

Non-Competition

Purpose

This prescribes policy and procedure for all University purchases that are sole sourced, not competitively bid, or not purchased under a master supply agreement, regardless of funding source.

Scope

This format may be used for all purchases that exceed \$25k and cannot be sourced using the competitive bid process.

Responsibility

The shopper is responsible for supplying Sourcing & Procurement a justification for non-competition if the purchase cannot go out to bid.

Procedure

- **Summary/Introduction:** State in a few sentences 1) the unit or department making the purchase, 2) what is being bought, 3) the estimated value and contract duration, and 4) the unit or departmental authority authorizing this purchase by other than full and open competition. (This introductory section should be concise, as these points will be developed in detail later in the document.)
- **Description of Need:** Include a summary of the origin of the procurement, a description of the supplies/services needed, the specific need or use for the item/service, and any other general information needed to understand the context of the procurement. If this is a lengthy section, additional topic headings may be appropriate, such as "Background," "Current Procurement Efforts," etc.
- **Authority for Other than Full and Open Competition:** Cite the authority and provide the rationale. If a particular company's unique qualifications are critical, discuss those here. This section should include all facts supporting the use of other than full and open competition. This section should also address why the full quantity to be contracted for needs to be purchased without using competitive procedures.
- **Price/Cost Considerations:** Discuss relevant pricing issues, including the basis for determining that the anticipated price/cost will be fair and reasonable. Also include here, or elsewhere as appropriate, length of contract, quantity, and other contract particulars bearing on the price/cost. Circular No. A-110 – Procurement Standards requires that "some form of cost or price analysis shall be made and documented in the procurement files in connection with every procurement action".
- **Market Research/Efforts to Obtain Competition:** Discuss market research, synopsis, and other efforts made to publicize the requirement and generate competition. Also include a listing of sources that expressed, in writing, an interest in the procurement. (Market Research may be addressed separately, if appropriate.)

• **Actions Being Taken to Overcome Future Barriers to Competition:** Describe, for example, any efforts to identify and evaluate less restrictive methods of expressing the requirement. Include, when applicable, a description of the action being taken to obtain a data package adequate to acquire the item competitively in future acquisitions.

• **Approval of Purchase by Boston University Authority:** Statement and approval of non-competitive purchase i.e. Signature and approval certifying that the information contained in this justification is accurate and complete to the best of knowledge and belief.

Helpful Hints

41 U.S.C. 253(c) and 10 U.S.C. 2304(c) each authorize, under certain conditions, contracting without providing for full and open competition. The Department of Defense, Coast Guard, and National Aeronautics and Space Administration are subject to 10 U.S.C. 2304(c). Other executive agencies are subject to 41 U.S.C. 253(c). Contracting without providing for full and open competition or full and open competition after exclusion of sources is a violation of statute, unless permitted by one of the exceptions in (FAR) Federal Acquisition Requirement 6.302.