What is a sole source contract?

"Sole source" means a contractor providing goods or services of such a unique nature or sole availability at the location required that the contractor is clearly and justifiably the only practicable source to provide the goods or services. (RCW 39.26.010)

Unique qualifications or services are those which are highly specialized or one-of-a-kind.

Other factors which may be considered include past performance, cost-effectiveness (learning curve), and/or follow-up nature of the required goods and/or services. Past performance alone does not provide adequate justification for a sole source contract. Time constraints may be considered as a contributing factor in a sole source justification however will not be on its own a sufficient justification.

Why is a sole source justification required?

The State of Washington, by policy and law, believes competition is the best strategy to obtain the best value for the goods and services it purchases, and to ensure that all interested vendors have a fair and transparent opportunity to sell goods and services to the state.

A sole source contract does not benefit from competition. Thus the state, through RCW 39.26.010, has determined it is important to evaluate whether the conditions, costs and risks related to the proposal of a sole source contract truly outweigh forgoing the benefits of a competitive contract.

Providing compelling answers to the following questions will facilitate the evaluation.

Specific Problem or Need

- What is the business need or problem that requires this contract?
The CODIS Lab is in need of upgrading an existing automated puncher instrument (the “BSD600 Duet”) to the “BSD600 Ascent A2.” This puncher is used to take 1.2 mm cuttings from Washington offender DNA samples submitted to the CODIS Lab from agencies throughout the state. The Duet is an outdated instrument and is no longer supported by the manufacturer and vendor (BSD). Additionally, the Ascent has many upgraded features which are beneficial to processing offender samples in the Lab. There is currently a validated Ascent puncher in the CODIS Lab that has been in use since December 2022. This request is for a second puncher of the same model and will accommodate increased laboratory output as well as provide a backup should one Ascent puncher be out of service. A second Ascent will also allow the CODIS Lab to keep maintenance contract with the same vendor, BSD.
Sole Source Criteria

- Describe the unique features, qualifications, abilities or expertise of the contractor proposed for this sole source contract.
  1. Fast dual punch positioning
  2. Programmable punch tool cleaning
  3. Internal humidifier
  4. Paper dust extraction
  5. LED illumination
  6. Barcode scanner
  7. Digital imaging
  8. Touch screen operation
  9. Static mitigation, including ionization
  10. 1.2mm punch head, with extended punch size range
  11. Punch detection system
  12. Covered platform
  13. Sample type compatibility
  14. Data automation software
  15. Worklist output file generation
  16. Customizable service contracts with the vendor

- What kind of market research did the agency conduct to conclude that alternative sources were inappropriate or unavailable? Provide a narrative description of the agency’s due diligence in determining the basis for the sole source contract, including methods used by the agency to conduct a review of available sources such as researching trade publications, industry newsletters and the internet; contacting similar service providers; and reviewing statewide pricing trends and/or agreements. Include a list of businesses contacted (if you state that no other businesses were contacted, explain why not), date of contact, method of contact (telephone, mail, e-mail, other), and documentation demonstrating an explanation of why those businesses could not or would not, under any circumstances, perform the contract; or an explanation of why the agency has determined that no businesses other than the prospective contractor can perform the contract.

Multiple vendors of automated punchers were researched, including Perkin-Elmer, Lab systems Diagnostics, Qiagen, and Hamilton. None of the instruments sold by these vendors meet the specifications listed above. Research was conducted by internet search, and all instrument specifications are provided online. Only BSD provides the same instrument (the Ascent, which is currently in use by the CODIS Lab) with the required specs.

- What considerations were given to providing opportunities in this contract for small business, including but not limited to unbundling the goods and/or services acquired.
No small business provides an automated puncher as required by the CODIS Lab. All businesses which offer this type of instrument are well-established technology corporations.

- Provide a detailed and compelling description that includes quantification of the costs and risks mitigated by contracting with this contractor (i.e. learning curve, follow-up nature).

The instrument specifications, listed above, are required to efficiently punch numerous offender samples into a 96-well plate format while automatically scanning and documenting each sample, mitigating static
within the instrument in order to prevent contamination, and cleaning the punch head between samples. Without any of these criteria the CODIS Laboratory workflow would be hindered and the risk of contamination increased (due to static and/or no proper punch head cleaning step) resulting in excess time and expense needed for troubleshooting compromised samples. All CODIS scientists are currently expert users of the Ascent, preventing the need for additional training on a different puncher. Additionally, an existing service contract with the CODIS Lab’s original Ascent puncher would be extended to this second instrument, avoiding the need of an additional service contract cost with the vendor of another instrument.

- Is the agency proposing this sole source contract because of special circumstances such as confidential investigations, copyright restrictions, etc.? If so, please describe.
  No.

- Is the agency proposing this sole source contract because of unavoidable, critical time delays or issues that prevented the agency from completing this acquisition using a competitive process? If so, please describe. For example, if time constraints are applicable, identify when the agency was on notice of the need for the goods and/or service, the entity that imposed the constraints, explain the authority of that entity to impose them, and provide the timelines within which work must be accomplished.
  No.

- Is the agency proposing this sole source contract because of a geographic limitation? If the proposed contractor is the only source available in the geographical area, state the basis for this conclusion and the rationale for limiting the size of the geographical area selected.
  No.

- What are the consequences of not having this sole source filing approved? Describe in detail the impact to the agency and to services it provides if this sole source filing is not approved.
  Without sole source approval, the acquisition of an automated puncher would go out for bid. If WSP goes to bid on this product we would have to create a bid that is so narrowly tailored it would restrict all competition. BSD Robotics is the only company that can give us the BSD600, they do not allow any vendors to sell the BSD600. Given the list of specifications needed for quality processing of offender samples and maintaining an efficient workflow in the CODIS Lab, the Ascent would be the only instrumentation that would qualify for bidding.

**Sole Source Posting**

- Provide the date in which the sole source posting, the draft contract, and a copy of the Sole Source Contract Justification Template were published in WEBS.
  - If exempt from posting in WEBS, please provide which exemption.
  - If failed to post, please explain why.

- Were responses received to the sole source posting in WEBS?
- If one or more responses are received, list name of entities responding and explain how the agency concluded the contract is appropriate for sole source award.

**Reasonableness of Cost**

Since competition was not used as the means for procurement, how did the agency conclude that the costs, fees, or rates negotiated are fair and reasonable? Please make a comparison with comparable contracts, use the results of a market survey, or employ some other appropriate means calculated to make such a determination.

Cost, fees, and rates are fair and reasonable for this purchase.