



## Department of Administrative Services Office of School Construction Grants

### Sole Source Bidding

C.G.S. Sec. 10-287 (b) (1) requires that all orders and contracts for school building construction receiving state assistance shall be awarded to the lowest responsible qualified bidder. The statute neither permits nor prohibits sole source bidding. Under Connecticut case law, sole source specifications may be permissible when a determination has been made that the specification is in the best interests of the public and is not done for the purpose of favoring one vendor over another so as to undermine the integrity of the competitive bidding process.

It is the responsibility of the district to provide the Office of School Construction Grants (SCG) with the necessary information showing that the sole source specification is in the best interests of the public. This can be done by requiring the design team to either specify a minimum of three reasonable equal products or to use a performance specification that does not include the manufacturer's name. Written documentation should be provided to the local governing body detailing the need for source specification, including a cost benefit analysis, which provides competitors an opportunity to address the issue prior to making a decision. Such documentation shall be submitted by the district to SCG and included in the project file for review by the SCG Sole Source Committee. The review will consider, among other things, whether the sole source manufacturer assisted in the preparation of the specifications that listed it or a related company as the sole source. An improper specification may result in the costs for that portion of the work being declared ineligible for reimbursement.

To evaluate the recommendation for sole source of a proprietary vendor for a particular product, the SCG sole source committee needs to review documentation that supports the request. Such documentation should address some or all of the following issues:

1. What is the magnitude of this request? How does the total value of the request compare to the value of similar work already in place, and future use of this product?
2. How will the effect of the Sole Source of this equipment or material and its installation be on the maintenance of your facility for the next five, ten, or more years? Will this proposed sole source bid restrict the future maintenance to the named sole source provider or his licensed contractor? Will the proposed sole source make the district captive and subject to whatever pricing they feel is appropriate? Is there a way to assure that reasonable cost for continuation, addition and/or maintenance is addressed up front as part of the initial bidding? Will this make the availability of parts and normal maintenance more difficult in the future?
3. How cost effective is it to specify these sole source pieces of equipment or material? The maintenance may be less (or possibly higher) and the bid price for construction will probably be higher. Please delineate.

4. How accessible are the equipment supplier and the installation contractor to the school district following the completion of the construction? When maintenance is required in three years, will the installation firm be available?
5. When future changes (alterations or additions) are necessary, will the school district be a captive client subject to excessive or high costs for the future work? Can this project be bid with a process to lock in a price structure for future additions or revisions?
6. Before SCG can approve a sole source bidding requirement, the school district and/or its design professional representatives must address the issues of whether these materials are available competitively and similar quality from other suppliers in the Connecticut market. This effort must include evaluation of the technical alternatives and discussions with suppliers, vendors, and installation contractors who would be the potential bidders.

**The above documentation must be obtained by the school district and reviewed prior to a decision by SCG.** We must establish a decision of record prior to bidding, so that this information is available if protests are registered during the Bidding Process.

Emphasis must be placed with the Agency that **competitors must have an opportunity to address these issues before we make a decision.**

Lastly, the Sole Source Committee will immediately review your request and determine if the information provided meets our basic requirements, and if not, immediately inform you of the issues needing additional information. Once sufficient information has been received by the Committee, we will deliver our findings to the school district within one week.

Please be advised that a decision by SCG is not legally binding on vendors or contractors. In the event that the sole source specification is successfully challenged as not being in the public interest, use of such specification thereafter may result in the cost being ineligible for reimbursement. It is important, therefore, for the district to demonstrate, through the appropriate documentation, that any sole source specification is, in fact, in the public interest.