08%
Items are required by an existing franchise agreement	6	1.29%
Required for research and no other source is able to meet the researcher's documented need	54	11.29%
Items are needed for trial use or testing	1	.21%
Media is for advertising	9	1.93%
Organization Memberships (dues, fees, conference charges including mandated travel and related expenses)	2	.43%
Public utility service is regulated	15	3.22%
Radio and television broadcast rights	11	2.36%
Software license, upgrade, or maintenance	47	10.09%
Other (primarily to meet research and medical needs or library needs)	102	21.89%
Sole Source Transaction Type by University	TOTAL -	466

<u>University</u>	<u># Renewals FY15</u>	<u>Dollar Value Renewals FY15</u>
CSU	0	\$0
EIU	1	\$51,000
GSU	0	\$0
IMSA	0	0
ISU	1	\$82,532
NEIU	0	\$0
NIU	1	\$150,000
SIUC	0	\$0
SIUE	1	\$127,426
SIUMed	1	\$90,000
UIC	81	\$34,449,510
UIS	0	\$0
UIUC	18	\$8,100,518
WIU	1	\$130,000
Totals	105	\$43,180,986

SOLE SOURCE PROCUREMENTS—GENERAL SERVICES

The number of Sole Source contracts in General Services increased by 25 or 11.9%. The dollar value of Sole Source contracts increased by 16.7%. The Department of Central Management Services made the largest single award at \$65,000,000 to CDW. The vendor represents a single Microsoft authorized reseller for the purchase of Microsoft software, licensing, hosting services, and support available via the State's Microsoft Select and Enterprise Agreements. This was a 45 month master contract that ended 6/30/2015.

Healthcare and Family Services had the next largest award which totaled \$45,500,000 to Maximus Health Services for the purchase of programming, education, enrollment, and disenrollment activities for the Illinois Client Enrollment Broker contract. This reflects an amendment made to a two year contract with Maximus Health Services for the Enhanced Eligibility Verification project that had an initial term from 9/14/2012 through 9/13/2014. Maximus won the competitively procured contract over five other bidders. The CPO for General Services treated the amendment as a sole economically feasible source procurement to maximize transparency.

The top 10% of sole source awards accounted for 78.3% of the dollars awarded via sole source.

Of the 235 sole source awards, interested parties requested 21 hearings (8.9%). The Chief Procurement Officer approved all sole source awards except one where the CPO requested additional information justifying the award. One hearing request was withdrawn.

To apply a higher level of scrutiny over proposed sole source procurements, the CPO for General Services requires greater justification for sole source contracts lasting longer than one year. This policy forces agencies to review their own needs and the marketplace frequently whenever sole source vendors are used. The premise is that the marketplace is dynamic, and ever-changing technologies and vendors present an opportunity for the State to conduct a competitive procurement.

Only 28 of 235 total sole source awards (11.9%) were approved for two years or longer.

P.A. 97-895 amended the Procurement Code by exempting procurement expenditures necessary to provide artistic or musical services, performances, or theatrical productions held at a venue operated or leased by a State agency. In FY 15 this sustained the decrease in the number of sole source contracts, compared to FY13 (pre-P.A. 97-895) by the Department of Agriculture for entertainment for the Illinois State Fair.

	FY15	FY14	FY13	FY12
Number of Agencies Awarding Sole Source Contracts	28	32	34	34
Dollar Value of Sole Source Contracts	\$327,738,459	\$273,026,910	\$169,281,897	\$131,168,784
Number of Sole Source Contracts Approved	235	210	277	192
Average Dollar Value of Sole Source Contracts	\$1,394,632	\$1,300,128	\$611,126	\$683,171
Number of Sole Source Contracts Denied	?	0	2	2

SOLE SOURCE AWARDS BY AGENCY — GENERAL SERVICES

Agency	Dollar Value Contracts FY15	# Contracts FY15	Dollar Value Contracts FY14	# Contracts FY14	Dollar Value Contracts FY13	# Contracts FY13
AGING	\$386,695	2	\$375,572	2	\$317,365	3
AGRICULTURE	\$1,246,871	15	\$370,255	5	\$1,829,970	26
BOARD OF ELECTIONS	\$0	0	\$0	0	\$174,162	1
BOARD OF HIGHER EDUCATION	\$0	0	\$36,000	1	n/a	n/a
CENTRAL MANAGEMENT SERVICES	\$130,267,606	52	\$34,763,900	42	71,004,684	58
CHILDREN AND FAMILY SREVICES	\$677,308	4	\$576,841	3	\$3,039,057	9
COMMERCE AND ECON OPPORTUNITY	\$1,103,595	7	\$1,087,802	7	\$2,021,161	10
COMMUNITY COLLEGE BOARD	\$0	0	\$0	0	\$255,642	2
CORRECTIONS	\$1,518,520	4	\$3,320,477	5	\$1,320,000	2
COURT OF CLAIMS	\$0	0	\$175,000	1	n/a	n/a
CPO GENERAL SERVICES	\$0	0	\$539,440	1	\$0	n/a
CRIMINAL JUSTICE INFO AUTHORITY	\$127,400	2	\$127,400	2	\$202,400	3
EMERGENCY MANAGEMENT AGENCY	\$790,000	5	\$2,005,000	6	\$1,046,680	8
EMPLOYMENT SECURITY	\$1,016,891	8	\$1,336,995	6	\$3,080,060	5
ENVIRONMENTAL PROT AGENCY	\$0	0	\$0	0	\$358,260	3
FINANCE AUTHORITY	\$233,000	1	\$233,000	1	\$0	0
FINANCIAL AND PROF REGULATION	\$1,382,680	5	\$1,507,555	3	\$710,000	4
HEALTHCARE & FAMILY SERVICES	\$70,906,307	13	\$153,296,019	13	\$3,008,803	6
HISTORIC PRESERVATION AGENCY	\$0	0	\$66,488	2	\$274,212	9
HOUSING DEVELOPMENT AUTHORITY	\$1,741,867	8	\$656,720	4	\$609,937	5
HUMAN SERVICES	\$6,055,180	12	\$2,433,607	7	\$5,963,522	10
INSURANCE	\$2,227,560	7	\$250,000	1	\$0	0
JUVENILE JUSTICE	\$84,500	1	\$142,800	1	\$87,000	1
LABOR	\$0	0	\$0	0	\$500,000	1
LOTTERY	\$400,000	2	\$1,145,000	3	\$1,347,420	2
MILITARY AFFAIRS	\$100,000	1	\$0	0	\$193,816	2
NATURAL RESOURCES	\$4,777,050	4	\$4,185,069	6	\$872,892	8
OFFICE OF EXEC INSPECTOR GENERAL	\$0	0	\$105,040	1	\$0	0
PUBLIC HEALTH	\$24,222,887	22	\$8,853,441	15	\$16,403,227	23
REVENUE	\$315,214	3	\$2,655,702	7	\$22,716,196	24
STATE BOARD OF EDUCATION	\$3,354,587	10	\$3,543,707	15	\$1,812,194	10
STATE FIRE MARSHALL	\$919,290	4	\$418,326	2	\$382,800	3
STATE POLICE	\$16,376,276	19	\$16,641,182	16	\$3,227,363	8
STUDENT ASSISTANCE COMMISSION	2,405,000	3				
TOLL HIGHWAY AUTHORITY	\$53,068,956	12	\$28,125,706	13	\$22,212,789	13
TRANSPORT (NON-CONSTRUCTION)	\$1,745,610	6	\$2,993,804	8	\$1,930,784	8
VETERAN'S AFFAIRS	\$287,609	3	\$946,563	8	\$343,000	3
WORKER'S COMPENSATION COMM	\$0	0	\$112,500	1	\$0	0

SOLE SOURCE HEARINGS

On August 3, 2012, Public Act 097-0895 amended Section 20-25 of the Illinois Procurement Code (30 ILCS 500/) by permitting the award of a State contract as a sole source procurement unless an interested party submits a written request for a public hearing at which the chief procurement officer and purchasing agency present written justification for the procurement method. Any interested party may present testimony. When a hearing is requested, a sole source contract may be awarded after the hearing is conducted with the approval of the chief procurement officer.

This change to the Procurement Code has greatly improved the efficiency and use of limited State resources over the past three years while maintaining the public's access to question, challenge, or simply learn about a potential sole source contract. Prior to the amendment, the Chief Procurement Office had to conduct a hearing for every sole source award even if no party expressed interest in attending.

A sole source contract hearing takes an average of 30 minutes. 671 sole source contracts were awarded without a hearing being requested saving the State approximately 335 hours. Since each hearing involves preparation and participation by a state hearing officer, agency procurement staff, and a state purchasing officer, the number of actual labor hours saved is at least three times that of the actual hearing.

SOLE SOURCE HEARING ANALYSIS

	FY15	FY 14	FY 13
Sole Source Contract Notices Published	701	519	654
Sole Source Contracts with No Hearing Requested	671	493	594
Hearing Requested	30	26	60
Number of Sole Source Contracts Withdrawn for Budgetary or Other Reasons	2	2	0
Number of Sole Source Contracts Approved after Hearing (as originally published in the Notice)	27	3	46
Sole Source Contract Denied after Hearing	1	3	4

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