

DE Information Bulletin
No. 11 – May 12, 2005

TO: All Delaware Homeland Security Grant Partners

FROM: James E. Turner III,
Director, DEMA

SUBJECT: Sole Source Purchase Guidelines & Procedures - State Homeland Security Grant Program

1. The following guidelines and procedures are provided to inform state and local response discipline representatives about the conditions and/or requirements that enable a specific piece of equipment or service to be purchased from an exclusive vendor through the sole source procurement method. DE Bulletin #8 published April 11, 2005 addresses all the other procurement methods utilized by DEMA.
2. There are two basic situations which will merit the use of the sole source option:
 - a. ***Sole Source Manufacturer and/or Distributor:*** This condition gives the option to the end-user to make procurement from a specific vendor after it has been determined that the retailer is the sole manufacturer and/or distributor of an equipment item and that only that equipment item provides a specific function or capability not found in other products. For example, the Weather-Pak 400 and the C-5 SAM are used by various emergency management agencies to detect hazardous chemicals and materials that could be extremely harmful to an exposed community. Coastal Environmental Systems is the one and only manufacturer of this unique lifesaving equipment and would be without question the sole source for procurement. Another example that the sole source purchasing method would be the viable option for is with the SABRE 4000. This special hand held explosive, Chemical Warfare agent, and narcotic trace detector is employed by military and law enforcement agencies to protect the welfare of soldiers in combat and citizens in the community. This product has only one manufacturer and distributor; the clear choice to buy from is the SABRE 4000's sole source, Smith's Detection Products.
 - b. ***Special Conditions:*** Another option for sole source procurement is when the end user has determined that special conditions that are unique to their operations exist. For example, the need for a specific piece of equipment due to federal or other regulatory guidelines/requirements, or due to existing equipment configurations in use. For instance, a certain police department may want to order laptops for their vehicles to replace the existing ones. Because of the special fittings, case connections and size of the laptop brackets that already exist in the vehicle, there is proof that only one matching computer will work. It has also been

established that only one manufacturer makes this laptop. This situation would warrant a sole source permitting the customer to order from the same vendor as a sole source to satisfy the unique specifications needed to fit the vehicles. Another example would be the use a particular software package to upgrade an existing security system. Because the contractor can prove that the software is proprietary, a sole source procurement can be used. Guidelines involving certification is another reason a sole source could be used. If, for example Public Works trains all of its heavy equipment operators on a certain piece of critical equipment for certification, exclusive purchase of that same equipment is permitted by the employing agency under the rules of a sole source due to the importance of maintaining consistency with the equipment trained and certified on and what is used to accomplish the daily job.

3. In order to process this type of request, the end user must provide documentation explaining the special conditions and how it warrants sole source authorization. Due to the subjective nature of this request, the end user must clearly describe the justification of sole source. State of Delaware Code, Title 29 State Government, Chapter 69 State Procurement, Subchapter III. Materiel and Nonprofessional Services, Paragraph 6925 Sole Source Procurement; states in regards to the sole source process:
 - a. A contract may be awarded for materiel or nonprofessional services without competition if the agency head, prior to the procurement, determines in writing that there is only “1” source for the required materiel or nonprofessional service. ***Sole source procurement shall not be used unless there is sufficient evidence that there is only 1 source for the required material or service and that no other type of material or service will satisfy the requirements of the agency.*** The agency shall examine cost or pricing data, which shall include lifecycle costing analysis and definitions as specified in §§ 6902, and 6909A (see attachments), of this title if the sole source offers more than 1 type or variety of equipment, prior to an award under this section. ***Sole source procurement shall be avoided, except when no reasonable alternative sources exist.*** A written determination by the agency stating the basis for the sole source procurement shall be included in the agency contract file. Textbooks and related instructional materials are sole source purchases.
 - b. An agency seeking a sole-source procurement shall prepare written documentation citing the existence of a sole source condition. The document shall include the specific efforts made to determine the availability of any other source and an explanation of the procurement need. The agency may, for confirmation, submit this documentation to the Division for review and comment prior to the intended date of award. (See attached example letter)
4. DEMA as the lead agency has the responsibility to ensure the sole source requests has been thoroughly researched and justification validated for compliance with state procurement regulations. Organizations that have requirements that meet the sole

source criteria are asked to contact a DEMA Technical Assistance Coordinator to process their request and determine if their project is a viable candidate for the sole source option. Due to the subjective nature of this type of request, the end user must clearly describe the justification of the sole source. Justification can be through source supporting documentation from the manufacturer/vendor for sole source distribution and/or documentation explaining the facts which warrant special conditions authorization. The final approval authority is with the Secretary for the Department of Safety and Homeland Security.

5. If you have any questions, please contact: John Moore, David West or Mike Lipko at 659-3362 or 1-877-SAY-DEMA.

//Attachments:

1. Example of a Sole Source letter
2. Title 29 paragraphs 6902 and 6909A