

State of Illinois
Chief Procurement Office

Sole Source Procurements Report
Fiscal Year 2014

August 1, 2014



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. These sole source contracts are the subject of this report .

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. 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.

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

EXECUTIVE SUMMARY

In Fiscal Year 2014, 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 2014, 26 hearings were held compared to 60 hearings in FY13 (a 56.7% drop) and 786 hearings in FY12. This decrease was due to the Chief Procurement Office’s heightened scrutiny and sensitivity to sole source procurements and also due to the recent amendment of the Procurement Code that permits sole source awards without a hearing unless requested by an interested party. This amendment saved the State approximately 246 hours of hearing time in FY14 and 297 hours in FY13. 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 awarded 519 sole source contracts in Fiscal Year 2014 was \$447,792,158 compared to 654 sole source contracts valued at \$419,326,280 in Fiscal Year 2013. While this is a 6.8% increase in the value of awards, the number of sole source contracts decreased 20.6%.

Vendors, the Procurement Policy Board, or the Chief Procurement Office questioned the procurement method in 26 (5.0%) of the 519 sole source awards published in Fiscal Year 2014. Evidence that the request to use the sole source procurement method is being properly vetted early in the procurement process is that only four of the 26 sole source awards were cancelled after hearing due to questions about the appropriateness of the procurement method.

- 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

<u>SOLE SOURCE CONTRACTS SUMMARY</u>			
Total Value of Sole Source Contracts		=	\$447,792,158
Total Number of Sole Source Contracts		=	519
Total Number of Agencies and Universities using Sole Source Contracts		=	45
Number and value of awards by CPO jurisdiction:			
•	General Services	210 awards	= \$273,026,910
•	Higher Education	307 awards	= \$174,713,593
•	Capital Development Bd.	2 awards	= \$51,655

SOLE SOURCE PROCUREMENTS—CAPITAL DEVELOPMENT BOARD

The CPO for the Capital Development Board (CDB) awarded two sole source contracts in Fiscal Year 2014. Both contracts were related to the repair of the water distribution system at the Lincoln Log Home site and began with sole source hearings in 2013.

The contracts, one for the architect and one for the contractor, permitted work to be completed at the site after the original contracts had expired. The two sole source awards totaled \$51,655.15.

This is a significant reduction in the number of sole source contracts awarded during previous years by the CPO for the Capital Development Board. In FY 11, 12, and 13, sole source contracts were awarded due to expired contracts for projects where the work was not completed, or in order to permit required changes to projects which had been completed. The reduction in sole source contract awards during FY14 can be attributed to the oversight of the CPO which resulted in greater awareness of contract expirations on the part of the agency, and increased diligence in monitoring and tracking contract expiration and completion dates.

	FY14	FY13	FY12
Number of Sole Source Contracts Published	2	9	21
Number of Sole Source Contracts Approved	2	8	21
Number of Sole Source Contracts Denied	0	0	0
Number of Sole Source Procurements Withdrawn	0	1	0
Dollar Value of Sole Source Contracts	\$51,655	\$1,722,200	\$1,191,709
Average Dollar Value of Sole Source Contracts	\$25,827	\$215,275	\$56,748

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.

A State Purchasing Officer dedicated to the review of university sole source procurements has had a significant impact on the number and use of sole source procurements.

In Fiscal Year 2014, the number of sole source awards dropped 16.6% from Fiscal Year 2013 and the dollar value decreased 29.6% in the same time period.

More university sole source awards continue to move to a base term of one year. Procurements requesting a term longer than one year are reviewed on a case-by-case basis and may require additional justification.

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

* The Higher Education Procurement Bulletin is unable to generate a report accurately showing renewals of sole source procurements. The actual number of sole source transactions may be somewhat higher than reported.

Sole Source by University

UNIVERSITY	Dollar Value		# Contracts		Dollar Value		# Contracts	
	Contracts FY14	# Contracts FY14	Dollar Value Contracts FY13	# Contracts FY13	Dollar Value Contracts FY12	# Contracts FY12		
Chicago State University	\$450,000	1	\$2,894,264	11	\$670,923	9		
Eastern Illinois University	\$3,301,715	11	\$7,589,870	15	\$4,398,317	16		
Governors State University	\$150,000	1	\$1,099,930	6	\$2,492,000	11		
Illinois State University	\$5,648,688	24	\$4,310,733	20	\$5,139,032	33		
Northeastern Illinois University	\$0	0	\$109,661	1	\$0	0		
Northern Illinois University	\$2,180,697	15	\$10,148,659	26	\$10,177,061	35		
Southern Illinois University Carbondale	\$10,497,713	25	\$5,506,606	20	\$11,796,527	32		
Southern Illinois University Edwardsville	\$5,459,432	20	\$19,072,677	24	\$9,184,575	30		
Southern Illinois University Medical School	\$4,212,137	20	\$1,596,817	11	\$3,265,671	20		
University of Illinois Chicago	\$89,154,997	72	\$113,794,980	87	\$158,358,284	151		
University of Illinois Springfield	\$434,310	5	\$754,347	7	\$624,328	9		
University of Illinois Urbana Champaign	\$49,304,874	102	\$74,207,996	123	\$78,282,434	206		
Western Illinois University	\$3,919,029	11	\$7,258,643	17	\$7,238,091	19		
Illinois Math and Science Academy	\$0	0	\$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	2	.65%
Compatibility of equipment, accessories, replacement parts, or service is a paramount consideration	83	27.04%
Copyrighted or patented and is not available except from the holder of the copyright or patent	47	15.31%
Critical changes to an existing contract are necessary and best accomplished by the contract holder	2	.65%
Federal or State grant requires a contract with the vendor	1	.33%
Item is to be procured for commercial resale	23	7.49%
Items are required by an existing franchise agreement	9	2.93%
Required for research and no other source is able to meet the researcher's documented need	14	4.56%
Items are needed for trial use or testing	8	2.61%
Media is for advertising	15	4.89%
Public utility service is regulated	11	3.58%
Radio and television broadcast rights	17	5.54%
Software license, upgrade, or maintenance	45	14.66%
Other (primarily to meet research requirements)	30	9.77%
TOTAL	- 307	

Sole Source Transaction Type by University

Art, entertainment services, or athletic events.

ISU	1	\$	150,000
WIU	1	\$	60,000
Total	2	\$	210,000

Compatibility of equipment, accessories, replacement parts, or service is a paramount consideration.

EIU	2	\$	119,555
ISU	4	\$	1,901,100
NIU	7	\$	932,697
SIUC	3	\$	406,915
SIUE	5	\$	645,023
SIUmed	4	\$	840,303
UIC	21	\$	35,160,006
UIUC	35	\$	18,272,860
WIU	2	\$	2,780,000
Total	83	\$	61,058,458

SOLE SOURCE PROCUREMENTS—INSTITUTIONS OF HIGHER EDUCATION cont.

Copyrighted or patented and is not available except from the holder of the copyright or patent.

EIU	1	\$	102,300
ISU	1	\$	200,100
NIU	1	\$	75,000
SIUC	2	\$	3,772,138
SIUE	5	\$	1,108,000
SIUmed	1	\$	330,000
UIC	25	\$	40,923,462
UIUC	11	\$	3,427,182
Total	47	\$	49,938,182

Critical changes to and Existing contract are necessary and best accomplished by the contract Holder

WIU	2	\$	292,500
Total	2	\$	292,500

Federal or State grant requires a contract with the vendor.

NIU	1	\$	248,000
Total	1	\$	248,000

Item is to be procured for commercial resale.

EIU	2	\$	480,000
ISU	6	\$	925,000
SIUC	6	\$	2,395,000
SIUE	1	\$	90,000
UIUC	7	\$	8,235,000
WIU	1	\$	200,000
Total	23	\$	12,325,000

Items are required by an existing franchise agreement.

EIU	1	\$	130,200
ISU	4	\$	1,150,000
SIUC	1	\$	165,000
SIUE	1	\$	187,000
UIUC	2	\$	1,500,000
Total	9	\$	3,132,200

Required for research and no other source is able to meet the researcher's documented need.

UIC	3	\$	369,709
UIUC	11	\$	1,502,221
Total	14	\$	1,871,930

Items are needed for trial use or testing.

SIUmed	3	\$	275,000
UIC	3	\$	513,400
UIUC	2	\$	1,000,000
Total	8	\$	1,788,400

SOLE SOURCE PROCUREMENTS—INSTITUTIONS OF HIGHER EDUCATION cont.

Media is for advertising.

SIUmed	4	\$	470,000
UIC	3	\$	499,317
UIUC	6	\$	796,374
UIS	2	\$	175,000
Total	15	\$	1,940,691

Public utility service is regulated.

SIUC	4	\$	2,098,000
SIUE	5	\$	627,245
SIUmed	2	\$	613,000
Total	11	\$	3,338,245

Radio and television broadcast rights.

ISU	1	\$	135,000
NIU	3	\$	425,000
SIUC	4	\$	895,500
UIC	1	\$	750,000
UIUC	3	\$	2,230,000
UIS	2	\$	235,629
WIU	3	\$	425,000
Total	17	\$	5,096,129

Software license, upgrade, or maintenance.

CSU	1	\$	450,000
EIU	5	\$	2,469,660
ISU	6	\$	1,122,488
SIUC	1	\$	119,160
SIUE	3	\$	2,802,165
SIUmed	3	\$	1,403,834
UIC	4	\$	4,025,581
UIUC	19	\$	9,608,794
UIS	1	\$	23,681
WIU	2	\$	161,529
Total	45	\$	22,186,893

Other (primarily to meet research requirements).

GSU	1	\$	150,000
ISU	1	\$	65,000
NIU	3	\$	500,000
SIUC	4	\$	646,000
SIUmed	3	\$	280,000
UIC	12	\$	6,913,522
UIUC	6	\$	2,732,443
Total	30	\$	11,286,965

Combined Total **307** **\$** **174,713,593**

SOLE SOURCE PROCUREMENTS—GENERAL SERVICES

The number of Sole Source contracts in General Services decreased by 67 or 24.2%. The dollar value of Sole Source contracts increased by 61.3%. The Department of Healthcare and Family Services had the three largest awards which totaled \$142,468,430 (52.2% of all General Services sole source awards).

Of the 210 sole source awards, interested parties requested 21 hearings (10.0%). The Chief Procurement Officer approved all sole source awards except one that was cancelled due to agency budget constraints. 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 34 of 210 total sole source awards (16.2%) were approved for two years or longer.

Reflected in the sole source numbers is 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.

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 14, this caused a significant decrease in the number of sole source contracts by the Department of Agriculture for entertainment for the Illinois State Fair.

	FY14	FY13	FY12
Number of Agencies Awarding Sole Source Contracts	32	34	34
Dollar Value of Sole Source Contracts	\$273,026,910	\$169,281,897	\$131,168,784
Number of Sole Source Contracts Approved	210	277	192
Average Dollar Value of Sole Source Contracts	\$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 FY14	# Contracts FY14	Dollar Value Contracts FY13	# Contracts FY13	Dollar Value Contracts FY12	# Contracts FY12
AGING	\$375,572	2	\$317,365	3	\$832,364	2
AGRICULTURE	\$370,255	5	\$1,829,970	26	\$735,418	13
BOARD OF ELECTIONS	\$0	0	\$174,162	1	n/a	n/a
BOARD OF HIGHER EDUCATION	\$36,000	1	n/a	n/a	n/a	n/a
CENTRAL MANAGEMENT SERVICES	\$34,763,900	42	71,004,684	58	\$11,927,597	38
CHILDREN AND FAMILY SREVICES	\$576,841	3	\$3,039,057	9	\$1,351,754	4
COMMERCE COMMISSION	\$0	0	\$0	0	\$87,300	1
COMMERCE AND ECONOMIC OPPORTUNITY	\$1,087,802	7	\$2,021,161	10	\$10,452,854	8
COMMUNITY COLLEGE BOARD	\$0	0	\$255,642	2	\$154,167	2
CORRECTIONS	\$3,320,477	5	\$1,320,000	2	\$5,459,042	8
COURT OF CLAIMS	\$175,000	1	n/a	n/a	n/a	n/a
CPO GENERAL SERVICES	\$539,440	1	\$0	n/a	\$0	n/a
CRIMINAL JUSTICE INFORMATION AUTHORITY	\$127,400	2	\$202,400	3	\$127,400	2
EMERGENCY MANAGEMENT AGENCY	\$2,005,000	6	\$1,046,680	8	\$748,709	5
EMPLOYMENT SECURITY	\$1,336,995	6	\$3,080,060	5	\$5,433,755	9
ENVIRONMENTAL PROTECTION AGENCY	\$0	0	\$358,260	3	\$0	0
FINANCE AUTHORITY	\$233,000	1	\$0	0	\$0	0
FINANCIAL AND PROFESSIONAL REGULATION	\$1,507,555	3	\$710,000	4	\$438,000	4
GUARDIAN & ADVOCACY COMMISSION	\$0	0	\$0	0	\$44,385	1
HEALTHCARE & FAMILY SERVICES	\$153,296,019	13	\$3,008,803	6	\$3,876,750	3
HISTORIC PRESERVATION AGENCY	\$66,488	2	\$274,212	9	\$112,350	1
HOUSING DEVELOPMENT AUTHORITY	\$656,720	4	\$609,937	5	\$557,079	5
HUMAN SERVICES	\$2,433,607	7	\$5,963,522	10	\$1,297,389	9
INSURANCE	\$250,000	1	\$0	0	\$320,000	1
JUVENILE JUSTICE	\$142,800	1	\$87,000	1	\$666,292	2
LABOR	\$0	0	\$500,000	1	\$0	0
LOTTERY	\$1,145,000	3	\$1,347,420	2	\$445,000	2
MEDICAL DISTRICT COMMISSION	\$0	0	\$0	0	\$330,000	1
MILITARY AFFAIRS	\$0	0	\$193,816	2	\$32,000	1
NATURAL RESOURCES	\$4,185,069	6	\$872,892	8	\$774,266	8
OFFICE OF EXECUTIVE INSPECTOR GENERAL	\$105,040	1	\$0	0	\$0	0
PUBLIC HEALTH	\$8,853,441	15	\$16,403,227	23	\$2,362,991	16
REVENUE	\$2,655,702	7	\$22,716,196	24	\$5,744,929	6
STATE BOARD OF EDUCATION	\$3,543,707	15	\$1,812,194	10	n/a	n/a
STATE FIRE MARSHALL	\$418,326	2	\$382,800	3	\$395,380	2
STATE POLICE	\$16,641,182	16	\$3,227,363	8	\$3,953,180	13
TOLL HIGHWAY AUTHORITY	\$28,125,706	13	\$22,212,789	13	\$68,459,096	10
TRANSPORTATION (NON-CONSTRUCTION)	\$2,993,804	8	\$1,930,784	8	\$2,541,343	3
VETERAN'S AFFAIRS	\$946,563	8	\$343,000	3	\$160,000	3
WORKER'S COMPENSATION COMMISSION	\$112,500	1	\$0	0	\$270,000	2

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 two 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. 493 sole source contracts were awarded without a hearing being requested saving the State approximately 246 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

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

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