

Chapter highlights

Purpose: This chapter defines sole source IT procurements and outlines sole source policies.

Key points:

- Sole source IT procurements are defined as procurements where there is *only* one solution to meet an agency's IT needs, and only one supplier can provide the technology goods and/or services required for the solution.
- Proprietary IT solutions do not justify a sole source procurement. Proprietary procurements are defined as those in which there is only one solution available to meet an agency's IT needs; however, multiple suppliers may provide the technology goods and/or services required for the solution.

Table of Contents

16.0	Introduction
16.1	Sole source procurement justifications
16.2	Sole source procurement process requirements
16.3	How to conduct sole source procurements
16.4	Sole source procurements resulting in "high risk contracts"
16.5	How to determine price reasonableness
16.6	How to negotiate sole source contracts
16.7	How to complete the sole source procurement file
Appendix A	IT goods and services sole source procurement approval request form
Appendix B	Price reasonableness determination form

16.0 Introduction

Sole source IT procurements are defined as procurements where only one solution exists to meet an agency's IT needs and only one supplier can provide the technology and/or services required for the solution. Competition is not available for sole source procurements. When a sole source procurement is contemplated for a technology purchase and the estimated total amount of the purchase exceeds an agency's delegated purchase authority, the Sole Source Justification Form (see [Appendix 16.0](#)) should be signed by the agency head or designee and submitted to VITA for approval at scminfo@vita.virginia.gov prior to the agency taking any further action.

16.1 Sole source procurement justifications

As fair and open competition is the preeminent consideration in Commonwealth procurement, any agency making a sole source procurement must clearly and convincingly demonstrate the need for doing so. Examples of circumstances which could necessitate sole source procurement for technology goods or services include:

- Products that are unique and possess specific characteristics or have a unique capability to provide a particular function and such products are only available from only one supplier.
- A law or grant requires a single source.
- Recovery from a disaster or emergency.

Examples of circumstances which do not justify a sole source procurement for technology goods or services include:

- Single supplier's capability to deliver in the least amount of time.
- Small purchase procurements under \$10,000.
- Proprietary solutions. Proprietary procurements are defined as those in which there is only one solution available to meet an agency's needs; however, multiple suppliers may provide the technology goods and/or services required for the solution. Proprietary solutions exist when the compatibility of equipment, replacement parts or service is the paramount consideration, but they should be procured using competition.

16.2 Sole source procurement process requirements

Below is a table of process requirements for sole source procurements of varying budget levels:

Sole source procurement	Condition	Process
Any amount	Off-premise (cloud hosted) solution	<u>Enterprise Cloud Oversight Services (COV Ramp) process.</u> Regardless of the amount, if the Sole Source Procurement involves an off-premise (cloud hosted) solution, agencies must follow the COV Ramp process and workflow. A Security Assessment of the cloud service will need to be completed by the supplier and approved by COV Ramp, via a work request 1-003, and special Cloud Services Terms & Conditions must be included in the contract prior to award.
Under \$10,000	Not applicable	Not applicable
\$10,000 To \$250,000	Must be a Non-Infrastructure Related Procurement Agency/Institution	Must be approved in advance by the agency head or designee. Complete a Sole Source Procurement Approval Request Form (see Appendix A), signed by the agency head or designee.
\$250,000 or more	Any agency IT project that (has a total estimated cost of \$1 million or more has been designated a major information technology project by the CIO. (See Virginia Code § 2.2-2006.)	Complete the Sole Source form and attach to your Procurement Governance Request (PGR). For more See here: https://www.vita.virginia.gov/procurement/policies-procedures/summary-of-vitas-procurement-delegation/ . The CIO must approve the sole source procurement prior to the commencement of the actual procurement.

16.3 How to conduct sole source procurements

The VPPA requires the following steps in conducting sole source procurements:

- Prepare a written determination that there is only one source practicably available. The Sole Source Procurement Approval Request Form, fulfills this requirement.
- Conduct determination of Price Reasonableness.
- Issue a written award notice that states:
 - only one source is practicably available
 - what is to be procured
 - name of selected supplier
 - date the contract was or will be awarded
- Post the award notice on eVA. The notice may also be published in a newspaper of general circulation on the day the public body awards the contract. Posting on eVA is required by all state public bodies. Local public bodies are encouraged to utilize eVA.

Sole source IT procurements that include a renewal provision, for which approval for multi- years was originally obtained, do not need to be re-approved until expiration of that renewal term.

16.4 Sole source procurements resulting in “high risk contracts”

Virginia Code 2.2-4303.01 defines “high risk contracts” and outlines review and evaluation criteria for all public procurements which may result in a high risk contract. Any IT procurement that is anticipated to result in a high-risk contract must be reviewed by VITA and the OAG prior to contract award.

Agencies are required to contact SCM at: scminfo@vita.virginia.gov during the contract preparation stage for assistance with preparing and evaluating the proposed contract’s terms and conditions.

VITA’s High Risk Contracts Policy can be found on our website, accessible through the following link: <https://www.vita.virginia.gov/supply-chain/scm-policies-forms/scm-policies/>. Also see Chapter 25 of this manual, “IT Contract Formation”.

16.5 How to determine price reasonableness

The agency should conduct careful research when conducting a sole source procurement to determine the fair market price of the IT good or service being procured and document the findings. To substantiate price reasonableness, review previous prices paid by other consumers and observe whether the market has remained stable or fluctuated for that particular IT or telecommunications good or service. Complete a Price Reasonableness Determination Form (see [Appendix 16.5](#)) for the procurement file. Also see Chapter 9 of this manual, “Determining Price Reasonableness”.

16.6 How to negotiate sole source contracts

In sole source procurements, a contract is negotiated and awarded without competitive sealed bidding or competitive negotiation. Therefore, it is the agency’s responsibility to negotiate a contract that is in the Commonwealth’s best interest. To be successful, the agency should have extensive knowledge of the market, the supplier’s position in the market and substantiated price reasonableness information for the technology or service being procured.

16.7 How to complete the sole source procurement file

An executed contract and/or eVA-issue purchase order is required for sole source purchases. The procurement file for sole source procurements over \$10,000 should contain the following documentation to support the sole source contract award:

- Written quote from offeror
- Sole Source Procurement Approval Request Form (Appendix A)
- Price Reasonableness Determination Form (Appendix B)
- Written negotiations documentation
- Written award notice
- Documentation of public posting of sole source award in a newspaper of general circulation, if any.
- Copy of eVA posting.
- Executed contract, if applicable, and copy of eVA purchase order.

