

Sole Source CONTRACT Filing Justification Template

Division or Region: –Forest Resilience Division
Date: 4/1/2024
Solicitation Number: 93-106720
Company Name: JD Lumber, Inc.
Sub-object good/services will be charged once approved: ER
Funding Source (federal/state/local): state
Vendor FIN/TIN (Federal ID#/ Taxpayer ID#): 82-0359566

Use the following justification template for preparing to file sole source contracts in the [Sole Source Contracts Database](#) (SSCD). Once completed, copy and paste the answers into the corresponding SSCD question and answer fields. You will also need to include a copy of this completed form in the documents you post to your agency website and in [WEBS](#).

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?

DNR needs a vendor to manage the process of supplying containerized tree seedlings from a seed stock with genetic material adapted to dry and warm environments within a specific timeframe for post-fire plantings of dry conifer tree species following recent fires in central and northeastern Washington State.

JD Lumber, Inc. has a thorough understanding of, and is able to support, the local environmental and logistical requirements of this project and provide the project management needed to help ensure the success of the planting effort. The costs of seedlings provided by JD Lumber, Inc. are in keeping with industry standards and DNR's expectations. Finally, after outreach, JD Lumber, Inc. was the only company to consider this effort, given the complexity of the order, the dispersed need for seedlings across geographies, the diversity of seedlings needed, and the short timeline between the fires and the nursery sowing window.

Sole Source Criteria

- Describe the unique features, qualifications, abilities or expertise of the contractor proposed for this sole source contract.

JD Lumber, Inc. is able to deliver approximately 9,819 tree seedlings for planting in spring 2024 and 60,000 tree seedlings for planting in spring 2025, whereas no other known seedling nursery or contractor is able to produce seedlings and deliver on this timeline, which is essential to DNR operations. DNR needs this number of seedlings planted on this schedule due to conditions following recent fires. Additionally, because of the environmental conditions in the northeastern portion of Washington State, seedlings from 'dry conifer' species (i.e., ponderosa pine, western larch), which are able to grow in warm, dry conditions, are required. JD Lumber, Inc. is able to provide these required tree seedlings, and to do so in containers with roots and soil together, instead of bare root plantings. Containerized trees have a much higher likelihood of success. Finally, JD Lumber, Inc. is able to provide seedlings grown from the target seed stock for the region. Using seed that holds genetic material adapted to dry and warm environments is critical to the success of the reforestation efforts.

- 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.

In early September 2023, a conversation between DNR's post-fire recovery program and DNR's Webster Nursery staff determined that the Webster Nursery could not fill seedling orders for the 2024 and 2025 planting seasons and that securing dry conifer seedling production contractors

to fill orders would be challenging. As a result, DNR's Northeast Region Service forestry staff and the post-fire recovery program began searching for contractors using existing professional networks in the area. In late November 2023, only one contractor (JD Lumber, Inc.) had emerged interested in presenting a bid to supply the needed tree seedlings to eastern Washington (Northeast Region) in the spring of 2024 and 2025 at standard market rates.

- 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.

JD Lumber, Inc. is a small business that serves the states of Washington, Idaho, and Montana.

- 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 costs of the seedlings are consistent with market rates. JD Lumber, Inc. is charging a total equivalent price of \$0.69 per seedling, including seedlings, project management, and delivery. Rates at DNR's Webster Nursery for seedlings alone are around \$0.50 - \$0.60 per seedling depending on the species.

JD Lumber, Inc. has a depth of experience working with reforestation in northeastern Washington State and other dry condition environments. This experience improves the quality of the product and, ultimately, increases the survival rate of seedlings once they are planted. The contractor has a commitment to this specific region with growth-oriented businesses aimed at providing climate-informed reforestation services to private landowners, DNR, conservation districts, and other agencies well into the future.

The risk of not using JD Lumber, Inc. to supply the required tree seedlings is that DNR will not be able accomplish its reforestation efforts in planting while the landscape is still in the preliminary stages of recovery after several recent fires.

- 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.

The annual timeframe when seedlings are ordinarily ordered from nurseries is August – September. However, this was not possible in the current case because of the late season fires in Spokane County. By the time DNR staff assessed the needs of local landowners and potential suitability for planting the typical ordering window was closed. Therefore, DNR needed

seedlings from a source that was available outside of the customary deadline for seedling ordering. DNR is up against a critical window to complete this project while the landscape is in the early stages of recovery post fire.

- 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.

There are geographical limitations to this project. The tree seedlings need to be from 'dry conifer' species (i.e., ponderosa pine, western larch), which are able to grow in the warm, dry conditions of the northeastern region of Washington State. Additionally, the seedlings need to have been grown from the target seed stock for the region, using seed that holds genetic material adapted to dry and warm environments.

JD Lumber, Inc. has a depth of experience working with reforestation in northeastern Washington State and other dry condition environments and is able to supply the required tree seedlings. Based on DNR's Northeast Region Service forestry staff and the post-fire recovery program search using existing professional networks, it was determined that no other known seedling nursery or contractor would be able to produce the required seedlings and deliver on the required timeline, which is essential to DNR operations.

A rationale for not expanding the geographic area significantly for potential contractors is related to travel/haul distance. A limited travel/haul distance reduces the carbohydrate stores of the tree seedlings, and an increased travel/haul distance adds significant stress to the tree seedlings, reducing their survivability. Lower transport distance and times increase seedling survivability.

- 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.

If this sole source filing is not approved, a critical window of opportunity will be missed for planting while the landscape is still in the preliminary stages of recovery after fire. If the planting is delayed a year, vegetation will grow to levels that increase competition for tree seedlings. In many cases, non-native invasive weed species will dominate the sites targeted by this project and make planting less successful once the weeds are fully established. With delays, DNR will also miss partnership opportunities with other entities, such as Conservation Districts and long-term recovery groups, that are already engaged in landscape-scale restoration activities, providing opportunities for synergy and further cost-effectiveness for all parties, including the state.

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.

JD Lumber, Inc. is charging a total equivalent price of \$0.69 per seedling, including seedlings, project management, and delivery. Rates at DNR's Webster Nursery for seedlings alone are around \$0.50 - \$0.60 per seedling depending on the species. That is, JD Lumber, Inc. is not only able to supply the tree seedlings in the required specifications (from a regional genetic seed stock, of a type that is adapted to dry climates, containerized, and delivered in the number and timeframe needed), the contractor is also able to include their project management fee and the costs of delivery at a price that is comparable to DNR nursery rates for tree seedlings alone.