

The Howard University  
**GUIDELINES FOR SOLE SOURCE JUSTIFICATION**

Sole source contracting is a non-preferred method of contracting. Howard University is especially sensitive to concerns about sole source contracting because it receives significant funding from federal grants. Federal regulations place stringent requirements on justifying sole source contracts. The University's approach to sole sourcing is advised by due consideration of these regulations. When sole source contracting becomes necessary, it is very important to fully and accurately document the necessity for relying on this method of awarding contracts. Attached, as part of this packet, are two forms to be completed each time a sole source contract is sought. These forms are the "Sole Source Justification Statement," and the "Disclosure Statement for Proposed Sole Source Purchase." These forms are intended to ensure that the University department requesting the sole source contract has addressed the major legal concerns regarding sole sourcing. These forms must be completed and retained in the requester's official files. A longer, narrative-style justification may be provided as *additional* explanation of the rationale of the decision to sole source the contract. Other requirements and guidelines are listed below.

1. Every sole source justification must contain a valid justification for not utilizing a full and competitive process. Valid justifications include: unavailability of competing products or services (uniqueness); extensive existing investment by the University in a certain product or service that requires the ordering of replacement components from the same source; or, due to very irregular circumstances, time does not permit a full and competitive process.
2. The justification cannot be price-based alone, as this is presumptive.
3. The requestors must certify the accuracy and completeness of the justification, as is done in the forms provided.
4. The requestors must certify that they have no conflict of interest in the sole source decision.
5. Requestors should obtain from the contractor a certification that the cost of the contract shall be fair and reasonable.
6. Time Constraint Pitfalls - Time constraint, as a justification, receives additional scrutiny. It is not enough that timeliness is "of utmost importance," as is often stated. The requestor must show that proceeding with a competitive process would cause the University serious harm.
7. If the justification includes a timeliness reason, the requestor must give an explanation of why timeliness was not addressed through better planning, and what steps will be taken to try to prevent a non-competitive process in the future.
8. If the justification falls under 1b. or 1e. of the Sole Source Justification Statement form, for a contract of \$25,000 or more, it is especially advisable to conduct at least a brief market survey to provide support to the justification for sole sourcing.

9. Market Survey Generally - The market survey should describe efforts to ascertain the availability of alternative sources for the products or services, list the contractors contacted during the survey, and name any contractors passed over for the contract that expressed an interest in the contract.
10. Market Survey Checklist –
  - a) State who conducted the survey.
  - b) State when it was performed.
  - c) State what companies are in the industry, if feasible.
  - d) State how the companies were contacted.
  - e) State what questions were asked, and how the companies responded.
  - f) Name the companies that were contacted. Were all contractors in the relevant industry contacted? If not, why?
  - g) Provide each response from those companies surveyed.
  - h) If any company stated that it could meet the requirements, give a justification for excluding that company, if it was not chosen.
  - i) State how it was determined that the contractor was the only one qualified.
  - j) State how requestor will plan better to ensure a full and competitive process the next time.