



Strategy | Digital | Technology | Operations

Education

Delivering Public Service for the Future

Board of Education of the City of Chicago  
Sole Source Process Assessment

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# Agenda

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## **Executive Summary**

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# Background

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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.

## Analyze the Situation

- Interview representative procurement stakeholders.
- Review existing CPS sole source process/policy.
- Document current CPS pain points.
- Review strategic objective of CPS procurement organization.
- Describe the CPS' sole source process.
- Conduct peer organization research.

## Diagnose the Problem

- Create list of potential areas of improvement and how they address pain point and strategic objectives.

## Recommend Potential Solutions

- Draft final report including actionable recommendations and methodology to implement the recommendations.

# Executive Summary

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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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# 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

Illinois Statute 105 ILCS 5/10-20.21

Board of Education Procurement and Contracting Rules

State of Illinois Sole Source Procurement Report for FY 2014

Chicago Public Schools' Policy on Strategic Sourcing

Non-Competitive Procurement Review Committee Justification Form

List of sole source procurements from 7/16/2010 through 4/7/2015

Sample sole source procurement justification forms

## 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.

Group	CPS Interviews
Process Owner	Chief Procurement Officer
Process User	Chief Information Officer
Process User	Procurement Director
Process User	Director of Business Diversity
Process User	Deputy Procurement Officer
Process User	Chief Teaching & Learning Officer
Process User	Teaching & Learning Staff Member
Process User	Chief – College & Career Success
Process User	Executive Director – Grant-Funded Programs
Process User	Grant-Funded Programs Staff Member
Policy Perspective	Transactional Attorney

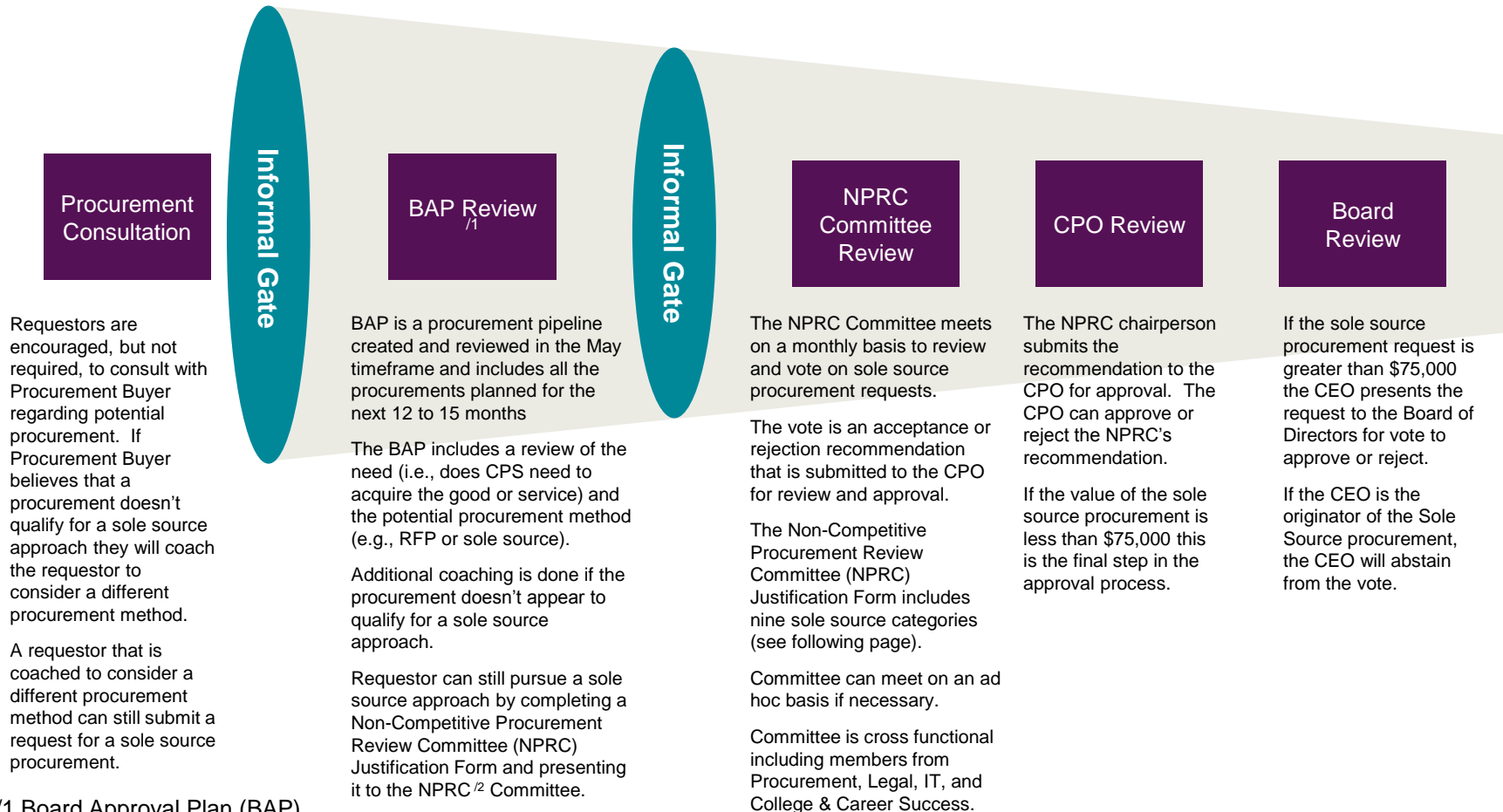
Interviews focused on how the current sole source process works at CPS.

- 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.



<sup>/1</sup> Board Approval Plan (BAP)

<sup>/2</sup> Non-Competitive Procurement Review Committee (NPRC)

# Sole Source Procurement Classification

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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)

# Sole Source Procurement Use

Use of sole source procurements is declining.


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

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.

Notes

Based on sole source data provided by CPS for FY 2011 - 2015  
 The data represents only approved sole source requests  
 Copyright © 2015 Accenture All rights reserved.

Legend:  Observation key

# Interview Summary

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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 <sup>/1</sup>.
  - 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)

<sup>/1</sup> 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)

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## 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)

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## 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 publically available contracts (e.g., consortia contracts and contracts with other public entities).

# Interview Summary (continued from previous page)

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## 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

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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

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

Are sole source contracts common practice in other school districts / public entities?

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.

How is the sole source process implemented and managed in other school districts / public entities?

Practices vary, but they are characterized by:

- Published policies documenting the easy to follow instructions on how to execute the sole and single source procurement processes.
- Detailed, clear criteria by which sole and single procurements are determined to be appropriate.
- A requirement for a requester to fill out a justification form, and submit it for approval.
- Application of sole and single source policy across procurements of all dollar values, and across both goods and services.
- 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.
- Approval levels that vary depending upon procurement value.
- A clear distinction between sole and single source definitions (see next slide).

# Peer Assessment

Peer reviews show that organizations often distinguish between sole source and single source procurements <sup>/1</sup>.

**Non-Exhaustive**

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

## Single Source Procurement

### Definition

Only one supplier can deliver the required goods or services of a given purchasing need.<sup>/2</sup>

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.<sup>/2</sup>

### 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.
- 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.

/1: <http://grants.maryland.gov/Training/Grants%20and%20Procurement%20-%20How%20They%20Work%20Together.pdf>

/2: <https://www.instituteforsupplymanagement.org/files/Pubs/Proceedings/HDWhittington.pdf>

# Peer Assessment

## New York City Department of Education – Sole Source

Distinguishing Factors	
<ul style="list-style-type: none"> <li>✓ The sole source contract must be advertised publicly.</li> <li>✓ The rules are written in one document and are simple to follow.</li> <li>✗ Rules apply to purchases of goods and services associated with the use of the goods, but not outright services.</li> <li>✗ Approval criteria is defined at a high-level; minimal detail is readily apparent.</li> </ul>	
Sole Source Process	Criteria
<ol style="list-style-type: none"> <li>1. The Executive Director determines whether sole source procurement is necessary, and documents the rationale.</li> <li>2. The sole source procurement is advertised for public comment to test whether there is truly only one viable source.</li> <li>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.</li> <li>4. If expression of interest is received, a standard solicitation will ensue; if not, negotiations with sole source provider may proceed.</li> </ol>	<ul style="list-style-type: none"> <li>• There is only one source through which the goods can be purchased.</li> <li>• When no other product is available in the marketplace that meets the same or substantially similar requirements of form, function and utility.</li> </ul>
Thresholds	
<ul style="list-style-type: none"> <li>• The process applies to all sole-source procurements greater than \$250.</li> <li>• Awards of \$25k or less must be approved by School Principal or Head of Office.</li> <li>• Awards between \$25k and \$100k must be approved by the Executive Director.</li> <li>• Awards greater than \$100k must be approved by the DOE Chancellor.</li> </ul>	

Legend: ✓ Positive Distinguishing Factor ✗ Lacking Distinguishing Factor

# 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

1. Requester must obtain approval from 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 sole source procurement may proceed.

### 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

# Peer Assessment

## Los Angeles Unified School District – Single Source

### 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.

### Criteria

- Limitations such as:
- Service issue.
  - Location.
  - Availability.
  - Capacity.
  - Emergency.
  - Grant requirements.

### Thresholds

- Single source requirements apply to procurements of any value.

Legend: ✓ Positive Distinguishing Factor ✗ Lacking Distinguishing Factor

# Peer Assessment

## Clark County, Nevada School District – Sole Source

Distinguishing Factors	
<ul style="list-style-type: none"> <li>✘ The criteria for approval is not well documented or readily apparent.</li> <li>✘ No public advertisement is required.</li> <li>✘ The process lacks clarity around who specifically is responsible for reviewing and approving sole source requests.</li> </ul>	
Sole Source Process	Criteria
<ol style="list-style-type: none"> <li>1. The requester documents the sole source justification.</li> <li>2. The authorized representative within procurement or contract masters reviews.</li> <li>3. If approved, the sole source procurement may proceed</li> </ol>	<ul style="list-style-type: none"> <li>• The products or services are unique or possess special qualities relevant to the requirements of the school district.</li> </ul>
Thresholds	
<ul style="list-style-type: none"> <li>• The requirements apply to procurements of any value.</li> </ul>	

Legend: ✓ Positive Distinguishing Factor ✘ Lacking Distinguishing Factor

# Peer Assessment

## University of Illinois – Sole Source

Distinguishing Factors	
<ul style="list-style-type: none"> <li>✓ Sole source process must be followed for procurements of any value.</li> <li>✗ 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.</li> <li>✗ Only sole source procurements above certain dollar thresholds must be advertised.</li> <li>✗ Approval criteria is defined at a high-level; minimal detail is readily apparent.</li> </ul>	
Sole Source Process	Criteria
<ol style="list-style-type: none"> <li>1. The requester submits a Sole Source Justification form to the Purchasing Division.</li> <li>2. Purchasing Division will review to ensure request meets criteria.</li> <li>3. If criteria is not met, a standard solicitation will ensue.</li> <li>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.</li> <li>5. If expression of interest is received, a standard solicitation will ensue; If not, negotiations with sole source provider may proceed.</li> </ol>	<ul style="list-style-type: none"> <li>• Goods or services are available from only a single supplier/contractor.</li> <li>• When only one supplier/contractor is deemed economically feasible.</li> </ul>
Thresholds	
<ul style="list-style-type: none"> <li>• Sole source requirements apply to procurements of any value.</li> <li>• 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.</li> </ul>	

Legend: ✓ Positive Distinguishing Factor ✗ Lacking Distinguishing Factor



# Peer Assessment

## University of California – Sole and Single Source

### Distinguishing Factors

- ✓ The policy discourages sole source procurements by highlighting that the process introduces a risk of violating Public Contract Code.
- ✓ 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.
- ✗ The approval process is not well documented, and no public advertisement is required.

### Sole Source Process

1. Requesters must complete a sole source justification form.
2. The regents must ensure that pricing is reasonable in order for a non-competitive contract to be established.

### Criteria

- Only one supplier is capable of meeting University requirements within the time available.
- Emergency and other situations which preclude conventional planning and processing.
- Brand, trade name, or proprietary service is required.
- Available from a sole source.
- Matches existing goods in place.

### Thresholds

- 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.

Legend: ✓ Positive Distinguishing Factor ✗ Lacking Distinguishing Factor

# Peer Assessment

## Cook County – Sole Source

Distinguishing Factors	
<ul style="list-style-type: none"> <li>✓ Sole source process must be followed for procurements of any value.</li> <li>✗ Sole source process has limited rigor and/or it is not well documented in public code.</li> <li>✗ No public advertisement is required.</li> </ul>	
Sole Source Process	Criteria
<ol style="list-style-type: none"> <li>1. The requesting agency must document the justification and submit it to the CPO for approval.</li> </ol>	<ul style="list-style-type: none"> <li>• Only one source for goods or services.</li> <li>• Goods or services required are unique, or highly specialized skills or experience are required.</li> </ul>
Thresholds	
<ul style="list-style-type: none"> <li>• The requirements apply to procurements of any value.</li> </ul>	

Legend: ✓ Positive Distinguishing Factor ✗ Lacking Distinguishing Factor

# Peer Assessment

## State of Illinois – Sole Source

Distinguishing Factors	
<ul style="list-style-type: none"> <li>✓ Approval criteria is very detailed and well documented.</li> <li>✓ The sole source must be advertised publicly, and a hearing may also be held.</li> <li>✗ Requirements only apply above dollar thresholds.</li> </ul>	
Sole Source Process	Criteria
<ol style="list-style-type: none"> <li>1. The requester must document the justification and submit it to the sourcing organization for approval.</li> <li>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.</li> <li>3. If deemed appropriate, the sole source procurement may proceed.</li> </ol>	<ul style="list-style-type: none"> <li>• Goods or services are only available from a single supplier.</li> <li>• Sole source must be economically feasible.</li> <li>• When compatibility of equipment, accessories, replacement parts or service is a paramount consideration.</li> <li>• Item is copyrighted or patented and the item or service is not available except from the holder of the copyright or patent.</li> <li>• Media for advertising, art, entertainment services, athletic events, radio/TV rights.</li> <li>• Procurements related to participation in mandated educational, professional, research, public service or athletic activities of organizations of which the State agency is a member.</li> <li>• Items that are required for research and no other source is able to meet the researcher's documented need.</li> </ul>
Thresholds	
<ul style="list-style-type: none"> <li>• The requirements only apply to procurements of professional services greater than \$20k, goods or other services greater than \$50k, or construction greater than \$70k.</li> </ul>	

Legend: ✓ Positive Distinguishing Factor ✗ Lacking Distinguishing Factor

# Peer Assessment

## New York State – Sole Source

Distinguishing Factors	
<ul style="list-style-type: none"> <li>✓ Sole source process must be followed for procurements of any value.</li> <li>✓ Policy distinguishes between sole and single source, with no overlap in conditions and approval criteria.</li> <li>✗ Approval criteria is defined at a high-level; minimal detail is readily apparent.</li> <li>✗ No public advertisement is required.</li> </ul>	
Sole Source Process	Criteria
<ol style="list-style-type: none"> <li>1. The requesting agency must document why the proposed vendor is the only viable source for the commodities and/or services.</li> <li>2. If the request is below a certain threshold, the sole source procurement may proceed.</li> <li>3. If not, the Office of State Comptroller (OSC) reviews the request for appropriateness.</li> <li>4. If OSC approves, the sole source procurement may proceed.</li> </ol>	<ul style="list-style-type: none"> <li>• Only one vendor can supply the commodities or services required.</li> </ul>
Thresholds	
<ul style="list-style-type: none"> <li>• Requirements to document sole source justification apply to procurements of any value.</li> <li>• OSC thresholds vary depending on a number of factors, but it is \$50k for general purchases by state agencies.</li> </ul>	

Legend: ✓ Positive Distinguishing Factor ✗ Lacking Distinguishing Factor

# Peer Assessment

## New York State – Single Source

Distinguishing Factors	
<ul style="list-style-type: none"> <li>✓ Sole source process must be followed for procurements of any value.</li> <li>✓ Policy distinguishes between sole and single source, with no overlap in conditions and approval criteria.</li> <li>✓ Exemption must be sought in order to not publicly advertise the single source procurement.</li> <li>✗ Approval criteria is not fully defined in the policy.</li> <li>✗ Public advertisement may be exempted.</li> </ul>	
Sole Source Process	Criteria
<ol style="list-style-type: none"> <li>1. The requesting agency must document why the proposed vendor is the only viable source for the commodities and/or services.</li> <li>2. If the request is below a certain threshold, the sole source procurement may proceed.</li> <li>3. If not, the Office of State Comptroller (OSC) reviews the request for appropriateness.</li> <li>4. If OSC approves, the sole source procurement may proceed.</li> </ol>	<ul style="list-style-type: none"> <li>• There are multiple potential suppliers, but procuring from one particular supplier is in the best interest of the state.</li> <li>• Maintenance can only be provided by original manufacturer.</li> </ul>
Thresholds	
<ul style="list-style-type: none"> <li>• OSC thresholds vary depending on a number of factors, but it is \$50k for general purchases by state agencies.</li> </ul>	

Legend: ✓ Positive Distinguishing Factor ✗ Lacking Distinguishing Factor

# Peer Assessment

## State of Maryland – Grant Sourcing Policy

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Maryland published a report entitled *Grants and Procurement: How They Work Together*<sup>/1</sup> to share its perspective 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.

/1: <http://grants.maryland.gov/Training/Grants%20and%20Procurement%20-%20How%20They%20Work%20Together.pdf>

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# Recommendations

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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.

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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 clarity 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

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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

# Recommendations

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## Recommendation 1: Create distinction between sole source procurements and single source procurements.

### Recommendation

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- 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

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- 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

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- 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

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## Recommendation 2: Modify NPRC voting procedures.

### Recommendation

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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

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- 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.

# Recommendations

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## Recommendation 3: Create a charter for the NPRC.

### Recommendation

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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

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- 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

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- 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.

# Recommendations

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## Recommendation 4: Notification of sole source and single source procurements.

### Recommendation

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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

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- 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

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- 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.

# Recommendations

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## Recommendation 5: Expand on the company ownership checklist to include CPS relationships with supplier.

### Recommendation

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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

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- 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.

# Recommendations

## Recommendation 6: Clarify the definition of biddable vs. non-biddable goods and services.

### Recommendation

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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

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- 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

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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



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# Peer Review Information

Peer Organization	Policy
New York City Department of Education	<a href="http://schools.nyc.gov/Offices/dcp/DepartmentofEducationProcurementPolicyandProcedures.pdf">http://schools.nyc.gov/Offices/dcp/DepartmentofEducationProcurementPolicyandProcedures.pdf</a>
Los Angeles Unified School District	<a href="http://achieve.lausd.net/cms/lib08/CA01000043/Centricity/Domain/98/Procurement_Manual-6th_Edition_Final.pdf">http://achieve.lausd.net/cms/lib08/CA01000043/Centricity/Domain/98/Procurement_Manual-6th_Edition_Final.pdf</a>
Clark County School District	<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>
University of Illinois	<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>
University of California	<a href="http://policy.ucop.edu/doc/3220485/BFB-BUS-43">http://policy.ucop.edu/doc/3220485/BFB-BUS-43</a> <a href="http://policy.ucop.edu/doc/3220478/BFB-BUS-34">http://policy.ucop.edu/doc/3220478/BFB-BUS-34</a> California Public Contract Code, Division 2, Part 2, Chapter 2.1 University of California Competitive Bidding, Article 1: 10508, Article 3: 10301
Cook County	<a href="https://www.municode.com/library/#!/il/cook_county/codes/code_of_ordinances?nodeld=PTIGEOR_CH34FI_ARTIVPRCO_DIV2PRPR_S34-139SOSOPR">https://www.municode.com/library/#!/il/cook_county/codes/code_of_ordinances?nodeld=PTIGEOR_CH34FI_ARTIVPRCO_DIV2PRPR_S34-139SOSOPR</a>
State of Illinois	<a href="http://www.ilga.gov/commission/jcar/admincode/044/044000010E20250R.html">http://www.ilga.gov/commission/jcar/admincode/044/044000010E20250R.html</a>
New York State	<a href="http://www.ogs.ny.gov/bu/pc/Docs/Guidelines.pdf">http://www.ogs.ny.gov/bu/pc/Docs/Guidelines.pdf</a>
State of Maryland	<a href="http://grants.maryland.gov/Training/Grants%20and%20Procurement%20-%20How%20They%20Work%20Together.pdf">http://grants.maryland.gov/Training/Grants%20and%20Procurement%20-%20How%20They%20Work%20Together.pdf</a>

# Non-Competitive Procurement Review Committee (NPRC) Justification Form (pages 1 and 2)

**NON-COMPETITIVE PROCUREMENT REVIEW COMMITTEE (NPRC)  
JUSTIFICATION FORM**

Project Title: _____	NPRC Meeting Date: _____
Vendor Name: _____	Board Meeting Date: _____
Vendor Number: _____	Requestor Name: _____
Department/School: _____	Requestor Signature/Date: _____
Department Head/Principal: _____	Requestor Phone: _____
Dept Head Signature/Date: _____	Requestor Email: _____

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Requestor is required to provide the Non-Competitive Procurement Review Committee ("NPRC") with a detailed justification for requesting an award to a vendor without a competitive process. Requestor cannot move forward with this request until the Chief Procurement Officer approves awarding the Project to the vendor. See attached instructions.

**After consulting with your Procurement Buyer**, email a fully executed form (signed by both the requestor and the Department Head or Principal) and supporting documentation to mbsteffens@cps.edu (Matthew Steffens, NPRC Chairman) (please also cc: the Procurement Buyer). Your submission will be forwarded to the Office of Business Diversity for review. If you have any questions, please first contact your Procurement Buyer.

**Check the box that applies to this request:**

<input type="checkbox"/> Patent or Copyright restrictions apply
<input type="checkbox"/> Grant money stipulates a specific vendor be used
<input type="checkbox"/> Vendor possesses a high degree of professional skill and the unique knowledge, skill, or ability of the vendor will play a critical role in the selection process
<input type="checkbox"/> Supplies, materials, parts, and/or equipment are available only from this vendor
<input type="checkbox"/> Specialized information technology services and equipment are only available from this vendor
<input type="checkbox"/> Project involves printing of Finance Committee pamphlets, Controller's estimates, and/or departmental reports
<input type="checkbox"/> Project involves the purchase and/or binding of educational magazines, books, periodicals, pamphlets, reports, and similar articles
<input type="checkbox"/> Utility services are involved (water, light, heat, telephone, or telegraph)
<input type="checkbox"/> Other (specify): _____

Describe what it is you wish to purchase (describe the goods or services):
Explain why this purchase should be made non-competitively (instead of doing a CPOR or RFP):
Describe the estimated cost (please provide estimated not-to-exceed costs for the entire length of the project itemized by fiscal year):
Describe the procurement history:
Describe any other supporting information:

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<p><b>NPRC Recommends to the CPO:</b></p> <p><input type="checkbox"/> Approve      <input type="checkbox"/> Reject</p> <p>Name: _____</p> <p>Signature: _____</p> <p>Date: _____</p>	<p><b>Chief Procurement Officer Action:</b></p> <p><input type="checkbox"/> Approved      <input type="checkbox"/> Rejected</p> <p>Name: Sébastien de Longeaux</p> <p>Signature: _____</p> <p>Date: _____</p>
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If your request is approved by the Chief Procurement Officer you will need to generate a contract through the Law Department. If the project is for more than \$75,000, you will also need to get approval from the Board through a Board Report.

# Non-Competitive Procurement Review Committee (NPRC) Justification Form (page 3)

## INSTRUCTIONS FOR PREPARATION OF JUSTIFICATION FORM

If a School or User Department has determined that the purchase of supplies, equipment, work and/or services cannot be done on a competitive basis, a sole source justification must be prepared on this "Justification Form" in which procurement is requested on a non-bid or non-competitive basis in accordance with 105 ILCS 5/34-21.3of the Illinois Compiled Statutes. All applicable questions in each Subject Area below must be answered. The information provided must be complete and in sufficient detail to allow for a recommendation to be made by the Non-Competitive Procurement Review Committee ("NPRC"). The Committee will not consider justifications with incomplete information documentation.

### PROCUREMENT HISTORY

1. Describe the requirement and how it evolved from initial planning to its present status.
2. Is this a first time requirement or a continuation of previous procurement from the same source? If so explain the procurement history.
3. Explain if attempts were made to competitively bid the requirement. (Attach a copy of notices and a list of sources contacted.)
4. Describe all research done to find other sources. (List other governmental entities contacted, companies in the industry contacted, professional organizations, periodicals and other publications used.)
5. Explain future procurement objectives. Is this a one-time request, or will future requests be made for doing business with the same source?
6. Explain whether or not future competitive bidding is possible. If not, why not?

### ESTIMATED COST

1. What is the estimated cost for this requirement (or for each contract, if multiple awards contemplated)? What is the funding source?
2. What is the estimated cost by fiscal year, if the job, project, or program covers multiple years?
3. Explain the basis for estimating the cost and what assumptions were made and/or data used (i.e. budgeted amount, previous contract price, current catalog or cost proposal from firms solicited, engineering or in-house estimate, etc.)
4. Explain whether the proposed contractor has a substantial dollar investment in original design, tooling, or other factors which would be duplicated at the Board's expense if another source was considered. Describe cost savings or other measurable benefits to the Board which may be achieved.
5. Explain what negotiation of price has occurred or will occur. Detail why the estimated cost is deemed reasonable.

### EXCLUSIVE OR UNIQUE CAPABILITY

1. If contemplating hiring a person or firm as a professional service consultant, explain in detail what professional skills, expertise, qualifications, or other factors make this person or firm exclusively or uniquely qualified for the project. Attach a copy of the cost proposal and scope of services.
2. Does the proposed firm have personnel considered unquestionably predominant in the particular field?
3. What prior experience of a highly specialized nature does the person or firm exclusively possess that is vital to the job, project, or program?
4. What technical facilities or test equipment does the person or firm exclusively possess of a highly specialized nature which is vital to the job?
5. What other capabilities and/or capacity does the proposed firm possess which is necessary for the specific job, project, or program which makes them the only source who can perform the work within the required time schedule without unreasonable costs to the Board?
6. If procuring products or equipment describe the intended use and explain why any exclusive or unique capabilities, features, and/or functions the items have which no other brands or models, etc. possess. Is compatibility with existing equipment critical from an operational standpoint? Explain why.
7. Is competition precluded because of the existence of patent rights, copyrights, trade secrets, technical data, or any other proprietary data? Attach documentation verifying such.
8. If procuring replacement parts and/or maintenance services, explain whether or not replacement parts and/or services can be obtained from any other sources. If not, is the proposed firm the only authorized or exclusive dealer/distributor and/or service center? If so, attach a letter from the manufacturer.

### MBE/WBE COMPLIANCE PLAN

1. All submissions will be reviewed by the Office of Business Diversity.

### OTHER

Explain other related considerations and attach all applicable supporting documents.

### REVIEW AND APPROVAL

This form must be signed by both the originator of the request and approved by the Department Head, Principal, or authorized designee. If your request is approved by the Chief Procurement Officer, your next step will be to do a contract with the Law Department, and if the project is over \$75,000, you will also need to get approval from the Board through a Board Report.

