

State of Illinois
Chief Procurement Office

Sole Source Procurements Report
Fiscal Year 2012

August 1, 2012

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 Executive Ethics Commission appoints and the Senate confirms four independent Chief Procurement Officers (CPO). The CPOs owe a fiduciary responsibility to the State of Illinois and appoint agency and university-based State Purchasing Officers to exercise the CPOs' procurement authority.

The CPOs ensure that approximately \$10 billion in procurements made by the State are fair, transparent, accountable, and in the best interest of the State. The principles of competitive bidding and economical procurement practices are applicable to all purchases and contracts by the State. Section 20-25 of the Illinois Procurement Code allows state agencies and universities to contract directly with vendors that are the sole economically feasible source.

EXECUTIVE SUMMARY

In Fiscal Year 2012, the Chief Procurement Officers developed new policies and practices to ensure that sole source awards receive 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. When appropriate, sole source contracts may be longer than one year with appropriate supporting justification. In some instances, the decision to alternatively use a competitive procurement is made.

To expedite sole source procurements, the CPOs increased sole source hearings from one time per month to one time per week. The additional hearings can save as many as 30 days off a procurement. Notice of the hearings are published on the appropriate Bulletins.

In Fiscal Year 2012, 786 hearings were held compared to 839 in Fiscal Year 2011; a 6.3% decrease. Evidence that the request to use the sole source procurement method is being properly vetted early in the procurement process is that only two sole source awards were denied. The value of the awarded 784 sole source contracts was \$423,987,737 compared to \$850,367,474. This is a 50.1% decrease.

New practices required by the Chief Procurement Office for reviewing and limiting sole source awards is having a positive effect.

SOLE SOURCE PROCUREMENT OVERVIEW

The Illinois Procurement Code(30 ILCS 500/20-25) and Administrative Rules (44 ILAC) allow contracts to be awarded when there is only one economically feasible source for an item.

Agencies and universities rely on competitive processes to procure supplies and services, but in certain instances they may contract directly with vendors who are the sole economically feasible source. Sole source contracts are appropriate in instances where there is a lack of competition, such as public utilities or where the item is proprietary and available only from the manufacturer. Because these are exceptions to the normal practice of competitive bidding, sole source contracts require heightened scrutiny and a public hearing before they may be executed.

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

Notice of intent to enter into a sole source contract is provided to the Procurement Policy Board (PPB) and published in the appropriate online Procurement Bulletin at least 14 days before the Chief Procurement Office holds a public hearing. The notice must include a description of the item to be procured, the intended sole source contractor, and the date, time, and location of the public hearing. A copy of the notice, all documents provided at the hearing, and the CPO’s decision to permit or disallow the award is posted in the subsequent Procurement Bulletin.

At the hearing, the state agency or university, the sole source vendor, the vendor’s competitors, the PPB, and the general public may attend and provide testimony. The public presented testimony challenging or questioning the procurement method in less than 1% of the 786 sole source hearings conducted in Fiscal Year 2012. Only two of the 786 requested sole source procurements were denied.

SOLE SOURCE CONTRACTS SUMMARY			
Total Value of Sole Source Contracts	=		\$423,987,737
Total Number of Sole Source Contracts	=	784	
Total Number of Agencies and Universities Using Sole Source Contracts	=	47	
Number and estimated value of awards by CPO jurisdiction:			
• General Services	192 awards	=	\$131,168,784
• Higher Education	571 awards	=	\$291,627,244
• Capital Development Bd.	21 awards	=	\$1,191,709
• Dept. of Transportation	0 awards	=	\$0

- 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
 - Granting Authority Requires Contract with Designated Supplier

SOLE SOURCE PROCURMENTS—CAPITAL DEVELOPMENT BOARD

The CPO for the Capital Development Board (CDB) held 21 sole source hearings and approved all 21 requests. Each of the 21 sole source contracts involved similar circumstances where an expired contract did not adequately address performance end dates. CDB did not manage the construction projects to ensure vendors' performance was completed by the end dates specified in the contracts. As a result, the contracts "expired" or terminated prior to full performance. Expired contracts cannot be renewed and disallow the Comptroller to make further payments or contract changes.

In each expired contract, the vendors had substantially performed the work prior to expiration. Based upon the structure of the payments associated with the work performed, that some small amount of work remained incomplete, and on warranty and insurance requirements, each vendor was determined to be the most economically feasible source to finish the uncompleted work.

In most of the 21 approved sole sources, the vendors sought approval of changes that had been performed but which were not authorized in writing prior to the performance of work. CDB's contract documents and process were restructured to prevent a recurrence of this situation.

One sole source procurement was rejected prior to hearing for lack of justification.

	FY '12	FY '11
Number of Sole Source Hearings	21	0
Number of Sole Source Contracts Approved	21	0
Dollar Value of Sole Source Contracts	\$1,191,709	\$0
Average Dollar Value of Sole Source Contracts	\$56,748	\$0

SOLE SOURCE PROCURMENTS—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. Yet, the overall number of sole source procurements dropped 1.56% from Fiscal Year 2011 and the dollar value decreased 22.61%.

To apply a higher level of scrutiny over sole source procurements, the CPO for Higher Education appointed a State Purchasing Officer dedicated to reviewing sole source procurements beginning in January 2012. In the last six months of Fiscal Year 2012, 4.6% of all procurements reviewed were denied prior to reaching the hearing stage.

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

	FY '12	FY '11
Number of Universities Awarding Sole Source Contracts	12	13
Dollar Value of Sole Source Contracts	\$291,627,244	\$376,827,428
Number of Sole Source Contracts Approved	571	580
Average Dollar Value of Sole Source Contracts	\$510,731	\$649,702

SOLE SOURCE PROCURMENTS—DEPARTMENT OF TRANSPORTATION (CONSTRUCTION)

The Department of Transportation (DOT) requested no sole source awards for construction in Fiscal Year 2012. No sole source procurements were sought in Fiscal Year 2011.

SOLE SOURCE PROCURMENTS—GENERAL SERVICES

The number of Sole Source contracts in General Services went down 25.9%. The dollar value of Sole Source contracts went down 72.2%.

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. In only a few situations are sole source contracts approved for two years. 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.

The largest sole source award, \$60,566,250, in Fiscal Year 2011 was to Kapsch TrafficCom for transponders that allow electronic toll collection. Kapsch is the sole technology provider for EZ Pass. The award is a five year contract with no renewals. Excluding this award, the average sole source contract is \$369,647.

	FY '12	FY '11
Number of Agencies Awarding Sole Source Contracts	34	30
Dollar Value of Sole Source Contracts	\$131,168,784	\$473,540,045
Number of Sole Source Contracts Approved	192	259
Average Dollar Value of Sole Source Contracts	\$683,171	\$1,828,340
Number of Sole Source Contracts Denied	2	0

SOLE SOURCE AWARDS BY AGENCY—GENERAL SERVICES

Agency	Total Dollar Value Sole Source Contracts Fiscal Year 2012	Number Sole Source Contracts Fiscal year 2012	Total Dollar Value Sole Source Contracts Fiscal Year 2011	Number Sole Source Contracts Fiscal year 2011
AGING	\$832,364	2	\$214,288	1
AGRICULTURE	\$735,418	13	\$3,429,055	31
CENTRAL MANAGEMENT SERVICES	\$11,927,597	38	\$387,333,597	45
CHILDREN AND FAMILY SREVICES	\$1,351,754	4	\$5,096,133	6
COMMERCE COMMISSION	\$87,300	1	\$360,540	3
COMMERCE AND ECONOMIC OPPORTUNITY	\$10,452,854	8	\$813,295	5
COMMUNITY COLLEGE BOARD	\$154,167	2	\$0	0
CORRECTIONS	\$5,459,042	8	\$2,465,000	6
CRIMINAL JUSTICE INFORMATION AUTHORITY	\$127,400	2	\$127,400	2
EMERGENCY MANAGEMENT AGENCY	\$748,709	5	\$3,553,628	11
EMPLOYMENT SECURITY	\$5,433,755	9	\$1,062,463	5
FINANCIAL AND PROFESSIONAL REGULATION	\$438,000	4	\$371,228	4
GUARDIAN & ADVOCACY COMMISSION	\$44,385	1	\$44,385	1
HEALTH INFORMATION TECHNOLOGY	\$160,000	1	\$0	0
HEALTHCARE & FAMILY SERVICES	\$3,876,750	3	\$9,286,365	6
HISTORIC PRESERVATION AGENCY	\$112,350	1	\$107,530	3
HOUSING DEVELOPMENT AUTHORITY	\$557,079	5	\$927,239	5
HUMAN SERVICES	\$1,297,389	9	\$2,589,356	14
INSURANCE	\$320,000	1	\$0	0
JUVENILE JUSTICE	\$666,292	2	\$236,103	3
LOTTERY	\$445,000	2	\$	0
MATH AND SCIENCE ACADEMY	\$123,025	2	\$56,000	1
MEDICAL DISTRICT COMMISSION	\$330,000	1	\$0	0
MILITARY AFFAIRS	\$32,000	1	\$0	0
NATURAL RESOURCES	\$774,266	8	\$515,323	7
PUBLIC HEALTH	\$2,362,991	16	\$12,292,863	31
REVENUE	\$5,744,929	6	\$3,137,116	7
STATE FIRE MARSHALL	\$395,380	2	\$121,000	1
STATE POLICE	\$3,953,180	13	\$9,603,841	18
STUDENT ASSISTANCE COMMISSION	\$795,000	4	\$3,800,000	2
TOLL HIGHWAY AUTHORITY	\$68,459,096	10	\$3,443,890	8
TRANSPORTATION (NON-CONSTRUCTION)	\$2,541,343	3	\$21,271,859	27
VETERAN'S AFFAIRS	\$160,000	3	\$251,560	3
WORKER'S COMPENSATION COMMISSION	\$270,000	2	\$240,000	1

SOLE SOURCE AWARDS BY AGENCY—HIGHER EDUCATION

University	Total Dollar Value Sole Source Contracts Fiscal Year 2012	Number Sole Source Contracts Fiscal year 2012	Total Dollar Value Sole Source Contracts Fiscal Year 2011	Number Sole Source Contracts Fiscal year 2011
Chicago State University	\$670,923	9	\$91,500	1
Eastern Illinois University	\$4,398,317	16	\$3,200,439	18
Governors State University	\$2,492,000	11	\$365,000	2
Illinois State University	\$5,139,032	33	\$5,558,306	30
Northeastern Illinois University	\$0	0	\$60,405	1
Northern Illinois University	\$10,177,061	35	\$13,261,984	28
Southern Illinois University Carbondale	\$11,796,527	32	\$14,572,723	34
Southern Illinois University Edwardsville	\$9,184,575	30	\$10,207,157	28
Southern Illinois University Medical School	\$3,265,671	20	\$4,103,400	15
University of Illinois Chicago	\$158,358,284	151	\$264,615,703	200
University of Illinois Springfield	\$624,328	9	\$602,463	9
University of Illinois Urbana Champaign	\$78,282,434	206	\$54,617,394	180
Western Illinois University	\$7,238,091	19	\$5,570,952	34

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