

A collage of four images on the left side of the slide: a green lawn with trees, a building with a tower, a classical archway, and a blue sky with clouds.

UNIVERSITY OF ILLINOIS

AT URBANA-CHAMPAIGN



2011 BUSINESS LEADERSHIP CONFERENCE

Sole Source Strategies

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Business Leadership at Illinois: Partnering to Meet New Challenges

Workshop Presenter(s)

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Please ...

- Turn off cell phones.
- Avoid side conversations.
- Hold questions until the end.
- Sign the attendance roster.
- Complete the evaluation at the end of the workshop.

Workshop Objectives

- Develop an understanding of when it is appropriate to use the sole source process for a procurement.
- Increase familiarity with the Sole Source Justification Form
- Build an awareness of the timetable for successfully processing a sole source procurement.

Topics

- What is and is Not a Sole Source Purchase
- Detailed Instructions on How to Complete the Sole Source Justification Form
- Learn what happens after the Form Is Completed

What Is a Sole Source Purchase?

The estimated purchase is equal to or greater than the bid limit AND the goods/services are **EITHER** available from a single source because the item is

- Patented or copyrighted and only available from the copyright/patent holder
- A service where the vendor has exclusive rights to the service such as memberships, advertising media purchases, artistic and entertainment services and NCAA directed athletic events and services
- Required under the terms of a federal/state grant and the item is included in the award document **OR**

Only one supplier/contractor is deemed economically feasible. In order to be economically feasible, one of two criteria must be met:

- The need for compatibility of equipment, accessories, replacement parts or services outweighs the benefits of a competitive bid or
- Financial information or evidence can demonstrate that failure to standardize on a single product/service will greatly increase the total cost of ownership and outweighs the benefits of a competitive bid

What Is a Sole Source Purchase? (Cont'd)

- Examples :
 - Replacement parts for equipment that is proprietary to the manufacturer of the equipment or where existing maintenance agreements would be invalidated if manufacturer's products are not used
 - Database applications where the manufacturer of the computer's operating system specifies a single database vendor; e.g. Banner and Oracle database applications
 - Maintenance contracts on equipment and computer systems where the specification of the items or base code of the computer system is proprietary to the manufacturer of the equipment or system
 - Chemicals, supplies or glassware where the introduction of a new variable could invalidate the faculty member's research
 - Equipment/accessories in the medical center, in particular, where standardization on one particular product reduces the total cost of ownership (financial analysis needs to be provided)

What Is Not a Sole Source Purchase?

- A proprietary item/service where there is more than one potential vendor/supplier authorized to provide the item/service
- An item/service that is included in a grant or research contract proposal but is not specified as a named vendor line item in the award document
- An item/service where it cannot be demonstrated that only one supplier/contractor is economically feasible
 - This is particularly problematic if similar products are available and only a competitive bid can determine the difference in costs. For example, it is usually hard to argue that the selection of one product over another is justified based on additional training costs in the absence of a competitive bid

Sole Source Definitions

- **New Sole Source** – first time submission, there are no other sources that can meet the need
- **New Sole Economically Feasible Source** – first time submission, there may be other sources, but using them is not economically feasible.
- **Pre-Negotiated Sole Source Renewal** – used to renew a sole source that was initiated prior to July 1, 2010.
- **Change Order or Amendment to an Existing Sole Source** – used to change or amend a sole source that was initiated prior to July 1, 2010.
- **Extension or Continuation of Vendor Responsibilities to an Existing Contract** – used to extend a transaction that was originally completed through a different solicitation process (i.e., Sealed Bid, RFP) when the contract term has expired and additional costs are expected to complete the transaction.

Sole Source Definitions (Cont.)

- **Professional & Artistic** – means those services provided under contract to the University by a person or business, acting as an independent contractor, qualified by education, experience, and technical ability.
- **Provide a description of the supplies or services required** – include a brief (50 characters or less) description of what is being procured.
- **Funding to be used:**
 - Federal Funds – funds by one party, often a Government Department, Corporation, Foundation or Trust, to an educational institution.
 - State Appropriated Funds – a sum of money set aside by a legislature for a specific purpose
 - State Grant Funds – a form of state financial aid that does not need to be repaid. They're typically given to people who demonstrate financial need.
 - Other (Explain) – funding source other than Federal or State. Provide a brief (50 characters or less) description of the funding source.

**Sole Source Justification Form
Part I**

Requesting Agency/University: []	Date: []	Bulletin or Reference Number: []
Name of Requestor: []	Department/Bureau/Section: []	
Project Title: []		
Vendor: []		
Value of Initial Term, or if a Renewal, Value of this Renewal: \$ []	Value is: <input type="checkbox"/> Actual <input type="checkbox"/> Estimated	

- Only complete pages 1 and 2 of the form up to the Agency Required Signature
- The questions above are largely self-explanatory. Leave **Bulletin/Reference Number** blank. For **Project Title**, if the request involves the purchase of supplies or equipment, state Purchase of X. If the request involves a service, state the service needed, such as Database Subscription Services
- For **Value of Initial/Renewal Term**, if the requested term is for more than one year, take the annual cost X number of years to determine the value
- Check the appropriate box for **Value is Actual or Estimated**. The value is usually actual if involving a single acquisition. The value is usually estimated if amount is dependent on quantities ordered or services received as needed

Term		
<input type="checkbox"/> One-Time Purchase	Proposed Sole Source Contract Begin Date: <input type="text"/>	Proposed Sole Source Contract End Date: <input type="text"/>
<input type="checkbox"/> Term Contract		
Renewals		
# of Potential/Remaining Renewals: <input type="text"/>	Length of Each Renewal in Months: <input type="text"/>	Total Value of All/Remaining Renewals: \$ <input type="text"/>
This is a:	<input type="checkbox"/> New Sole Source	<input type="checkbox"/> Change Order or Amendment to an Existing Sole Source
	<input type="checkbox"/> New Sole Economically Feasible Source	<input type="checkbox"/> Extension or Continuation of Vendor Responsibilities to an Existing Contract
	<input type="checkbox"/> Pre-Negotiated Sole Source Renewal	

- For **Term**, check One-Time Purchase or Term Contract. A term contract usually involves purchases of items or services over a period of time rather than a single acquisition.
- For **Sole Source Contract Begin Date**, the date should be at least 8 weeks from the time of submission to Purchasing to allow time for posting and conducting the sole source hearing and for CPO approval.
- For **Sole Source Contract End Date** should be the date after which the services/goods will no longer be needed. If the purchase is continuous for multiple years, the end date should be reflective of that period.

Term
 One-Time Purchase
 Term Contract

Proposed Sole Source Contract Begin Date: Proposed Sole Source Contract End Date:

Renewals
 # of Potential/Remaining Renewals: Length of Each Renewal in Months: Total Value of All/Remaining Renewals: \$

This is a:

New Sole Source
 Change Order or Amendment to an Existing Sole Source
 New Sole Economically Feasible Source
 Extension or Continuation of Vendor Responsibilities to an Existing Contract
 Pre-Negotiated Sole Source Renewal

- For **Renewals**, the number of potential/remaining renewals + the term of the initial contract cannot exceed 5 years, unless approved by Purchasing. For **Total Value of All/Remaining Renewals**, multiply the # of renewals by the annual value, if a multi-year sole source is involved.
- Check **New Sole Source** for a new sole source.
- Check **New Sole Economically Feasible Source** if a case can be made that another competitors' product/service are "not economically feasible" based on 1) compatibility of equipment, accessories, replacement parts, or service is a paramount consideration or 2) convincing financial information or evidence shows that failure to standardize on a single product/service will increase the total cost of ownership. In the later case, this may be difficult to prove and the evidence should be submitted with the form.

Professional and Artistic? Yes No

Sole Source may not be used for amendments for Professional or Artistic Services if the amendment would increase the value by more than 5% of the initial award or extend the term by more than 60 days.

 Provide a description of the supplies or services required:
Funding

Select the type of funding to be used:

 Federal Funds
 State Appropriated Funds
 State Grant Funds
 Other (Explain):

- Professional and Artistic Services** means those services provided under contract to the University by a business firm or individual acting as an independent contractor and qualified by education, experience and/or technical ability. Contracts for services involving primarily manual skills or labor and are not considered professional and artistic services contracts. Examples of professional and artistic services include consulting, artists/entertainers, and engineers. Check the applicable box. A more comprehensive list can be found at <http://www.obfs.uillinois.edu/cms/one.aspx?portalId=909965&pageId=921834>
- Funding:** Check the appropriate box. For *Other*, specify the type of funding, such as institutional, self-supporting, clinical, gift or endowment

This purchase is economically only available from a single source because it is:

- Art or Entertainment Services or Athletic Events
- Compatibility of Equipment, Accessories, Replacement Parts or Service**
- Critical Changes to the Existing Contract Are Necessary and Best Accomplished by the Contract Holder
- Federal/State Grant Requires Contract with Vendor
- Item is Copyrighted or Patented and the Item is Only Available From the Holder – Copyright or Patent Number(s):**
- Item is to be Procured for Commercial Resale
- Items Are Needed for Trial Use or Testing
- Media for Advertising
- Necessary Adjustment of Utility Facilities in Conjunction with Highway Construction
- Organization Memberships (Dues, Fees, Conference Charges Including Mandated Travel and Related Expenses)
- Public Utility Regulated Services
- Radio and Television Broadcast Rights
- Railroad Crossings/Facilities Alterations – Proprietary
- Software License/Upgrade/Maintenance**
- Other (Explain):

- Check the applicable box. Most options are self-explanatory, but the following advice is offered.
 - **Compatibility with existing equipment...** if your products or services are being purchased to directly interface with or attach to equipment of the same manufacturer, and no other manufacturer’s products will correctly interface with existing equipment. Also, to maintain consistency with previous research results obtained using a manufacturer’s equipment, either within the UI or in working with research groups outside the UI.
 - **Federal/State Grant Requires Contract with Vendor...**the Vendor must be named in the award document vs. the proposal. Award documents are rarely this specific.
 - **Copyrighted or Patented...MUST** include Copyright or Patent Number if this box is checked. This cannot be used for patents that are pending.

This purchase is economically only available from a single source because it is:

- Art or Entertainment Services or Athletic Events
- Compatibility of Equipment, Accessories, Replacement Parts or Service
- Critical Changes to the Existing Contract Are Necessary and Best Accomplished by the Contract Holder
- Federal/State Grant Requires Contract with Vendor
- Item is Copyrighted or Patented and the Item is Only Available From the Holder – Copyright or Patent Number(s):
- Item is to be Procured for Commercial Resale
- Items Are Needed for Trial Use or Testing
- Media for Advertising
- Necessary Adjustment of Utility Facilities in Conjunction with Highway Construction
- Organization Memberships (Dues, Fees, Conference Charges Including Mandated Travel and Related Expenses)
- Public Utility Regulated Services
- Radio and Television Broadcast Rights
- Railroad Crossings/Facilities Alterations – Proprietary
- Software License/Upgrade/Maintenance
- Other (Explain):

- **Item is to be Procured for Commercial Resale...** the item must be resold to University employees, students or the general public in venues such as a bookstore, theater or pavilion.
- **Items Are Needed for Trial Use or Testing...** a document/license needs to be attached from the vendor specifying the terms of the agreement.
- **Other...** If none of the listed rationale applies to the purchase, check the box marked “other” and provide additional details that would support the sole source request. For example, a piece of equipment performs a specific function necessary to complete research that no other piece of equipment can perform.

Has the Agency or University purchased these supplies/services in the past? Yes No

If yes, STARTING WITH THE MOST RECENT CONTRACT AND WORKING BACKWARD, for the entire relationship with this vendor for this supply or service, list each term, value, short description and type of procurement of each:

Term:	Term From:	Term To:	Value	Description:	Type:
One			\$		Select One
Two			\$		Select One
Three			\$		Select One
Four			\$		Select One
Five			\$		Select One
Six			\$		Select One
Seven			\$		Select One
Eight			\$		Select One
Nine			\$		Select One
Ten			\$		Select One

If more than 10 years, explain:

- Answer the first question for your department’s purchases only. If the answer is “yes, ” you must provide the **entire** relationship with this vendor for same or similar items/services starting with the most recent contract and working backward (i.e., most recent purchase in Term One). If more than 10 years, please provide additional details regarding the purchase, including how long these goods/services have been procured.

Has the Agency or University purchased these supplies/services in the past? Yes No

If yes, STARTING WITH THE MOST RECENT CONTRACT AND WORKING BACKWARD, for the entire relationship with this vendor for this supply or service, list each term, value, short description and type of procurement of each:

Term:	Term From:	Term To:	Value	Description:	Type:
One			\$		Select One
Two			\$		Select One
Three			\$		Select One
Four			\$		Select One
Five			\$		Select One
Six			\$		Select One
Seven			\$		Select One
Eight			\$		Select One
Nine			\$		Select One
Ten			\$		Select One

If more than 10 years, explain:

Example: Your department has purchased software maintenance for the past five (5) years and the maintenance is only available from one source.

Term:	Term From:	Term To:	Value:	Type:
One	February 1, 2010	January 31, 2011	\$ 65,000.00	Sole Source
Two	February 1, 2009	January 31, 2010	\$ 62,000.00	Sole Source
Three	February 1, 2008	January 31, 2009	\$ 61,000.00	Sole Source
Four	February 1, 2007	January 31, 2008	\$ 60,500.00	Sole Source
Five	February 1, 2006	January 31, 2007	\$159,000.00	Bid

Business Rationale Questions 1-10

- **Purpose** – To explain in lay terms why your department needs this equipment or service so Purchasing, the State Procurement Officer (SPO), Chief Procurement Officer (CPO), and Procurement Policy Board (PPB) can determine if the sole source is justified.
- What are **NOT** acceptable rationale?
 - Price
 - Preferred Vendor

Q1: Provide a detailed explanation of the need for the supplies or services.

- Answer the questions: why is this purchase necessary? who will use these supplies or services? how will you use the supplies or services?
- Explain the educational or research purpose for the purchase.
- Answers should be brief and succinct and written to allow a lay person to understand the big picture.
- Do **NOT** explain why only this vendor can provide these supplies or services in response to this question
- **Example:** This device will be essential for our group to do real-time simulations with power grid hardware. This allows us to look at transients, do model validation and simulation, and to do all of this without the encumbrances of having to build a real power grid.

Q2: Why are the requested supplies or services the only one that can satisfy your requirements?

- Provide specific details on the functional and/or technical reasons why the requested supplies or services are the “only” ones that can satisfy the requirement detailed in Question 1.
 - Acceptable reasons would include replacement parts/maintenance contracts for proprietary equipment or needed chemicals, supplies or glassware where the introduction of a new variable would invalidate faculty research. If a patent or copyright is involved, please note this fact as well
- Do **NOT** state that the supplies or services are needed because they were included in a grant proposal, training of staff on new/different equipment would be required or because you have used these items in the past-these are not viewed as valid reasons.
- **Example:** This system is a vendor guarded trade secret product that is widely used in the academic and government sectors. By providing interfaces with power equipment and pre-built libraries of models for equipment, we leverage the years of work others have done and provide a seamless environment in which we can engage. Further the real-time capabilities of the system cannot be duplicated by any software available today.

Q3: What are the unique features of the supplies or services that are not available in any other product or by any other vendor? Provide specific, quantifiable factors/qualifications.

- Spend the most time on this answer since this is what makes an item a sole source. Indicate all features of the product or service that cannot be provided by an alternative vendor and why such features are absolutely necessary. Be specific, providing quantifiable details/evidence on the factors and/or qualifications that make it distinctive
- Do **NOT** use this as a forum to discount the quality of other vendor's products. Just be factual.
- **Example:** Oracle is the only provider of support and maintenance for their database product. The Oracle software licensing contract requires that we purchase maintenance and support through them.

Q4: If services, what are the unique qualifications this vendor possesses? Provide specific, measurable factors/qualifications:

- Only answer this question if services vs. supplies/equipment are involved. Provide specific details on the expertise, experience and/or qualifications that explain why the requested contractor is the only one that can provide the required service (s). Provide quantifiable measures, if possible.
 - Acceptable reasons would include failure to use this service provider would invalidate the equipment warranty, the service provider delivered the original services on the contract and this change order would enable them to complete the work
- Do **NOT** attempt to make the argument that the same service provider is needed for a new contract if the original work product can be utilized by other qualified firms, which is often the case.
- **Example:** This Vendor has the ability to work with Chinese entities to assist in their decision making process. This vendor has first hand knowledge of: 1) the Chinese educational system, 2) the Chinese government requirements that allow Chinese nationals to leave the country, 3) the US Government immigration policies, 4) Chinese cultures and 5) US cultures.

Q5: Were alternative supplies or service evaluated? Yes No

5a. If yes, what were they and why were they unacceptable? Please be specific, with regard to features, characteristics, requirements, capabilities and compatibility:

5b. If no, why were alternatives not evaluated?

- Answer yes if there were items or service providers on the market evaluated by the department.
 - Provide information regarding the specific features, requirements, and capabilities that the alternate sources were unable to meet.
 - Do **NOT** list vendor names.
 - Make sure your answers to Q3 and Q5 are consistent.
- If you answered “no,” explain why no alternative sources were considered.
Acceptable reasons for answering “no” to this question:
 - the use of other service providers would invalidate a warranty;
 - new chemicals, supplies or glassware would invalidate existing faculty research;
 - the compatibility of new and existing equipment is required to conduct specific faculty research or provide patient care;
 - a patent or copyright is involved.

Q6: What efforts were made to get the best possible price?

- Even with sole source purchases, we should always attempt to show that we are receiving best pricing.
 - Indicate any quotes or discounted pricing requested from the vendor.
 - If discounted or special pricing was provided, indicate the amount of the discounts as a percentage of the retail price and why this is considered favorable pricing.
 - If any other value added services such as training, extended warranty, trade-ins, or vendor collaboration are provided, provide details on these services, as well, including an estimate of the normal cost of these services, if available.
- Do **NOT** leave this question blank. If the request involves a membership, advertising, media purchase, artistic or entertainment service or NCAA directed athletic event, please state that this is a fixed price agreement or represents fair market value.

Q7: Will this purchase obligate the State to this vendor for future purchases such as maintenance, licensing or continuing need? Yes No

7a. If yes, please provide details regarding future obligations and/or needs.

- If you answered ‘yes,’ provide information on
 - type of commitment to the vendor, e.g. licensing, maintenance, equipment upgrade, etc.
 - duration of the commitment to the vendor
 - amount of commitment to the vendor.
- If a maintenance agreement is involved, make sure that you are required to receive the maintenance from this vendor vs. other vendors with similar expertise.
- **NOTE:** A multi-year grant award does not obligate the State to purchase the product or service each year.

Q8: Why is the price for this purchase considered to be fair and reasonable?

- Indicate any price comparisons or other benchmarks against which the vendor's price was evaluated. For example:
 - why the pricing is considered reasonable
 - how the price is comparable to what other similar institutions are paying
 - if a professional service is involved, how do the hourly rates compare to those available for providers of similar services? For providers of similar services to the University?
- Do **NOT** leave this question blank. If the request involves a membership, advertising, media purchase, artistic or entertainment service or NCAA directed athletic event, please state that the price is fair market value.
- Example: The software has been provided free of charge due to an academic discount. Normal pricing for the software is \$95,100. The hardware has been provided at standard pricing levels and is not discounted except in large quantities.

Q9: If this is a renewal, describe why circumstances are such that competitive selection is still not an alternative since awarding the original contract:

- This statement refers to transactions that have previously been based on a sole source.
- Each sole source must go through the same process to assure that there is still no alternative for the procurement.
- Review scope of services to make sure the department's needs have not changed significantly enough since the initial award to make competitive selection feasible at this time.
- NOTE: You can have a multi-year sole source.

Q10: What will be the financial or other impact to the State if this sole source is not approved and a competitive bid is required?

- Quantify any direct and/or indirect financial impacts as well as any impacts to faculty or student programs/research if this purchase is not approved as a sole source.
- Examples: If the introduction of a different reagent would invalidate existing research, you can say that future grant funding could be lost. Similarly, if standardization of patient care is involved, you could indicate that multiple types of apparatus would increase operating room time, thus leading to reduced revenue. If the item is patented, or is a fixed price agreement such as memberships, advertising, media purchases, or NCAA directed athletic events, you could say that a competitive bid would not result in additional vendors.
- Do **NOT** exaggerate the financial or other impact to the State. Maintain credibility.

Sole Source Process After the Form is Completed

- Certifications & Disclosures
- Posting
- Public Hearing
- Approvals
- Time Frames

Certifications & Disclosures

- For any purchases above \$25,000 certifications and disclosures are required from the vendor prior to award.
- Buyers' request these documents from the vendor at the beginning of the sole source process.
- Vendors' failure to provide these documents can negatively affect the timing of the award.

Posting a Sole Source

- **Posting**
 - Sole source requests must be posted on the Illinois Public Higher Education Procurement Bulletin for a minimum of 14 days prior to a public hearing.
 - An approved Sole Source Justification form must be attached to the posting.
 - Once posted, the posting must be approved by the
 - Site Contact
 - Bulletin Manager
 - State Procurement Officer
 - Chief Procurement Officer
 - Upon completion of the approvals, the sole source is published to the Bulletin and made available to the public for review.

Sole Source Public Hearing

- Public Hearing
 - Notice of the Public Hearing must be posted outside the hearing room 48 hours prior to the hearing date.
 - The purpose of the hearing is to provide the public with an opportunity to question whether the procurement meets the requirements of a sole source request
 - University of Illinois hearings are scheduled for every other Wednesday. The sole source public hearing calendar can be found at:
<http://www.obfs.uillinois.edu/cms/one.aspx?portalId=909965&pageId=915497>

Sole Source Public Hearing (cont'd)

- After the hearing, the Hearing Officer (SPO or SPO Designee) reviews the University's case, any written or oral testimony from the public, and the applicable law/rules and makes a written finding and recommendation to the Chief Procurement Officer for Higher Education (CPO)

Sole Source Approval Process

- The CPO for Higher Education reviews the Public Hearing Officer's recommendation and either approves the sole source request or determines that a competitive bid is required.
- If approved, the CPO provides the SPO with an approved copy of Part II of the Sole Source Justification form.
- The SPO forwards the approved copy of Part II of the Sole Source Justification form to the Buyer for processing.
- The Buyer then posts the award with the Hearing Officer's Recommendation and the CPO's approval to the Bulletin.

Sole Source Approval Process (cont'd)

- The Procurement Policy Board (PPB) has 30 days from the time the sole source request was originally posted on the Higher Education Procurement Bulletin to review the request before an award can be made by the University. The timeframes for the hearing and PPB review run concurrently, but can add additional days to the process.
- If the sole source request is not approved by the CPO, the department needs to work with Purchasing to competitively bid the goods or services.

Sole Source Request Timeframe

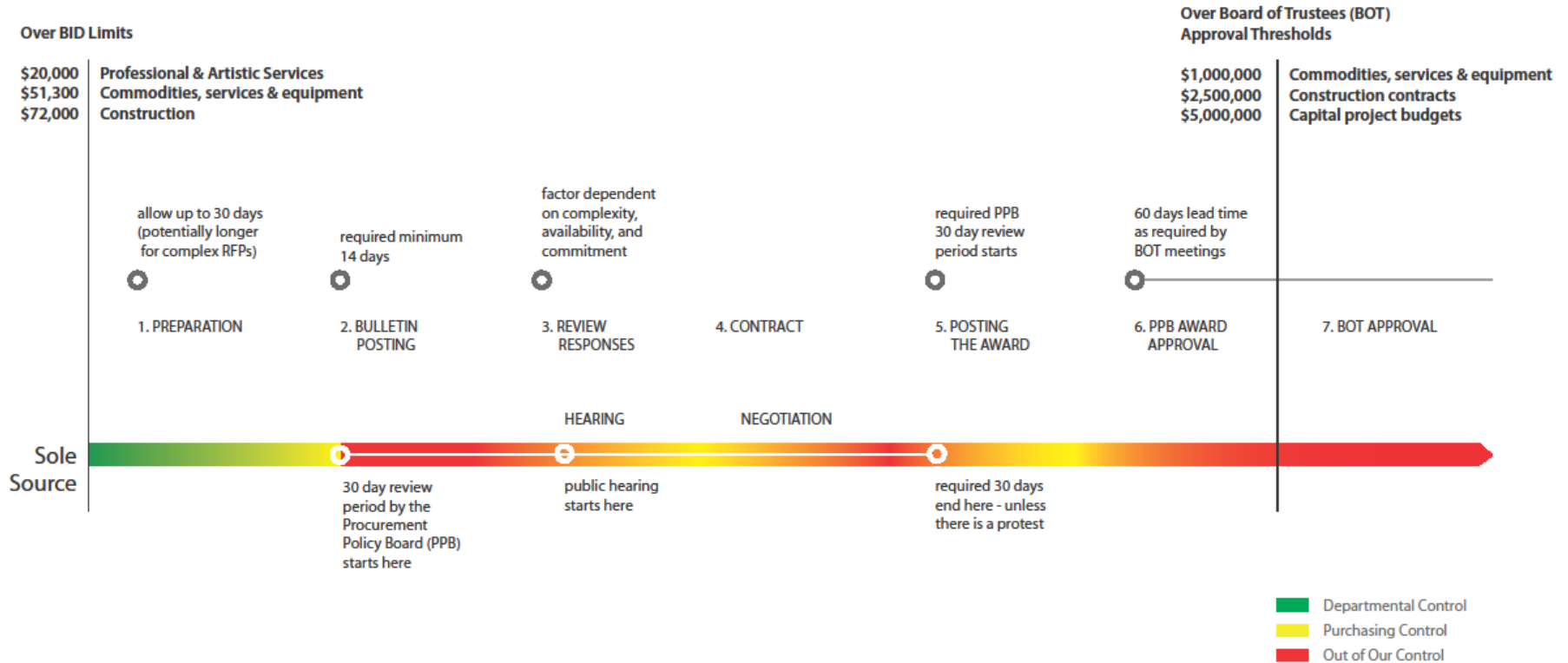
- If the Sole Source Justification Form submitted by department provides all of the information contained in this training document, the Purchasing department will strive to meet the following schedule:
 - 4 weeks to review and post the sole source request to the Bulletin
 - 2 weeks to conduct the hearing and submit the Hearing Officer report to the CPO
 - 2 weeks to receive CPO and PPB approval. These timeframes are estimated and are dependent upon the CPO's workload
 - 4-8 additional weeks if the dollar value of the request is in excess of the Board of Trustees authorization levels and needs Board approval

Sole Source Request Timeframe (cont'd)

- Purchasing workload, failure to receive well-grounded Sole Source Justification Forms from departments, questions from the CPO/PPB and failure to receive certifications and disclosures from vendors could increase the above timeframes

METHODS and STEPS for SOLE SOURCE

**This timeline is for general reference only.
Actual timelines can vary from a few weeks to several months.**



Workshop Summary

- **Start Early**
- Complete all documents thoroughly and accurately.
- Contact Purchasing at the beginning of the process.
- **Start Early**

Questions / Concerns?