

## “Noncompetitive Procurement” Process Instructions

*Where only nonfederal funds are applied, Sound Transit’s Board Motion 78-2 authorizes “Sole Source” and “Proprietary” methods to purchase goods (and services) that are practicably available from only one source. These methods allow for processes that utilize a noncompetitive procurement process*

When there are multiple sources available from which to purchase a good or service the procurement does not meet the criteria for a noncompetitive procurement process and a competitive procurement process must be followed<sup>1</sup>.

**The Competition Advocate is available to the Project Manager and the Contracts Specialist to answer questions concerning a purchase’s eligibility for the noncompetitive procurement process at any time during the procurement process (including prior to Requisition approval).**

Step	Process Instructions/Timeline						
1.	If the Contracts Specialist (“CS”) believes that a purchase, with an approved Requisition, may meet the noncompetitive procurement process criteria, the CS will consult with the appropriate Competition Advocate (“CA”). The CA will then either work with the Project Manager (“PM”) and the CS to complete a Noncompetitive Procurement Justification Form or advise the CS to proceed with a competitive procurement process.						
2.	The Requesting Department will certify and endorse the completed “Noncompetitive Procurement Request Justification Form” and provide it, along with the price quote from the vendor (if available), and any other supporting documentation or research already in the Requesting Department’s possession, to the CA. (“Conflict of Interest Disclosure Forms” must be submitted by both the “requestor” and the “endorser”).						
3.	The CA will evaluate the noncompetitive procurement request, consulting with the PM, the CS and the Vendor, if necessary, to clarify any questions or obtain additional information (market research) as needed.						
4.	For a purchase >\$50k, a “Notice of Intent to Award without Competition” will be posted to Ebid for at least 7 working days prior to their approval by the Director of Procurements & Contracts. This posting will be made at the earliest opportunity once the CA determines that a purchase, with an approved Requisition, may meet the noncompetitive procurement criteria.						
5.	The CA will determine, in consultation with the PM and the CS, whether to recommend approval as a noncompetitive procurement <b>or</b> to proceed with a competitive procurement. If the CA determines that the purchase meets the noncompetitive procurement process criteria, the CA will write a memorandum to the Director of Procurements & Contracts recommending approval of the purchase as a noncompetitive procurement utilizing either the Proprietary or Sole Source provisions of Sound Transit’s Board Motion 78-2 (“Reso. 78-2”) with the reasons for that recommendation.						
6.	Approval authority for noncompetitive procurements. Approval by Director of Procurements & Contracts <b>and</b> :  <table style="width: 100%; border: none;"> <tr> <td style="width: 40%;">Noncompetitive procurements approved under the proprietary provisions of Reso. 78-2<sup>2</sup></td> <td style="width: 20%; text-align: center;">&lt; \$150,000<sup>3</sup> &gt; \$150,000</td> <td style="width: 40%;">Refer to Sound Transit Administrative Policy No. 6 Chief Executive Officer</td> </tr> <tr> <td>Noncompetitive procurements approved under the sole source provisions of Reso. 78-2<sup>4</sup></td> <td style="text-align: center;">&lt; \$25,000<sup>5</sup> \$25,000 - \$100,000 &gt; \$100,000</td> <td>Requesting Department Executive Director Chief Executive Officer Chief Executive Officer &amp; Board of Directors</td> </tr> </table>	Noncompetitive procurements approved under the proprietary provisions of Reso. 78-2 <sup>2</sup>	< \$150,000 <sup>3</sup> > \$150,000	Refer to Sound Transit Administrative Policy No. 6 Chief Executive Officer	Noncompetitive procurements approved under the sole source provisions of Reso. 78-2 <sup>4</sup>	< \$25,000 <sup>5</sup> \$25,000 - \$100,000 > \$100,000	Requesting Department Executive Director Chief Executive Officer Chief Executive Officer & Board of Directors
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7.	After approval, a contract and/or purchase order is created by the CS and vendor is notified of award.						

**Noncompetitive Procurement Justification Form & Conflict of Interest Disclosure Form** can be found at the Procurements & Contracts SharePoint page: <https://sharepoint.soundtransit.org/STB/Contracts/Pages/default.aspx>

**Competition Advocates:**

Finance and IT Requests: Tom Campbell; [tom.campbell@soundtransit.org](mailto:tom.campbell@soundtransit.org)

All Other Requests: Don Fitzthum; [don.fitzthum@soundtransit.org](mailto:don.fitzthum@soundtransit.org)

<sup>1</sup> Procurements for a “routine expense of government, such as utilities, governmental taxes, publication and meeting expenses and governmental fees for licenses and permits” may, however, be made without competition as “Nondiscretionary”.

<sup>2</sup> Only one source is practicably available from which to purchase the good (or service), **AND** the good (or service) **IS** Proprietary per Reso. 78-2.

<sup>3</sup> Noncompetitive Procurements made under Reso. 78-2s Proprietary provisions for >\$100k are reported to the Board in the quarterly report.

<sup>4</sup> Only one source is practicably available from which to purchase the good (or service), **AND** the good (or service) **IS NOT** Proprietary per Reso. 78-2.

<sup>5</sup> Noncompetitive Procurements made under Reso. 78-2s Sole Source provisions for >\$10k are reported to the Board in the quarterly report.

**Sound Transit**  
**(Board Resolution No. 78-2)**  
**NONCOMPETITIVE PROCUREMENT REQUEST JUSTIFICATION FORM (Form 300)**  
***And Certification of No Personal Conflict(s) of Interest***

For guidance, see the “Noncompetitive Procurement’ Process Instructions” on the Procurements & Contracts Division SharePoint site at: <https://sharepoint.soundtransit.org/STB/Contracts/Pages/default.aspx>.

Requisition Number		Department	Choose from Pull Down Menu
Requested Product(s) or Service(s)		Date Requested	Click here to enter a date.
Recommended Vendors, if any		Date Needed	Click here to enter a date.
Estimated Cost/Price (w/o tax) – Attach ICE		Project Manager	
The Requested Product or Service is...	...An Ongoing Purchase/Replacement <input type="checkbox"/>	... A New Purchase <input type="checkbox"/>	...Using Federal Funds <input type="checkbox"/>
If this is an Ongoing/Replacement Purchase, what was...	...the prior year expenditure?	\$	
	...the prior purchase’s PO number?		

Completion of this form is required in advance of all **Noncompetitive Procurement** purchases in excess of \$5,000 (\$3,000 if federal funds are used).

**Does only one vendor, distributor or licensor reasonably exist from which to purchase the required product/service? Yes  No**

If “Yes”, complete this to proceed with the noncompetitive procurement process. If “No”, proceed with a competitive procurement process.

1. Explain why the product(s)/service(s) requested can only be reasonably obtained from one vendor, distributor or licensor to meet your requirements and why alternative vendors, distributors or licensors are unacceptable. Be specific with regard to any unique features, characteristics, requirements or capabilities.

2. In “layman’s terms”, describe the purpose or function of the requested product(s)/service(s).

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Is this item/service the only item/service reasonably compatible with existing equipment or systems?

Yes  No

If "yes", complete 3 and then proceed to 4. If "No", skip 3 and proceed to 4.

3. Explain how the requested product(s)/service(s) is the only product(s)/service(s) reasonably compatible with existing equipment and systems.

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4. If the particular product or service was not available or could not be purchased, how would the department proceed with its work?

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5. Describe the market research that was conducted, if any, and the results, if any.

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6. Will this purchase obligate Sound Transit to a particular product or vendor in the future, either for maintenance, continuity or other follow-up? Please explain. If yes, for how long?

7. Is this a commercial product sold in substantial quantities to the general public? **Yes**  **No**

Do you know the price for this product/service? **Yes**  **No**

If you know the price, is it based on:

—Catalog pricing? **Yes**  **No**

—Market pricing? **Yes**  **No**

Prices set by law or regulation? **Yes**  **No**

*(If "Yes," attach, or provide links to any relevant catalog, market price source, law or regulation)*

If you know the price, do you consider it to be fair and reasonable? **Yes**  **No**  **Uncertain**

*If yes, the price is based on...*

—Competition? **Yes**  **No**

—Past Experience? **Yes**  **No**

—Research of Market Rates? **Yes**  **No**

—Other Considerations? **Yes**  *(if Yes, please explain below)* **No**

**Sound Transit**  
**(Board Resolution No. 78-2)**  
**NONCOMPETITIVE PROCUREMENT REQUEST JUSTIFICATION FORM (Form 300)**  
***And Certification of No Personal Conflict(s) of Interest***

The undersigned Sound Transit employee (executive, manager or staff) hereby requests or recommends a **noncompetitive** ("sole source" or "proprietary" under Sound Transit Resolution No. 78-2) **contract award or purchase** greater than \$5,000, with above referenced **vendor** (corporation, firm or individual).

Name and signature of the person in the requesting Department who prepared this Request Justification Form:

Name:

Title:

Department:

**CERTIFICATION:** I hereby certify that the above Noncompetitive Procurement Request Justification Form is accurate and complete to the best of my knowledge and belief.

**I further certify that to the best of my knowledge that I have no personal conflict(s) of interest with this vendor. [See next page for Certification of No Personal Conflict(s) of Interest language and definitions.] If, however, I have a personal conflict of interest with this vendor, or may reasonably appear to have one, I will not sign this certification and will, instead, complete the "Personal Conflict(s) Interest Disclosure Form" (Form 301) at this time and provide it to the Sound Transit Procurement & Contracts Director, or the Sound Transit Legal Department, for a determination how to proceed.**

Signature

Date

Name and signature of:

- a) The requesting Department (or Division) Director for purchases up to \$100,000; or
- b) The requesting Department Executive Director for purchases greater than \$100,000.

Name:

Title:

Department:

**RECOMMENDATION<sup>1</sup>:** I have reviewed the above Request Justification Form and hereby recommend using the **Noncompetitive Procurement** process for this purchase. **By making this recommendation, and signing below, I also delegate my authority to award and execute any resulting contract, within the limits of an approved Requisition, to the Director of Procurements & Contracts.**

**CERTIFICATION:** I hereby certify that to the best of my knowledge that I have no personal conflict(s) of interest with this vendor. [See next page for Certification of No Personal Conflict(s) of Interest language and definitions.] If, however, I have a personal conflict of interest with this vendor, or may reasonably appear to have one, I will not sign this certification and will, instead, complete the "Personal Conflict(s) Interest Disclosure Form" (Form 301) at this time and provide it to the Sound Transit Procurement & Contracts Director, or the Sound Transit Legal Department, for a determination how to proceed.

Signature

Date

<sup>1</sup> **Note:** This recommendation does not constitute an approval to award the requested Noncompetitive Procurement. Approval to award shall come from the Director of Procurements & Contracts and then, when required by Sound Transit Administrative Policy No. 6, from the Chief Executive Officer and/or the Sound Transit Board of Directors.

**Please submit Noncompetitive Procurement requests directly to the Procurement & Contracts Division:**

**Sound Transit**  
**(Board Resolution No. 78-2)**  
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**Certification of No Personal Conflict(s) of Interest**

***To maintain the highest standards of conduct in public service, and to avoid even the appearance of a personal conflict of interest,*** and pursuant to Sound Transit Resolution No. 81-2 and state and federal law governing employee conduct and personal conflict(s) of interest, the undersigned Sound Transit employee hereby certifies that, with respect to the “**Procurement Event**” referenced above and the particular **Vendor/ Contractor** (referenced above) under consideration for contract award or purchase (**except** as may be disclosed in the lines at the bottom of this page):

- Neither I nor an immediate family member of mine is currently employed by the Vendor/ Contractor;
- Neither I nor an immediate family member of mine is negotiating or has an arrangement concerning prospective employment with the Vendor/ Contractor;
- Neither I nor an immediate family member of mine has a financial interest in the Vendor/ Contractor;
- During the twelve months prior to this certification neither I nor an immediate family member of mine has received a gift, gratuity, favor or anything of monetary value from the Vendor/ Contractor (or from any officer or employee of the Vendor/ Contractor);
- During the twelve months prior to this certification neither I nor an immediate family member of mine has received professional fees, commissions or any other form of compensation from the Vendor/ Contractor (or from any officer or employee of the Vendor/ Contractor); and
- Neither I nor an immediate family member of mine will solicit or accept gifts, gratuities, favors or anything of monetary value from the Vendor/ Contractor (or from any officer or employee of the Vendor/ Contractor).

**DEFINITIONS:**

1. Personal Conflict of Interest means a conflict between the personal interests or obligations of a Sound Transit employee or immediate family member with the job or work responsibilities of the Sound Transit employee. An “actual” conflict is one that already exists to the knowledge of the Sound Transit employee; an “apparent” conflict is one that other people might reasonably believe exist under the circumstances whether “actual” or not.
2. Employee means Sound Transit staff, manager or executive.
3. Employment means any employment relationship with the particular Vendor/ Contractor at the present time by Sound Transit employee, or immediate family member or present offer of future employment by the particular Vendor/ Contractor to the Sound Transit employee, or immediate family member.
4. Financial Interest means any direct or indirect monetary or material benefit accruing to a Sound Transit Board member, officer, or employee as a direct result of a contract or transaction which is or may be the subject of an official act or action by or with Sound Transit, except contracts or transactions which confer similar benefits to all other Sound Transit employees similarly situated.
5. Gift means any tender of money, property, services, discount, forgiveness, payment of indebtedness, reimbursements from or payments by persons other than Sound Transit for travel or lodging or anything else of value in return for which legal consideration of equal or greater value is not given and received.
6. Immediate Family Member means the spouse, domestic partner, son, daughter, father, mother, brother, sister, father-in-law or mother-in-law of the Sound Transit employee and any other relative living in the household of the Sound Transit employee.
7. Interest means any direct or indirect monetary or material benefit accruing to Sound Transit employee as a direct result of contracts or transactions which are or may be the subject of an official act or action by or with Sound Transit, except contracts or transactions which confer similar benefits to all other Sound Transit employees similarly situated.