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Internal Assessment

Peer Assessment

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Appendix
Background

CPS engaged Accenture to answer four key questions about its sole source process.

1. Are there any pragmatic alternatives to the sole source process in the instance where it is currently used by CPS?
2. Are sole source contracts common practice in other school districts / public entities?
3. How is the sole source process implemented and managed in other school districts / public entities?
4. How could CPS’ sole source process be improved to help confirm the integrity of the sourcing decision?
Methodology

Accenture followed a three step approach to evaluate CPS’ sole source process and develop recommendations.

<table>
<thead>
<tr>
<th>Analyze the Situation</th>
<th>Diagnose the Problem</th>
<th>Recommend Potential Solutions</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Interview representative procurement stakeholders.</td>
<td>• Create list of potential areas of improvement and how they address pain point and strategic objectives.</td>
<td>• Draft final report including actionable recommendations and methodology to implement the recommendations.</td>
</tr>
<tr>
<td>• Review existing CPS sole source process/policy.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Document current CPS pain points.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Review strategic objective of CPS procurement organization.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Describe the CPS’ sole source process.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Conduct peer organization research.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Executive Summary

CPS’ four key questions were addressed through policy analysis, stakeholder interviews, peer research, and comparisons with leading practices within public sector procurement.

- CPS has a sole source process which is well understood by its users and has several informal and formal gating mechanisms.

- A cross functional committee reviews and votes to accept or reject a sole source procurement request; its recommendation is submitted to the CPO for review and approval/rejection. If the sole source procurement is greater than $75,000 it is also presented to the Board for review and approval/rejection.

- Many aspects of the sole source process are similar to processes at peer organizations, the two most significant differences are distinguishing between sole source/single source awards and an advertising requirement in several of the peer organizations.

- There are areas where CPS could benefit from updating its policies and adopting additional leading practices. Accenture made six recommendations, the two most significant are distinguishing between sole source and single source procurements and implementing a notification requirement.
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Appendix
Regulation and Policy Review

Statute, policy, and other CPS documents related to the sole source process were reviewed to understand current process and requirements.

**Documents Reviewed**

<table>
<thead>
<tr>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Illinois Statute 105 ILCS 5/10-20.21</td>
</tr>
<tr>
<td>Board of Education Procurement and Contracting Rules</td>
</tr>
<tr>
<td>State of Illinois Sole Source Procurement Report for FY 2014</td>
</tr>
<tr>
<td>Chicago Public Schools’ Policy on Strategic Sourcing</td>
</tr>
<tr>
<td>Non-Competitive Procurement Review Committee Justification Form</td>
</tr>
<tr>
<td>List of sole source procurements from 7/16/2010 through 4/7/2015</td>
</tr>
<tr>
<td>Sample sole source procurement justification forms</td>
</tr>
</tbody>
</table>

**Observations**

- CPS formally documented its sole source process and requirements, which is critical to ensuring process users are able execute sole sourcing in an appropriate manner.

- As a whole, the documentation is quite clear, but the terms “biddable” and “non-biddable” are somewhat ambiguous as to what goods and services are included in each type.

- The Non-Competitive Procurement Review Committee (NPRC) follows a process and has criteria by which it evaluates sole source requests, however it is not mentioned in any policy, nor is there a “charter” established to outline the intent, scope, and processes to guide the committee’s activities.

- Sole source procurements are defined in the Procurement and Contract Rules as “procurements and contracts….that have not been competitively procured,” however, the definition does not include mention of having no available alternate suppliers, which is typically a defining attribute for sole source.
Interviews with CPS Employees

Eleven CPS employees were interviewed as part of the process.

<table>
<thead>
<tr>
<th>Group</th>
<th>CPS Interviews</th>
</tr>
</thead>
<tbody>
<tr>
<td>Process Owner</td>
<td>Chief Procurement Officer</td>
</tr>
<tr>
<td>Process User</td>
<td>Chief Information Officer</td>
</tr>
<tr>
<td>Process User</td>
<td>Procurement Director</td>
</tr>
<tr>
<td>Process User</td>
<td>Director of Business Diversity</td>
</tr>
<tr>
<td>Process User</td>
<td>Deputy Procurement Officer</td>
</tr>
<tr>
<td>Process User</td>
<td>Chief Teaching &amp; Leaning Officer</td>
</tr>
<tr>
<td>Process User</td>
<td>Teaching &amp; Learning Staff Member</td>
</tr>
<tr>
<td>Process User</td>
<td>Chief – College &amp; Career Success</td>
</tr>
<tr>
<td>Process User</td>
<td>Executive Director – Grant-Funded Programs</td>
</tr>
<tr>
<td>Process User</td>
<td>Grant-Funded Programs Staff Member</td>
</tr>
<tr>
<td>Policy Perspective</td>
<td>Transactional Attorney</td>
</tr>
</tbody>
</table>

Interviews focused on how the current sole source process works at CPS.

- The interviewees' role and responsibilities related to sole source process.
- Sole source process steps, including frequency of requests and types of goods/services sole sourced.
- Process deficiencies or potential improvements opportunities from the perspective of the interviewees.
Sole Source Procurement Process

The sole source process is well understood by CPS users and has several informal and formal gating mechanisms.

**Informal Gate**

- **Procurement Consultation**
  - Requestors are encouraged, but not required, to consult with Procurement Buyer regarding potential procurement. If Procurement Buyer believes that a procurement doesn't qualify for a sole source approach, they will coach the requestor to consider a different procurement method.
  - A requestor that is coached to consider a different procurement method can still submit a request for a sole source procurement.

- **BAP Review**
  - BAP is a procurement pipeline created and reviewed in the May timeframe and includes all the procurements planned for the next 12 to 15 months.
  - The BAP includes a review of the need (i.e., does CPS need to acquire the good or service) and the potential procurement method (e.g., RFP or sole source).
  - Additional coaching is done if the procurement doesn't appear to qualify for a sole source approach.
  - Requestor can still pursue a sole source approach by completing a Non-Competitive Procurement Review Committee (NPRC) Justification Form and presenting it to the NPRC Committee.

- **CPO Review**
  - The NPRC Committee submits the recommendation to the CPO for approval. The CPO can approve or reject the NPRC’s recommendation.
  - If the value of the sole source procurement is less than $75,000, this is the final step in the approval process.
  - If the sole source procurement request is greater than $75,000, the CEO presents the request to the Board of Directors for vote to approve or reject.
  - If the CEO is the originator of the Sole Source procurement, the CEO will abstain from the vote.

- **Board Review**
  - Committee is cross functional including members from Procurement, Legal, IT, and College & Career Success.

**/1 Board Approval Plan (BAP)**

**/2 Non-Competitive Procurement Review Committee (NPRC)**
Sole Source Procurement Classification

CPS currently has nine ways to categorize a sole source procurement.

1. Patent or Copyright restrictions apply
2. Grant money stipulates a specific vendor be used
3. Vendor possesses a high degree of professional skills and the unique knowledge, skill, or ability of the vendor will play a critical role in the selection process
4. Supplies, materials, parts, and/or equipment are only available from this vendor
5. Specialized information technology services and equipment are only available from this vendor
6. Project involves printing of Finance Committee pamphlets, Controller’s estimates, and/or departmental reports
7. Project involves the purchase and/or binding of educational magazines, books, periodicals, pamphlets, reports, and similar articles
8. Utility services are involved (water, light, heat, telephone, or telegraph)
9. Other (specify)

Source: Non-Competitive Procurement Review Committee Justification Form
Copyright © 2015 Accenture All rights reserved.
### Sole Source Procurement Use

**Use of sole source procurements is declining.**

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Copyright</th>
<th>Grant</th>
<th>Professional Skill</th>
<th>Sole Source</th>
<th>Specialized Technology</th>
<th>Printing</th>
<th>Educational Materials</th>
<th>Utility Services</th>
<th>Other</th>
<th>Totals</th>
</tr>
</thead>
<tbody>
<tr>
<td>2011</td>
<td>3</td>
<td>6</td>
<td>15</td>
<td>1</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td>2</td>
<td>28</td>
</tr>
<tr>
<td>2012</td>
<td>4</td>
<td>27</td>
<td>12</td>
<td>8</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>2</td>
<td>53 D</td>
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<tr>
<td>2013</td>
<td>2</td>
<td>18</td>
<td>6</td>
<td>2</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1</td>
<td>29</td>
</tr>
<tr>
<td>2014</td>
<td>1</td>
<td>3</td>
<td>11</td>
<td>2</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1</td>
<td>18</td>
</tr>
<tr>
<td>2015</td>
<td>9</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1</td>
<td>14</td>
</tr>
<tr>
<td>Totals</td>
<td>10</td>
<td>63</td>
<td>45</td>
<td>2</td>
<td>14</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>7</td>
<td>142</td>
</tr>
</tbody>
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<tbody>
<tr>
<td>A</td>
<td>7%</td>
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<tr>
<td>B</td>
<td>44%</td>
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<tr>
<td>C</td>
<td>32%</td>
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<tr>
<td>D</td>
<td>1%</td>
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<tr>
<td>E</td>
<td>10%</td>
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<tr>
<td>F</td>
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<td>G</td>
<td>1%</td>
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<tr>
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<td>5%</td>
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</tbody>
</table>

**Observations**

A. **Grants account for 44% of** sole source requests over the past five fiscal years.

B. The justification that professional skills are unique to a vendor was **selected 32% of the time** in five years.

C. The justification that supplies are only available from one vendor was **used only twice** in five years.

D. After peaking in FY12 at 53 sole source awards, **there has been a steady decline** with 29, 18, and 14 awards in the last three fiscal years.

E. Three of the 142 awards were **approved with conditions** such as approved in part, approved if cost is reduced, and approved for a specific dollar amount.

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**Notes**

Based on sole source data provided by CPS for FY 2011 - 2015

The data represents only approved sole source requests

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Comments on the sole source process were consistent among interviewees, and conversations highlighted several steps not seen in statute, policy, or other documentation provided by CPS.

Observations

- CPS’ sole source process was adopted from the City of Chicago; it has undergone several changes, such as the development of a classification checklist and the addition of a supplier company ownership question.

- Interviewees were well-versed in the sole source process, even those that were not heavy users.

- Sole source requests are usually known at least 6 months in advance due to the completion of Board Approval Plans (BAP), which should contain all planned procurements for the coming fiscal year.

- Sole source procurements may only be completed for “non-biddable” items /1.
  - Despite lack of clarity in Illinois statute and Procurement and Contracting Rules, the individuals interviewed shared a common understanding of which goods and services are considered biddable, and which are non-biddable.
  - Efforts have been made to put a measure in front of the legislature to clarify the definition of biddable and non-biddable.
  - It is unlikely that the measures will go in front of the legislature before summer of 2016; however, an analysis of Illinois Statute 105 ILCS 5/10-20.21 does not appear to necessitate any changes (the Procurement and Contracting Rules and supporting documentation will require updating if clarified).

/1 Non-Biddable refers to a procurement method where price is one of the factors considered in the award decision. Biddable refers to a procurement method that is awarded based on price.
Interview Summary (continued from previous page)

Observations

• The value of the sole source request dictates the formal review process.
  – All sole source requests greater than $25,000 are reviewed first by the Non-Competitive
    Procurement Review Committee (NPRC) and then the CPO for approval.
  – If the value of the sole source procurement is greater than $75,000 it requires Board review
    and approval.

• There are informal reviews that can take place which are not part of the documented process
  including consultation with the Procurement Buyer, the Procurement Director and the Deputy
  Procurement Officer. The requestor will be coached to use a different procurement method if
  the procurement resources do not believe the request lends itself to a sole source approach.

• NPRC is commonly known as the “sole source committee,” despite efforts by some individuals
  to circulate an understanding that the committee reviews not only sole source requests, but also
  all non-competitive procurement requests.

• The NPRC does not have a documented charter outlining its responsibilities, scope and
  processes, but it’s commonly understood that all non-competitive procurements must be
  reviewed by the committee.
  – The NPRC reviews and votes on the request and then makes a recommendation to the CPO
    to approve/reject the request. In most cases the CPO follows the NPRC’s recommendation.
  – All voting members eventually report to the CEO; however there is one non-voting
    representative from the Law Department, which reports to the Board.
Interview Summary (continued from previous page)

Observations

• The process has controls in place to mitigate conflict of interest.
  – When the CEO is the sole source procurement originator, the CEO is prevented from voting as a Board member.
  – When approving contracts, Board members will abstain from voting in the event that they have a relationship with the requested supplier.

• The sole source process is often used in situations that are beyond the generally accepted definition of sole source, such as:
  – Where switching costs garner contracting with an incumbent supplier, such as maintenance of legacy IT systems.
  – Where there are multiple suppliers available, but only one supplier has proven to deliver outcomes above and beyond its competitors.
  – During grant application, when the grantor has identified the supplier which CPS should contract with in order to execute the scope of the grant.
  – In rare cases, contracts with individuals who have been identified for long-term roles within CPS, but have requested to be brought on as a contractor instead of a regular employee.

• There are ways in which those requesting sole source approval gauge the competitiveness of pricing, examples include published benchmarks (e.g., Gartner) and publicly available contracts (e.g., consortia contracts and contracts with other public entities).
Interview Summary (continued from previous page)

Observations

• Grants are one of the most common sole source justifications seen by the NPRC.
  – Grants result in contracts with specific suppliers either because the funder requires that CPS partner with an organization to complete the grant application, to execute the funded program upon award, or to evaluate the results of the funded program upon its completion.
  – Standard procurement policies apply in all cases except when the funder requires that CPS partner with an organization to submit a grant application.
    • In these cases, the partner is selected, the application is submitted, but no funds are exchanged and no contract is established until the grant is awarded and the program begins.
    • It is common that a supplier is selected from a pre-vetted list that is supplied by the grantor
  – Sole source procurements are typically only seen as part of privately funded grants.
    • In which cases, the requester is put in the difficult position of having to justify a requirement established by an outside organization in front of the NPRC.
    • These situations are seen as an inefficient use of the NPRC’s time, as the requests are nearly always approved so as not to lose the grant funds.
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Peer Assessment Approach

Entities that were included in peer review process were selected based on readily available information and on and factors that demonstrate leading sole source procurement processes.

Approach

• Three of the top five school districts based on size (excluding #3, CPS) were included in the review (New York City Department of Education, Los Angeles Unified School District, Clark County, Nevada School District).

• Other public entities were identified and selected for comparison based on either Accenture’s experience in working with their procurement organizations, or on the ability to find readily available information (University of Illinois, University of California, Cook County, State of Illinois, New York State, state of Maryland).

• The peer review focused on:
  – Reviewing the sole source process, spend thresholds, and approval criteria.
  – Comparing the peers to highlight any distinguishing factors, and identify leading practices for sole source procurements.

• Additionally, we contacted three peer organizations to gather additional information not directly documented in available information.
### Peer Assessment

Two of CPS’ key questions about sole source procurements are addressed as a result of reviews of nine peer organizations.

<table>
<thead>
<tr>
<th>Are sole source contracts common practice in other school districts / public entities?</th>
<th>Many school districts, universities, municipalities, and state governments conduct sole source procurements, each with varying degrees of documentation, justification, and degree of rigor in the processes.</th>
</tr>
</thead>
<tbody>
<tr>
<td>How is the sole source process implemented and managed in other school districts / public entities?</td>
<td>Practices vary, but they are characterized by:</td>
</tr>
<tr>
<td></td>
<td>• Published policies documenting the easy to follow instructions on how to execute the sole and single source procurement processes.</td>
</tr>
<tr>
<td></td>
<td>• Detailed, clear criteria by which sole and single procurements are determined to be appropriate.</td>
</tr>
<tr>
<td></td>
<td>• A requirement for a requester to fill out a justification form, and submit it for approval.</td>
</tr>
<tr>
<td></td>
<td>• Application of sole and single source policy across procurements of all dollar values, and across both goods and services.</td>
</tr>
<tr>
<td></td>
<td>• Public advertisement of intent to sole or single source a contract; with the ability for potential suppliers to respond indicating their ability to perform the contract.</td>
</tr>
<tr>
<td></td>
<td>• Approval levels that vary depending upon procurement value.</td>
</tr>
<tr>
<td></td>
<td>• A clear distinction between sole and single source definitions (see next slide).</td>
</tr>
</tbody>
</table>
Peer Assessment

Peer reviews show that organizations often distinguish between sole source and single source procurements. The distinction between each method is important as single source procurements may be more difficult to justify, and may face greater scrutiny from the perspective of what's truly in the district's best interest.

### Sole Source Procurement

**Definition**

Only one supplier can deliver the required goods or services of a given purchasing need.

**Conditions**

- A single supplier exists to meet the organization's needs.
- Only one supplier exists to meet the unique needs or special qualities relevant to the requirements.
- Only one supplier can meet the timeframe requirements for the procurement.
- Only one supplier is available in a geography, and constraints prevent using suppliers in other locations.
- Only one supplier has the highly specialized skills necessary to provide the required services.
- The original manufacturer is the only entity capable of servicing previously purchased equipment.

### Single Source Procurement

**Definition**

The practice of using one source among others in a competitive marketplace which, for justifiable reason, is found to be most advantageous for the purpose of fulfilling a given purchasing need.

**Conditions**

- Goods must match previously purchased products.
- A brand-name product is the only item that can meet the procurement requirements.
- A grant required the use of a specific supplier.
- Switching costs present economic barriers to using another supplier.
- Emergency situation necessitates an expedited supplier selection process, omitting competitive bidding.

---

/2: [https://www.instituteforsupplymanagement.org/files/Pubs/Proceedings/HDWhittington.pdf](https://www.instituteforsupplymanagement.org/files/Pubs/Proceedings/HDWhittington.pdf)

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## Distinguishing Factors

<table>
<thead>
<tr>
<th>Positive Distinguishing Factor</th>
<th>Lacking Distinguishing Factor</th>
</tr>
</thead>
<tbody>
<tr>
<td>✓ The sole source contract must be advertised publicly.</td>
<td>× Rules apply to purchases of goods and services associated with the use of the goods, but not outright services.</td>
</tr>
<tr>
<td>✓ The rules are written in one document and are simple to follow.</td>
<td>× Approval criteria is defined at a high-level; minimal detail is readily apparent.</td>
</tr>
</tbody>
</table>

## Sole Source Process

1. The Executive Director determines whether sole source procurement is necessary, and documents the rationale.
2. The sole source procurement is advertised for public comment to test whether there is truly only one viable source.
3. Length of advertisement varies on contract value; anything greater than $25k must be published for five days, at least seven days in advance of negotiations with the intended sole source provider.
4. If expression of interest is received, a standard solicitation will ensue; If not, negotiations with sole source provider may proceed.

## Criteria

- There is only one source through which the goods can be purchased.
- When no other product is available in the marketplace that meets the same or substantially similar requirements of form, function and utility.

## Thresholds

- The process applies to all sole-source procurements greater than $250.
- Awards of $25k or less must be approved by School Principal or Head of Office.
- Awards between $25k and $100k must be approved by the Executive Director.
- Awards greater than $100k must be approved by the DOE Chancellor.
Peer Assessment
Los Angeles Unified School District – Sole Source

### Distinguishing Factors

- ✓ The policy discourages sole source procurements by defining it as a violation; it must meet defined criteria and follow a process in order for it to not be a violation.
- ✓ Approval criteria is documented at a detailed level.
- × Policy distinguishes between sole and single source, but there is overlap in the approval criteria for each (next slide).
- × No public advertisement is required.

### Sole Source Process

<table>
<thead>
<tr>
<th>Step</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Requester must obtain approval from Instructional Area Superintendent.</td>
</tr>
<tr>
<td>2.</td>
<td>Upon Superintendent approval, requester must submit request for sole source contract to the Procurement Services Division.</td>
</tr>
<tr>
<td>3.</td>
<td>Upon Procurement Services Division approval, the Board of Education may conduct a field test that the item is suitable for future use.</td>
</tr>
<tr>
<td>4.</td>
<td>At which point, the sole source procurement may proceed.</td>
</tr>
</tbody>
</table>

### Criteria

- • Products or services available from one – and only one – source, e.g., patented product or expertise in services.
- • Brand name is the only article that will meet the needs of the requester.
- • Product must match existing products throughout the district.
- • Unique product/service.
- • Emergency or immediate situation.
- • Geographic limitations.

### Thresholds

- • Sole source requirements apply to procurements of any value.

Legend: ✓ Positive Distinguishing Factor  × Lacking Distinguishing Factor
## Distinguishing Factors

- Primary difference between sole source and single source is in marketplace conditions and approval criteria.
- Approval criteria is documented at a detailed level.
- LAUSD has a goal of reducing the number of single source procurements by 40% over the next year.
- Single sources are highly scrutinized by the Board, and are not generally permitted without strong justification.
- Policy distinguishes between sole and single source, but there is overlap in the approval criteria for each (next slide).
- The policy lacks clarity on when a single source procurement request can be initiated.
- No public advertisement is required.

## Sole Source Process

1. In cases where multiple sources are available, a requester may submit a Single Source Contract Request Form to their Instructional Area Superintendent.
2. Upon Superintendent approval, requester must submit request for sole source contract to the Procurement Services Division.
3. Upon Procurement Services Division approval, the Board of Education may conduct a field test that the item is suitable for future use.
4. At which point, the single source procurement may proceed.

## Thresholds

- Single source requirements apply to procurements of any value.

<table>
<thead>
<tr>
<th>Criteria</th>
</tr>
</thead>
<tbody>
<tr>
<td>Limitations such as:</td>
</tr>
<tr>
<td>• Service issue.</td>
</tr>
<tr>
<td>• Location.</td>
</tr>
<tr>
<td>• Availability.</td>
</tr>
<tr>
<td>• Capacity.</td>
</tr>
<tr>
<td>• Emergency.</td>
</tr>
<tr>
<td>• Grant requirements.</td>
</tr>
</tbody>
</table>
## Distinguishing Factors
- The criteria for approval is not well documented or readily apparent.
- No public advertisement is required.
- The process lacks clarity around who specifically is responsible for reviewing and approving sole source requests.

## Sole Source Process

<table>
<thead>
<tr>
<th>Criteria</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. The requester documents the sole source justification.</td>
</tr>
<tr>
<td>2. The authorized representative within procurement or contract masters reviews.</td>
</tr>
<tr>
<td>3. If approved, the sole source procurement may proceed</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>The products or services are unique or possess special qualities relevant to the requirements of the school district.</td>
</tr>
</tbody>
</table>

## Thresholds
- The requirements apply to procurements of any value.
Peer Assessment
University of Illinois – Sole Source

Distinguishing Factors

✓ Sole source process must be followed for procurements of any value.
× The sole source process appears to differ from that of the State of Illinois, however the FY14 Sole Source Annual Report indicates several rules that apply to both, resulting in confusion as to which processes/requirements apply.
× Only sole source procurements above certain dollar thresholds must be advertised.
× Approval criteria is defined at a high-level; minimal detail is readily apparent.

Sole Source Process

| Criteria |
|-----------------|-----------------|
| 1. The requester submits a Sole Source Justification form to the Purchasing Division. |
| 2. Purchasing Division will review to ensure request meets criteria. |
| 3. If criteria is not met, a standard solicitation will ensue. |
| 4. If criteria is met and if the sole source procurement is valued greater than certain dollar thresholds, the sole source must be publicly advertised for 14 days, followed by a public hearing. |
| 5. If expression of interest is received, a standard solicitation will ensue; If not, negotiations with sole source provider may proceed. |
| • Goods or services are available from only a single supplier/contractor. |
| • When only one supplier/contractor is deemed economically feasible. |

Thresholds

• Sole source requirements apply to procurements of any value.
• Advertising requirements apply to sole source procurements valued greater than $20k for professional services, $55.4k for goods or other services, and $77.7k for construction.

Legend: ✓ Positive Distinguishing Factor  × Lacking Distinguishing Factor
Peer Assessment
University of California – Sole and Single Source

<table>
<thead>
<tr>
<th>Distinguishing Factors</th>
<th>Criteria</th>
</tr>
</thead>
<tbody>
<tr>
<td>✓ The policy discourages sole source procurements by highlighting that the process introduces a risk of violating Public Contract Code.</td>
<td>• Only one supplier is capable of meeting University requirements within the time available.</td>
</tr>
<tr>
<td>✓ Statute outlines when a non-competitive bid is appropriate, and lists one criteria as goods/services being available from only one source, which implies that the University views single source as different from sole source.</td>
<td>• Emergency and other situations which preclude conventional planning and processing.</td>
</tr>
<tr>
<td>× The approval process is not well documented, and no public advertisement is required.</td>
<td>• Brand, trade name, or proprietary service is required.</td>
</tr>
<tr>
<td></td>
<td>• Available from a sole source.</td>
</tr>
<tr>
<td></td>
<td>• Matches existing goods in place.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Sole Source Process</th>
<th>Criteria</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Requesters must complete a sole source justification form.</td>
<td></td>
</tr>
<tr>
<td>2. The regents must ensure that pricing in reasonable in order for a non-competitive contract to be established.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Thresholds</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>• Individuals have discretion to complete a non-competitive purchase/contract under $25k, anything above that must either be competitive or an approved non-competitive contract.</td>
<td></td>
</tr>
</tbody>
</table>

Legend: ✓ Positive Distinguishing Factor  × Lacking Distinguishing Factor
Peer Assessment
Cook County – Sole Source

### Distinguishing Factors

| ✓ Sole source process must be followed for procurements of any value. |
| ✗ Sole source process has limited rigor and/or it is not well documented in public code. |
| ✗ No public advertisement is required. |

### Sole Source Process

<table>
<thead>
<tr>
<th>Criteria</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Only one source for goods or services.</td>
</tr>
<tr>
<td>• Goods or services required are unique, or highly specialized skills or experience are required.</td>
</tr>
</tbody>
</table>

| 1. The requesting agency must document the justification and submit it to the CPO for approval. |

### Thresholds

- The requirements apply to procurements of any value.

**Legend:** ✓ Positive Distinguishing Factor  ✗ Lacking Distinguishing Factor
Peer Assessment
State of Illinois – Sole Source

<table>
<thead>
<tr>
<th>Distinguishing Factors</th>
</tr>
</thead>
<tbody>
<tr>
<td>✓ Approval criteria is very detailed and well documented.</td>
</tr>
<tr>
<td>✓ The sole source must be advertised publicly, and a hearing may also be held.</td>
</tr>
<tr>
<td>× Requirements only apply above dollar thresholds.</td>
</tr>
</tbody>
</table>

### Sole Source Process

1. The requester must document the justification and submit it to the sourcing organization for approval.
2. The sole source will be advertised and a public hearing may be held to make a determination as to whether the sole source procurement is appropriate.
3. If deemed appropriate, the sole source procurement may proceed.

### Criteria

- Goods or services are only available from a single supplier.
- Sole source must be economically feasible.
- When compatibility of equipment, accessories, replacement parts or service is a paramount consideration.
- Item is copyrighted or patented and the item or service is not available except from the holder of the copyright or patent.
- Media for advertising, art, entertainment services, athletic events, radio/TV rights.
- Procurements related to participation in mandated educational, professional, research, public service or athletic activities of organizations of which the State agency is a member.
- Items that are required for research and no other source is able to meet the researcher's documented need.

### Thresholds

- The requirements only apply to procurements of professional services greater than $20k, goods or other services greater than $50k, or construction greater than $70k.

Legend: ✓ Positive Distinguishing Factor  × Lacking Distinguishing Factor
## Distinguishing Factors

- Sole source process must be followed for procurements of any value.
- Policy distinguishes between sole and single source, with no overlap in conditions and approval criteria.
- Approval criteria is defined at a high-level; minimal detail is readily apparent.
- No public advertisement is required.

## Sole Source Process

<table>
<thead>
<tr>
<th>Criteria</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1. The requesting agency must document why the proposed vendor is the only viable source for the commodities and/or services.</td>
<td>Only one vendor can supply the commodities or services required.</td>
</tr>
<tr>
<td>2. If the request is below a certain threshold, the sole source procurement may proceed.</td>
<td></td>
</tr>
<tr>
<td>3. If not, the Office of State Comptroller (OSC) reviews the request for appropriateness.</td>
<td></td>
</tr>
<tr>
<td>4. If OSC approves, the sole source procurement may proceed.</td>
<td></td>
</tr>
</tbody>
</table>

## Thresholds

- Requirements to document sole source justification apply to procurements of any value.
- OSC thresholds vary depending on a number of factors, but it is $50k for general purchases by state agencies.
# Peer Assessment
## New York State – Single Source

### Distinguishing Factors

| ✓ Sole source process must be followed for procurements of any value. | ✓ Policy distinguishes between sole and single source, with no overlap in conditions and approval criteria. |
| ✓ Exemption must be sought in order to not publicly advertise the single source procurement. | × Approval criteria is not fully defined in the policy. |
| × Public advertisement may be exempted. | |

### Sole Source Process

| 1. The requesting agency must document why the proposed vendor is the only viable source for the commodities and/or services. |
| 2. If the request is below a certain threshold, the sole source procurement may proceed. |
| 3. If not, the Office of State Comptroller (OSC) reviews the request for appropriateness. |
| 4. If OSC approves, the sole source procurement may proceed. |

### Criteria

- There are multiple potential suppliers, but procuring from one particular supplier is in the best interest of the state.
- Maintenance can only be provided by original manufacturer.

### Thresholds

- OSC thresholds vary depending on a number of factors, but it is $50k for general purchases by state agencies.

---

**Legend:** ✓ Positive Distinguishing Factor  × Lacking Distinguishing Factor
Maryland published a report entitled *Grants and Procurement: How They Work Together* /1 to share its perspective on the subject.

- The report recognizes the difficulty in contracting with suppliers prior to submitting a grant application.
- It also acknowledges that **time constraints do not justify** simply picking a supplier through the sole source process to meet grant application requirements and deadlines.
- One way the State of Maryland has dealt with this is through “contingency” procurements.
  - This involves conducting a competitive procurement to identify and select a supplier, **assuming the grantor has not named a specific supplier/individual** with which to contract.
  - Contract **award is contingent upon the State receiving the grant**.
  - This method is best when the procurement is expected to take a minimal amount of time and contracting may take a significant amount of time.
- A discussion with Maryland’s Chief of Procurement (Gabe Gnall) highlighted another way to expedite procurements that are part of grants.
  - Contingency procurements are quite rare, as many of their grant applications do not require a supplier be selected/identified in order to submit an application.
  - In some situations, procurements can be expedited by **writing very detailed specifications**, resulting in a competitive event that is based on bids, and not proposals, allowing an efficient evaluation process.

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Recommendations

CPS’ final two questions are addressed in the recommendations.

Are there any pragmatic alternatives to the sole source process in the instance where it is currently used by CPS?

• There is significant variation among CPS’ peers in the way sole source procurements are conducted.
• Recommended process and policy changes to CPS’ sole source procurement process are outlined in the following slides.

How could CPS’ sole source process be improved to help confirm the integrity of the sourcing decision?

• In summary, CPS’ sole source process could be improved by:
  – Adding greater clarify in the way sole source and related terms are defined.
  – Creating additional transparency through the process of notification for sole source procurements prior to their execution.
  – Documenting processes that are currently in place but are not part of policy.

Detailed recommendations and implementation methodology are included in the following slides.
Recommendations

Based on the analysis we are making 6 recommendations.

1. Distinguish between sole source and single source
2. Modify NPRC voting procedures
3. Create NPRC charter
4. Notification of sole source/single source procurements
5. Expand on the company ownership checklist to include CPS relationships with supplier
6. Clarify biddable and non-biddable definitions
Recommendation 1: Create distinction between sole source procurements and single source procurements.

Recommendation
Create distinction between sole source procurements and single source procurements.
• Update sole source definition to indicate situations where only one supplier exists in the market that is able to deliver goods or services as specified by CPS.
• Define single source procurements to indicate situations where there are multiple suppliers available, but factors specific to a procurement justify the selection of one supplier.

Expected Outcome
• Distinguishing between these two types of procurements will ensure that the appropriate level of due diligence and review is given to each type.
• The added scrutiny for single source procurement requests may result in more requests being taken to the marketplace for competitive procurements.

Related Recommendations and Considerations
• The criteria cited on page 19 from the Institute for Supply Management can serve as a template for approval criteria for both sole and single source procurements.
  – Additionally, approval criteria for single source may include, but is not limited to: high switching costs; demonstrable quality differences that are not easily replicated by other suppliers; a previously purchased asset is well within its expected lifetime; contract extensions are required for a previously purchased asset in order for the original business case to be met.
• Leading practices within public sector procurement are to create competitive situations in all appropriate instances; CPS should consider testing the market through competitive procurements when multiple suppliers exist.
  – That is, single source procurements are expected to be very difficult to justify, and CPS continue to strongly scrutinize each request and may consider a competitive procurement instead.
Recommendations

Recommendation 2: Modify NPRC voting procedures.

Recommendation

Modify NPRC voting procedures to a secret ballot format.

- Change the voting method to secret ballot, in order to protect committee members from any perceived pressure to vote a certain way.

Expected Outcome

- Creating a secret ballot situation will alleviate any perceptions that committee members may feel pressure to vote a certain way when their superiors are the initiators of sole and single source procurement requests.
Recommendation 3: Create a charter for the NPRC.

Recommendation

Create a charter for the NPRC.

- The charter should include the committee’s intended mission, authority, scope, team structure and roles.
- The charter should also outline the procedures for initiating a non-competitive procurement request, approval criteria, and the possible outcomes of an opinion rendered by the committee.

Expected Outcome

- Creating a charter will formalize processes that are currently undocumented.
- It will provide standards for the committee, stakeholders, and users to ensure that the process does not unintentionally evolve over time.

Related Recommendations and Considerations

- Beyond documenting a charter, the instructions on the NPRC justification form will need to be amended to reflect the updated definition for sole source, and the newly created definition for single source.
  - It’s recommended that the form have separate sections for sole and single source requests, but be maintained as one document for ease of use purposes.
  - Each section should contain instructions, definitions, and justification options specific to the two types of procurements.
Recommendation 4: Notification of sole source and single source procurements.

**Recommendation**

Post a notification of intent for sole source and single source procurements on CPS' externally-facing procurement site.

- At the time that the procurement method has been determined notify of the intent to sole source/single source for a period consistent with current advertising requirements.
- Allow suppliers to indicate whether they have provided similar scope and met the requirements in the past.
- Vet the responses, and if any prove to be valid, complete a competitive procurement.

**Expected Outcome**

- A notification period creates transparency in sole source and single source procurements.
- It allows CPS to validate that the supplier being requested is truly the only source for the required goods or services.
- It is much quicker than doing a full competitive bid or RFP, yet still validates whether there is no other competition available in the marketplace.

**Related Recommendations and Considerations**

- The notification should be done early on in order to minimize any additional time that is necessary.
  - Ideally, it should be done as soon as the final Board Approval Plan has been approved, and the sole source or single source supplier has been identified.
- It’s expected that many suppliers may indicate that they can deliver the goods/services, but suppliers should be required to indicate that they have delivered the goods/services in the past; this will help CPS to validate the responses.
Recommendation 5: Expand on the company ownership checklist to include CPS relationships with supplier.

Recommendation

Expand on the company ownership checklist and include a simple disclosure checklist to highlight the CPS requestor’s relationship with the sole source/single source provider.

• Potential items to include – ownership interest (self or immediate family), Board of Director member/past work relationship (1099 or employee), immediate family circumstances (e.g., spouse employed there).

Expected Outcome

• A relationship with a supplier would not be cause per se for rejecting the sole source / single source request, rather it would serve to increase transparency prior to the acceptance/rejection of the request.
Recommendation 6: Clarify the definition of biddable vs. non-biddable goods and services.

**Recommendation**

Clarify the definition of biddable vs. non-biddable goods and services.

- Update the Procurement and Contracting Rules to either use different, more intuitive terms, or to provide more explicit examples of what is considered to be biddable and non-biddable.

**Expected Outcome**

- Clearer definitions or intuitive terms will create a more consistent understanding of what those terms mean.
- It will also help outside parties more easily understand CPS’ procurement procedures.

Note: as stated earlier in this document there is a very good understanding of biddable and non-biddable at CPS and this recommendation does not have any impact on the sole source process.
Implementation

Obtaining buy-in from the Board and communicating changes to procurement stakeholders will be critical for a successful implementation.

Recommended Sequence

A. Review recommendations with Board of Education and obtain buy-in
B. Draft/update definitions for biddable, non-biddable, sole source, and single source
C. Design detailed process steps for
   i. Notification of sole source/single source procurements
   ii. NPRC voting procedures
D. Draft NPRC charter, approval criteria, and update the justification form
E. Complete any website configurations necessary for notification of sole source/single source procurements
F. Obtain any necessary final stakeholder buy-in or approval prior to go-live, and communicate changes with stakeholders
G. Go live with recommendations
   i. Execute changes to Procurement and Contracting Rules
   ii. Roll-out the new processes
Agenda

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Appendix
## Peer Review Information

<table>
<thead>
<tr>
<th>Peer Organization</th>
<th>Policy</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clark County School District</td>
<td><a href="http://www.ccsd.net/district/policies-regulations/pdf/3315_R.pdf">http://www.ccsd.net/district/policies-regulations/pdf/3315_R.pdf</a></td>
</tr>
<tr>
<td>University of Illinois</td>
<td><a href="https://www.obfs.uillinois.edu/purchases/procedures-rules/sole-source-purchases/">https://www.obfs.uillinois.edu/purchases/procedures-rules/sole-source-purchases/</a></td>
</tr>
<tr>
<td>University of California</td>
<td><a href="http://policy.ucop.edu/doc/3220485/BFB-BUS-43">http://policy.ucop.edu/doc/3220485/BFB-BUS-43</a></td>
</tr>
<tr>
<td></td>
<td><a href="http://policy.ucop.edu/doc/3220478/BFB-BUS-34">http://policy.ucop.edu/doc/3220478/BFB-BUS-34</a></td>
</tr>
<tr>
<td></td>
<td>California Public Contract Code, Division 2, Part 2, Chapter 2.1 University of California Competitive Bidding, Article 1: 10508, Article 3: 10301</td>
</tr>
<tr>
<td>Cook County</td>
<td><a href="https://www.municode.com/library/#!/il/cook_county/codes/code_of_ordinances?nodeId=PTIGEOR_CH34FI_ARTIVPRCO_DIV2PRPR_S34-139SOSOPR">https://www.municode.com/library/#!/il/cook_county/codes/code_of_ordinances?nodeId=PTIGEOR_CH34FI_ARTIVPRCO_DIV2PRPR_S34-139SOSOPR</a></td>
</tr>
</tbody>
</table>
Non-Competitive Procurement Review Committee (NPRC) Justification Form (pages 1 and 2)
Non-Competitive Procurement Review Committee (NPRC) Justification Form (page 3)