

<i>Sole Source, Noncompetitive Procurements</i>	PROCEDURE	
	Document Number:	FRS-PR-038
	Version Number:	01

1.0 Purpose:

To establish the procedure within VTA to select vendors on a Sole Source basis.

2.0 Scope:

This Procedure applies to all VTA departments and all vendors participating in the established VTA procurement process.

3.0 Responsibilities:

It is the responsibility of the Purchasing and Materials Manager to draft and obtain approval of this Procedure and to assure organizational understanding and compliance with this Policy.

4.0 Procedure:

4.1 The Sole Source procurement process will be employed in compliance with Policy FRS-PL-038 Section 4.

4.2 VTA may use noncompetitive proposals only when the procurement is inappropriate for small purchases as defined in FRS-PL-017 Small Purchases, or other formal solicitation processes approved for use at VTA and at least one of the following circumstances is present:

INADEQUATE COMPETITION:

After soliciting several sources competition is determined to be inadequate. If, after a review of the specifications is done to determine if they are unduly restrictive or if changes can be made to encourage greater competition, a determination that competition is adequate can be made. A cost analysis in lieu of a price analysis must be performed.

SOLE SOURCE:

When required supplies or services are available from only one responsible source, and no other supplies or services will satisfy those requirements, a sole source award may be made. Note: If an existing contract is changed that is beyond the original scope of that contract, that is to be considered a sole source award and must be justified.

Unique Capability or Availability: Goods or services may be deemed available from one source if one of the conditions described below is present:

- **Unique or Innovative Concept:** An offeror demonstrates a unique or innovative concept or capability not available from another source. Unique or innovative concept means a new, novel, or changed concept or approach, or method that is the product of original thinking, the details of which are kept confidential or are

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patented or copyrighted, and is available to VTA only from one source and has not in the past been available from another source.

- Patents or Restricted Data Rights:
Patent or data rights restrictions preclude competition.
- Substantial Duplication Costs:
In the case of a follow-on contract for the continued development or production of highly specialized equipment and major components thereof, when it is likely that award to another contractor would result in substantial duplication of costs that are not expected to be recovered through competition.
- Unacceptable Delay:
In the case of a follow-on contract for the continued development or production of a highly specialized equipment and major components thereof, when it is likely that award to another contractor would result in unacceptable delays in fulfilling VTA's needs.

Single Bid or Proposal:

If a single bid or proposal is received in response to a solicitation a review must be done to determine if competition was adequate. The review should include a review of the specifications for undue restrictiveness and might include a survey of potential sources that chose not to bid or submit a proposal.

UNUSUAL OR COMPELLING URGENCY:

VTA may limit the number of sources asked to bid or submit proposals when an unusual and urgent need for goods or services or public exigency or an emergency exists and VTA would be seriously injured unless limiting the solicitation were allowed.

ASSOCIATED CAPITAL MAINTENANCE:

There is no exception to the above policy and procedure for federally funded procurements of Associated Capital Maintenance items. Any sole source procurement for such items must qualify under the same standards that would apply to other sole source procurements.

For non-federally funded procurements sole source requests may be submitted to the Purchasing & Materials Manager for consideration.

AUTHORIZED BY THE FTA:

Under certain circumstances outlined in federal circular 4220.1.f, the FTA may authorize sole source procurements. Because such requests are rare, the circular should be referenced should such requests be received.

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4.3 Less than full and open competition is not justified based on:

- The requestor's failure to plan adequately for the time required for the procurement process.
- Concerns about the availability of federal funds (for example, expiration of federal grant).

4.4 To be in compliance with this procedure:

- Offers should be solicited from as many potential sources as practicable under the circumstances.
- If offers are solicited from only one source, the request for such action must be made on a form established for that purpose by the Purchasing and Materials Manager.
- Prepare or obtain a cost analysis verifying the proposed cost.

5.0 ***Definitions:***

Proposals	For this procedure, a proposal can be a bid or a response to a Request for Proposals solicitation.
Contract	<p>A contract can be:</p> <ul style="list-style-type: none"> • A formal contract document that contains all of the terms, conditions and specifications of the agreement. • A standard VTA Purchase Order.
Requestor	The responsible VTA staff member that has requested the product or service, sometimes referred to as the Project Manager or Project Engineer.

6.0 ***Records:***

N/A.

7.0 ***Appendices:***

N/A.

8.0 ***Training Requirements:***



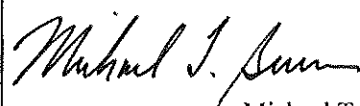
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9.0 ***Summary of Changes:***

Initial release of this Procedure. Previous guidance was included in other Policies and Procedures.

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10.0 Approval Information:

<i>Prepared by</i>	<i>Reviewed by</i>	<i>Approved by</i>
 Thomas B. Smith Purchasing and Materials Manager	 Joseph T. Smith Chief Financial Officer	 Michael T. Burns General Manager

5/11/11
Date Signed

Original Date:	Revision Date:	Page 4 of 4
4/22/2011	N/A	