

# OFFICE OF THE INSPECTOR GENERAL



## Acquisition Management: Controls and Monitoring for Sole-source Purchase Orders Need to Be Strengthened



Smithsonian Institution Building  
(The Castle)

OIG-A-24-06  
March 12, 2024

# In Brief

## Acquisition Management: Controls and Monitoring for Sole-source Purchase Orders Need to Be Strengthened

OIG-A-24-06, March, 12, 2024

### Background

The Smithsonian Institution (the Smithsonian) uses purchase orders to acquire the goods and services needed to achieve its mission. In fiscal year 2021, the Smithsonian's purchase orders created through its Simplified Acquisition Procedures totaled nearly \$498 million, more than \$307 million of which were sole-source.

Purchase orders awarded without competition are called sole-source purchase orders.

A sole-source purchase order may be allowed when only one source is determined to be available and capable to satisfactorily meet particular requirements for purchase orders that exceed the competition threshold of \$10,000. Smithsonian policy requires an adequate justification for using a sole-source purchase order. This justification includes an explanation of (1) why the purchase is exempt from competition, (2) how it was determined that goods and services were not readily available from other sources, and (3) how the price was determined to be fair and reasonable.

### What OIG Found

#### Sole-source Justification and Documentation

The Office of the Inspector General's (OIG) analysis showed that 12 of the 30 sampled purchase orders had adequate justification and documentation. OIG found that of the remaining 18 sampled purchase orders:

- One purchase order was adequately justified, but the *Sole Source Justification – Purchase Order File Documentation* (OCon 103) form was improperly signed by an unauthorized employee.
- Nine purchase orders were improperly sole-sourced. The reasons included that the requested services did not require any specialized knowledge or experience, a competition exception for urgency was unsupported, or the unit relied on competition conducted as part of a previous purchase order.
- Five purchase orders had inadequate or no justification. One lacked the required OCon103 form. Four other purchase orders inadequately explained the need for the sole-source purchase, why the goods and services could not be provided by another source, or why the price was fair and reasonable.
- Two purchase orders were modified above the \$10,000 competition threshold without sole-source justification. OIG identified a gap in policies and procedures for a requirement that sole-source justifications be completed for purchase orders modified above the \$10,000 threshold.
- One purchase order had an OCon103 form that was not required because it was for stipends, a category exempt from competition and sole-source justification.

#### Training Has Insufficient Instruction for Sole-source Justifications

OIG's review found that training materials do not provide an example of a completed OCon103 form or guidance on the level of detail required for an adequate sole-source justification. Sole-source justifications are prepared by individual Smithsonian employees completing the OCon 103 form. These individuals are from a variety of units and backgrounds, and there are no procurement training requirements for them. There are training requirements for unit Procurement Delegates and the Office of Contracting & Personal Property Management (OCon&PPM) Contract Specialists approving sole-source purchase

## What OIG Did

This audit determined the extent to which the Smithsonian had effective controls and monitoring over sole-source purchase orders exceeding the competition threshold of \$10,000.

OIG assessed the extent to which (1) the sampled sole-source purchase orders had appropriate justification and whether the required approvals were documented, and (2) OCon&PPM conducted annual compliance reviews.

To assess the effectiveness of controls for sole-source purchase orders, OIG reviewed a sample of 30 of 993 sole-source purchase orders entered into ERP Financials in fiscal year 2021.

orders in excess of \$10,000; however, this audit shows that a majority of the unit Procurement Delegates included in the sample are not serving as effective gatekeepers of the sole-source procurement process.

### Monitoring Compliance with Program Requirements

OIG found that compliance reviews did not effectively ensure complete and accurate justifications for sole-source purchase orders. No annual compliance review summary report was provided to management prior to fiscal year 2022. As a result, management has been hindered in identifying systematic trends and correcting weaknesses and deficiencies.

OIG also identified a gap in compliance review policies. On March 14, 2022, OCon&PPM eliminated the Procurement and Contracting Procedures Manual Part 1, which removed all the guidance on compliance reviews. Therefore, when this report was issued, there was no documented guidance for conducting annual compliance reviews or for providing summary reports to management.

Additionally, monitoring has not ensured the accuracy of competition data for purchase orders exceeding \$10,000 in the Enterprise Resource Planning Financials System.

Consistent with a previous recommendation from a 2016 OIG audit report, OCon&PPM compliance reviews still did not ensure the accuracy of the competition data in the accounting system. Inaccurate competition data in ERP Financials hinder the ability to identify trends in sole-source purchases, perform useful data analytics, and rely on data for monitoring.

## What OIG Recommended

OIG made six recommendations to strengthen controls and monitoring over sole-source procurements. Management concurred with all of the recommendations.

For additional information or a copy of the full report, contact OIG at (202) 633-7050 or visit <http://www.si.edu/oig>.



Date: March 12, 2024

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From: Joan T. Mockeridge,  Acting Inspector General and Assistant Inspector General for Audits

Subject: Acquisition Management: Controls and Monitoring for Sole-source Purchase Orders Need to be Strengthened (OIG-A-24-06)

This memorandum transmits our final audit report on the Smithsonian's controls over sole-source purchase orders. The objective of this audit was to assess the extent to which the Smithsonian had effective controls and monitoring over sole-source purchase orders.

We made six recommendations for Smithsonian management to improve controls over sole-source purchase orders. Management concurred with all six recommendations.

We appreciate the courtesy and cooperation of all Smithsonian management and staff during this audit. If you have any questions, please call me at (202) 633-7050.

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## Abbreviations

AIB	Arts and Industries Building
CHSDM	Cooper Hewitt, Smithsonian Design Museum
COVID-19	Coronavirus Disease of 2019
ERP Financials	Enterprise Resource Planning Financial System
GPS	Global Positioning System
National Zoo	Smithsonian’s National Zoo and Conservation Biology Institute
NMAI	National Museum of the American Indian
NMNH	National Museum of Natural History
NPG	National Portrait Gallery
OCon 103	<i>Sole Source Justification – Purchase Order File Documentation</i>
OCon&PPM	Office of Contracting & Personal Property Management
OIG	Office of the Inspector General
PCPM	Procurement and Contracting Procedurals Manual
SD	Smithsonian Directive
SERC	Smithsonian Environmental Research Center
SITES	Smithsonian Traveling Exhibitions
the Smithsonian	Smithsonian Institution

## Introduction

The Smithsonian Institution (the Smithsonian) uses purchase orders to acquire the goods and services needed to achieve its mission.<sup>1</sup> The Smithsonian generally uses purchase orders for non-commercial goods or services that cost up to \$100,000 and for commercial items or services that cost up to \$5 million.<sup>2</sup> Competition in purchasing is recognized as a way for entities to pay a fair and reasonable price for goods and services. Purchase orders awarded without competition are called sole-source purchase orders.

A sole-source purchase order may be allowed when only one source is determined to be available and capable of satisfactorily meeting particular requirements for purchase orders that exceed the competition threshold of \$10,000.<sup>3</sup> Smithsonian policy requires an adequate justification for using a sole-source purchase order and an explanation of why the purchase represents a fair and reasonable price if competitive quotes are not obtained. These justifications and explanations are documented on the *Sole Source Justification – Purchase Order File Documentation* (OCon 103) form. To view the form, see Appendix II.

In fiscal year 2021, the Smithsonian's purchase orders created through its Simplified Acquisition Procedures totaled nearly \$498 million, more than \$307 million of which were sole-source, according to the Smithsonian's accounting system, the Enterprise Resource Planning Financials System (ERP Financials). Smithsonian's Simplified Acquisition Procedures refer to the acquisition of supplies or services at or below its threshold of \$100,000 for most units.<sup>4</sup>

The objective of this audit was to determine to what extent the Smithsonian had effective controls and monitoring over sole-source purchase orders created under Simplified Acquisition Procedures in fiscal year 2021. The Office of the Inspector General (OIG) conducted this audit because the Smithsonian's Simplified Acquisition Process is decentralized, relying on employees who receive delegated procurement authority from the Office of Contracting & Personal Property Management (OCon&PPM). Effective controls over sole-source purchase orders are important to ensure that the Smithsonian spends its appropriated and trust funds prudently and in accordance with applicable laws, regulations, policies, and procedures. Controls also prevent improper purchase orders, fraud, waste, and abuse.

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<sup>1</sup> A purchase order is a document or electronic action that authorizes a purchase and specifies the description, quantity, price, payment terms, and dates of performance or shipment of the good or services being acquired.

<sup>2</sup> Commercial items or services are those, other than real property, that are types customarily used in commercial commerce, and which are sold, leased, or licensed to the general public, or offered for sale lease or licensed to the general public. Smithsonian Directive (SD) 314: *Contracting, Procurement and Contracting Procedurals Manual* (PCPM) Part 2: *Simplified Acquisitions* (March 14, 2017).

<sup>3</sup> SD 314, PCPM Part 4: *Special Handling* (March 14, 2017).

<sup>4</sup> SD 314, PCPM Part 2 (March 14, 2017).

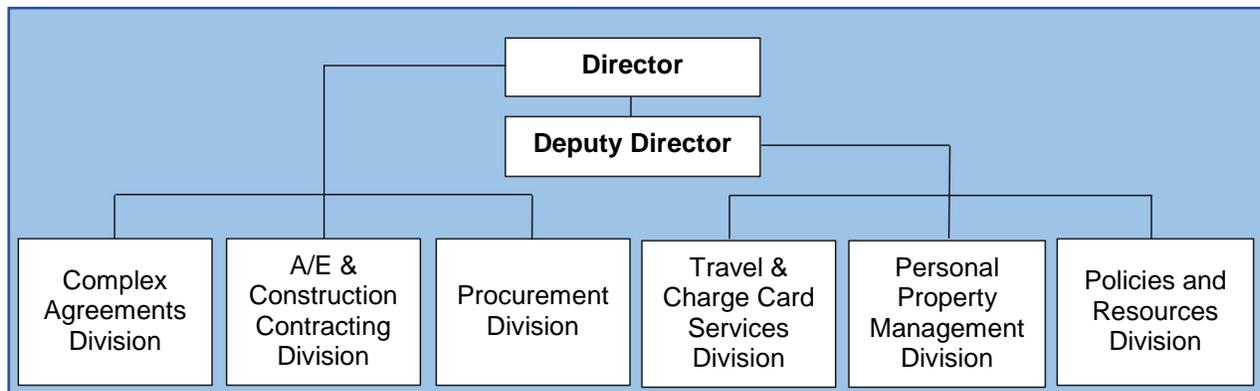
To assess controls, OIG obtained and reviewed the purchase order file documentation for a sample of 30 random sole-source purchase orders selected from the population of 993 sole-source purchase orders in ERP Financials with purchase order entry dates in fiscal year 2021.<sup>5</sup> To assess the monitoring of sole-source purchase orders, OIG evaluated OCon&PPM's annual compliance reviews for fiscal years 2017–2022. For a detailed description of OIG's objective, scope, and methodology, see Appendix I.

OIG conducted this performance audit in Washington, D.C., from January 2022 through March 2024 in accordance with generally accepted government auditing standards. Those standards require that OIG plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for its findings and conclusions based on the audit objective. OIG believes that the evidence obtained provides a reasonable basis for the findings and conclusions based on its audit objective.

## Background

In a delegation of authority from the Secretary of the Smithsonian, the Director of OCon&PPM may further delegate contracting authority to Smithsonian employees and is responsible for oversight of contracting activities Smithsonian-wide. For the current organization chart for OCon&PPM's Divisions, see Figure 1.

**Figure 1. OCon&PPM Organization Chart, By Division**



Source: OCon&PPM Staffing Chart as of August 30, 2022.

Unit Directors are responsible, among other things, for the following:

- selecting and nominating only employees who have completed the required training required for delegated contracting authority;
- ensuring that employees in their organization who participate at any level of procurement and contracting processes—and those delegated contracting authority—maintain the

<sup>5</sup> OIG did not look at purchase orders coded in ERP Financials as competed and did not test those for data-coding accuracy. OIG did not perform a completeness test of sole-source purchase orders in ERP Financials.

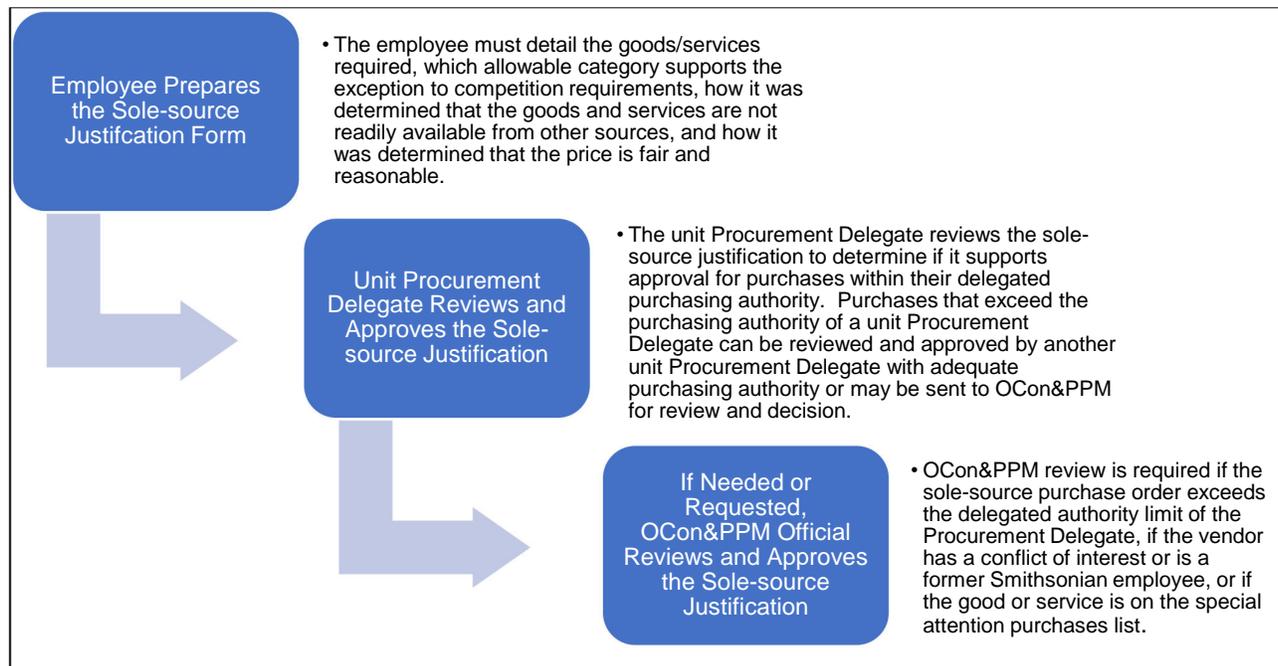
integrity, effectiveness, and efficiency of contract actions they initiate, and carry them out in a manner consistent with applicable policies, procedures, and delegations of authority from the Director, OCon&PPM, or other authorized delegating official; and

- complying with requirements relating to annual assurance statements to the Chief Financial Officer.<sup>6</sup>

Unit Procurement Delegates are employees who are delegated purchasing authority in writing from the Director, OCon&PPM, to initiate, execute, and administer the process of acquiring necessary goods and services in accordance with Smithsonian policies and procedures. Their delegated purchasing authority includes budget-checking purchase orders. During this step, they confirm that the unit’s budget can cover the cost of the purchase and that it can commit to pay for the goods or services ahead of the actual purchase. They are also responsible for ensuring that purchase orders that exceed the dollar amount of their delegated purchasing authority are budget-checked only by someone with the appropriate delegated spending limit. This could be by (1) another unit Procurement Delegate within or outside the unit with greater delegated authority or (2) an OCon&PPM Contract Specialist.

Figure 2 provides an overview of the roles and responsibilities of Smithsonian employees involved in the sole-source purchase order justification and approval process.

**Figure 2. Overview of the Roles and Responsibilities of Employees Involved in the Sole-source Purchase Order Justification and Approval Process**



Source: OIG illustration based on information from Smithsonian policies and procedures and the *Sole Source Justification – Purchase Order File Documentation* (OCon 103) form.

<sup>6</sup> SD 314: *Contracting* (March 14, 2022).

The Smithsonian recognizes the importance of competition in contracting. Competition is a factor in ensuring that all contracts, regardless of the source of funds used, result in obtaining quality goods and services at fair and reasonable prices. The Smithsonian shall seek adequate competition among potential contracting parties where required or advantageous to the Institution.<sup>7</sup>

During the solicitation phase of contracting, the unit Procurement Delegate shall enter all price quotes received in the OCon 106 *Purchase Order Quotation Documentation* form. The quotation documentation form shall also include information regarding the basis of the award—the lowest price or best value, including evaluation criteria. For goods, quotes may be obtained orally. When there are complex specifications for the goods or numerous line items, quotes should be in writing. For services, quotes must be solicited in writing.<sup>8</sup>

For purchases over \$10,000, a minimum of three quotes must be solicited unless it is determined before the solicitation that only one source can satisfactorily meet the requirements for the purchase. The requirement for competition is met when quotes are solicited from three or more qualified vendors, and there is a reasonable expectation at the time of solicitation that quotes will be received. Soliciting quotes from at least three vendors is considered adequate competition even if only one quotation is received. Unit Procurement Delegates are responsible for ensuring that quotes are requested from vendors capable of providing the items or services required. Whether soliciting quotes orally or in writing, requirements must be described in a clear, concise manner to each prospective vendor. The request for quote shall include at a minimum: a description of the supplies and services, the quantities required, the delivery date and location, and a deadline for responding to the solicitation.<sup>9</sup>

In ERP Financials, employees are assigned different duties for purchase orders to ensure proper internal control, segregation of duties, and security of funds (purchase order entry, approval, or budget-check). For an illustration of the procurement activities available in ERP Financials, see Table 1. For example, a single employee can have purchase order entry in combination with purchase order approval but cannot also budget-check (obligate funds for) the purchase order. Some exceptions to these segregation of duties policies are granted by the Office of Finance and Accounting with waivers justifying the exception.

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<sup>7</sup> SD 314: *Contracting* (March 14, 2022).

<sup>8</sup> SD 314, PCPM Part 2 (March 14, 2017).

<sup>9</sup> SD 314, PCPM Part 2 (March 14, 2017).

**Table 1. The Roles or Purchasing Duties Typically Allowed for Individual Employees for Purchase Orders in ERP Financials**

Individual Employees	Purchasing Duties in ERP Financials		
	Purchase Order Entry	Purchase Order Approval	Purchase Order Budget-check
Employee A	Yes	No	No
Employee B	Yes	Yes	No
Employee C	No	Yes	No
Employee D	No	No	Yes

Source: ERP Financials Security Form: Purchasing (Version 15.0, March 23, 2022).

Note: Some employees have exceptions allowing purchase order entry, approval, and budget-check capabilities.

Additionally, monitoring is a key component of internal control standards to ensure compliance with requirements for purchasing goods and services and for identifying and mitigating risks. It is particularly important in a decentralized procurement process when staff across multiple units are delegated the authority of procurement responsibilities. Internal control standards require management to perform ongoing monitoring activities and evaluate the effectiveness of the monitoring to ensure that the internal control system is functioning effectively and that the organization’s objectives are being achieved.<sup>10</sup> Ongoing monitoring provides management with a means of identifying and mitigating risks before they result in serious noncompliance issues. Periodic evaluations, such as OCon&PPM’s compliance reviews, can provide feedback on the effectiveness of internal controls and ongoing monitoring.

In 2016, OIG reported on compliance with the Smithsonian’s policies and procedures governing sole-source purchase orders.<sup>11</sup> Although OCon&PPM officials said sole-source purchasing should be the exception, not the norm, for purchase orders that exceed \$10,000, OIG estimated that half of the purchase orders exceeding the competition threshold of \$10,000 in fiscal year 2014 were sole-source awards. In addition, OIG determined the following:

- 38 percent of the sole-source purchase orders OIG sampled had missing or inadequate documentation or approvals to justify their award without competition;
- 13 percent of the fiscal year 2014 purchase orders exceeding the \$10,000 competition threshold had inaccurate competition data in ERP Financials; and
- compliance reviews had not been conducted since establishing the requirement in 2011.

As a result, OIG made 11 recommendations, all of which have been closed.

<sup>10</sup> The Government Accountability Office (GAO), *Standards for Internal Control in the Federal Government* (GAO-14-704G, September 2014).

<sup>11</sup> OIG, *Acquisition Management: Oversight and Monitoring Would Improve Compliance with Policies for Sole-Source Purchases* (A-16-10, September 28, 2016).

## Purchase Order Policies and Guidance

Smithsonian Directive (SD) 314: *Contracting* and the *Procurement and Contracting Procedures Manual* (PCPM) Parts 1, 2, and 4 provide guidance and requirements for contracting, including the justification of sole-source purchase orders and compliance reviews.<sup>12</sup> SD 314 sets forth the general policies related to purchase orders, and the PCPMs detail how to implement these policies and specific rules and procedures.<sup>13</sup>

PCPM Part 4—*Procurement Contracting Special Handling* details justifications of sole-source contracts and the necessary procedures regarding documentation, review, and approval. It also lists the exemptions from sole-source justifications categories, including stipends.<sup>14</sup>

A sole-source purchase order may be allowed when only one source is determined to be available and capable to satisfactorily meet particular requirements for purchase orders that exceed the competition threshold of \$10,000. To support the sole-source justification, sufficient detail in the following three areas must be included:

- Four Allowable Categories Supporting Exception to Competition Requirements:
  - The products required have special features known to be available only from one source (for example, proprietary software or other exclusive licensing agreements);
  - unusual and compelling urgency where only one source can meet the time requirement;
  - follow-on purchase requiring use of the previous source for compatibility with a previous purchase; or
  - requirements of special knowledge and experience (for example, when seeking specific research services).
- Goods or Services Not Readily Available from Other Sources, and
- Determination of Fair and Reasonable Price.<sup>15</sup>

For additional details on purchase order policies and guidance specific to sole-source, see Appendix III.

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<sup>12</sup> SD 314, PCPM Part 3: *Contracts for Goods and Services* contains procedures to be followed for contracts other than simplified acquisitions covered in Part 2 of the PCPM, and revenue-generating contracts covered in Part 7 of the PCPM. Parts 5 and 6 are in "Reserved" placeholder status.

<sup>13</sup> SD 314, PCPM Part 1: *Introduction and Acquisition Management Oversight* (March 14, 2017). PCPM Part 1 was "Reserved" as of March 2022, eliminating the guidance for conducting compliance reviews.

<sup>14</sup> SD 314, PCPM Part 4 (March 14, 2017).

<sup>15</sup> SD 314, PCPM Part 4 (March 14, 2017).

## Results of Audit

OCon&PPM does not have effective controls and monitoring to ensure that adequate justifications exist when purchase orders exceeding \$10,000 are awarded on a sole-source basis. Reviews and approvals of sole-source purchase orders by unit Procurement Delegates and OCon&PPM Contract Specialists did not effectively ensure that sole-source justifications adequately explained the need for the purchase, why the goods or services could not be provided by another source, or why the price was fair and reasonable. Only 12 of the 30 randomly sampled sole-source purchase orders exceeding \$10,000 had adequate justification for not seeking competitive bids. One other sampled purchase order had adequate justification, but the sole-source justification form was improperly signed by an unauthorized employee. Additionally, nine sampled purchase orders were improperly sole-sourced; five were inadequately justified, including one that did not have the required justification form; two were modified to exceed the \$10,000 threshold without the required justification; and one had a sole-source justification form when it was not required.

Required training materials for unit Procurement Delegates mentioned sole-source procurement requirements but did not provide examples of the specific details and supporting documentation that would be considered an adequate sole-source justification. In addition, because any Smithsonian employee can request a sole-source purchase with no required training on how to complete the sole-source justification form, it is particularly important that unit Procurement Delegates are thoroughly trained to perform effective reviews and approvals. Unit Procurement Delegates are the key preventative control in the decentralized procurement process.

Unit Procurement Delegates and OCon&PPM Contract Specialists are not performing effective review and approval oversight duties to ensure that controls in the decentralized procurement process are being achieved. There is no effective monitoring to ensure that adequate justification was documented for sole-source purchase orders reviewed and approved by the unit Procurement Delegates. OIG analysis of OCon&PPM's monitoring process found that annual compliance reviews conducted from fiscal year 2017 through fiscal year 2022 had a limited focus on sole-source purchase orders. None of these compliance reviews identified issues with review and approval of inadequate justification for sole-source purchase orders. Additionally, there are no standard corrective action steps to address issues with inadequate sole-source justifications or improper approvals.

Only the results of the fiscal year 2022 compliance review were summarized and provided to the OCon&PPM Director or Under Secretary for Administration, as required. OIG notes that this reporting required in October of each year was not completed until March 2023 while this audit was ongoing. Moreover, as of March 14, 2022, OCon&PPM had no written procedure for conducting these compliance reviews due to the elimination of PCPM Part 1.

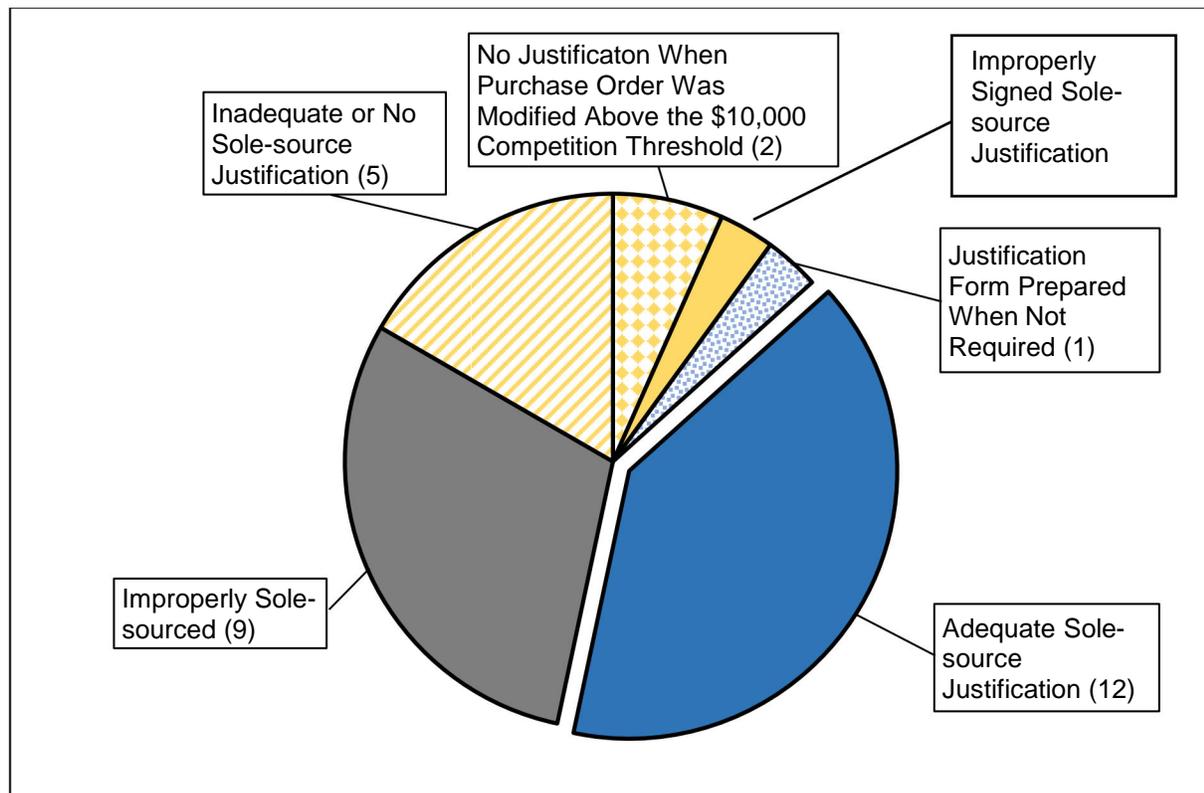
## Nearly Two-thirds of Sampled Sole-source Purchase Orders Did Not Have Adequate Justifications or Effective Review and Approval Controls

Of the 30 randomly sampled sole-source purchase orders exceeding \$10,000, only 12 had adequate sole-source justifications. Another purchase order had adequate justification, but its sole-source justification form was improperly signed by an unauthorized employee. Of the remaining 17 sampled sole-source purchase orders, OIG observed the following:

- Nine were improperly sole-sourced.
- Five were inadequately justified or not justified.
- Two were modified to exceed the competition threshold without the required justification because they did not exceed \$10,000 when originally issued.
- One did not require justification because the purchase order was for stipends (fixed amount to pay interns), a category exempt from competition.

For a breakdown of the 30 randomly selected sole-source purchase orders tested during this audit, see Figure 3.

**Figure 3. Results of OIG Analysis of 30 Randomly Sampled Sole-source Purchase Orders**



Source: OIG analysis of the sole-source justification for 30 randomly sampled purchase orders exceeding \$10,000.

There are training requirements for unit Procurement Delegates and OCon&PPM Contract Specialists approving sole-source purchase orders in excess of \$10,000; however, this audit shows that a majority of the unit Procurement Delegates are not serving as effective gatekeepers of the sole-source procurement process. OIG found that the initial training and refresher training materials required for unit Procurement Delegates and OCon&PPM Contract Specialists lack specific examples of how sole-source justification forms should be completed to adequately support the exception to the competition requirements. The training is limited to sole-source procurement policy, use of the sole-source justification form, and specific requirements (for example, uniqueness of the item or service, other vendors considered, market research performed, and price reasonableness). The refresher training, taken after three years, presents examples of potential problems with sole-source justifications but no examples of what constitutes an adequately justified form. A lack of examples of what justifies sole-source procurement and reliance on on-the-job training for additional guidance created discrepancies between the level of detail and the supporting information required by various unit Procurement Delegates and OCon&PPM Contract Specialists.

### **Twelve of the 30 Randomly Sampled Sole-source Purchase Orders Exceeding \$10,000 Had Adequate Justifications**

Of the 30 randomly sampled sole-source purchase orders exceeding \$10,000, OIG analysis showed that only 12 had been properly approved and had the required documentation to show the following:

- They met at least one of the four allowable categories for exception to competition requirements.
- They were for goods or services not readily available from other sources.
- They contained a proposed price that was fair and reasonable.

As of May 10, 2022,<sup>16</sup> the 12 purchase orders ranged from \$11,102 to \$74,880 and covered a variety of goods and services, including Global Positioning System (GPS) tags for giraffes, publication of additional copies of a book that has a shared copyright, a software subscription, and research positions requiring specialized knowledge and skills. For a list of the 12 sole-source purchase orders with adequate explanations, see Appendix IV. For specific details and an analysis of OIG's determination of adequacy for the sole-source justifications, see Appendix V.

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<sup>16</sup> OIG used this date as a point in time recognizing that purchase order amounts may have been modified after May 10, 2022.

## **One Sampled Sole-source Purchase Order Had Adequate Justification, but the Required Form Was Improperly Signed by an Unauthorized Employee**

A Smithsonian's National Zoo and Conservation Biology Institute (National Zoo) purchase order for \$57,023 for a Sea Lion Kelp Forest met the limited exceptions to competition requirements because the vendor is the only producer of critter-resistant kelp specifically designed to be used with marine mammals such as sea lions. However, the sole-source justification form was not reviewed and approved by a unit Procurement Delegate, as required, even though the National Zoo has three unit Procurement Delegates. Instead, a National Zoo employee with only purchase card authority reviewed and signed the sole-source justification form. The employee told OIG they reviewed and approved fewer than five sole-source justification forms each year and was one of several National Zoo approvers.<sup>17</sup> The purchase order and the sole-source justification form went to an OCon&PPM Contract Specialist for review and approval because the amount of the purchase order exceeded the dollar limit for all National Zoo unit Procurement Delegates. The OCon&PPM Contract Specialist who reviewed and approved the sole-source justification form and budget-checked this purchase order was aware that the National Zoo employee who signed the form was not an authorized unit Procurement Delegate. However, the OCon&PPM Contract Specialist accepted the unauthorized unit employee signature "to facilitate timely processing of this procurement."

The OCon&PPM Contract Specialist missed a key opportunity to stop this unauthorized activity. Processing a purchase order without proper review and approval circumvents a key control and increases the risk for fraud, waste, and abuse in the procurement process. Expediency in processing procurements is not a good reason to circumvent internal controls.

For additional details of this sole-source purchase order, see Appendix VI.

## **Nine of the 30 Randomly Sampled Sole-source Purchase Orders Were Improperly Sole-sourced**

OIG analysis showed that 9 of the 30 sampled sole-source purchase orders exceeding \$10,000 should have been competed for a variety of reasons, including the following:

- The requested services did not require any specialized knowledge or experience;
- a competition exception for urgency was unsupported; or
- the unit relied on competition conducted as part of a previous purchase order.

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<sup>17</sup> However, this employee is not currently—and has never been—a unit Procurement Delegate and has not taken the required training to review and approve sole-source justifications. The National Zoo employee was under the impression that the review and approval did not require delegated authority and acknowledged that they do not have the authority to budget-check the purchase order, which is why they forwarded the sole-source justification form to OCon&PPM for review and approval.

As of May 10, 2022, these nine purchase orders totaled \$406,140, ranging from \$13,255 to \$141,440. In addition, one of the nine did not have the required sole-source justification form. All nine purchase orders were reviewed and approved by unit Procurement Delegates in six different units—Office of Advancement (OA), Smithsonian Facilities, National Museum of Natural History (NMNH), National Museum of the American Indian (NMAI), Smithsonian Environmental Research Center (SERC), and Arts and Industries Building (AIB). Three required additional review and approval by OCon&PPM Contract Specialists.

The following nine sole-source sampled purchase orders should have been competed:

- A unit Procurement Delegate improperly awarded an Office of Advancement's sole-source purchase order dated February 8, 2021, for office administrative support totaling \$31,990, but it did not have the required sole-source justification form. Despite the missing form, the Procurement Delegate budget-checked the purchase order, authorizing the funding to pay for the services. At OIG's request during this audit, an OCon&PPM Contract Specialist reviewed this purchase order and stated that it was not appropriately sole-sourced because the unit was procuring temporary administrative services and did not plan for the start of the project. This administrative support for the Smithsonian Women's Committee craft show, originally scheduled for April 2020, could have been provided by a variety of individuals and did not require any unique or specialized skills.
- In November 2020, a Smithsonian Facilities unit Procurement Delegate improperly awarded a sole-source purchase order totaling \$13,255 of funding under the Coronavirus Aid, Relief, and Economic Security Act (commonly known as the CARES Act) that should have been competitively awarded. The purchase order was for Coronavirus Disease of 2019 (COVID-19) health and safety reminders to be distributed to Smithsonian staff, including 3,000 lanyards totaling \$7,260; 3,000 health screening cards totaling \$4,045; 4,500 buttons totaling \$1,175; and \$775 for shipping. The unit Procurement Delegate told OIG that a unit employee who no longer works for the Smithsonian requested quotes from three vendors, but they could not provide any documentation, including emails, to support this assertion that competition occurred. According to the Associate Director of OCon&PPM's Procurement Division, the unit has been reminded that when at least three vendors are contacted for price quotes, that means competition has been conducted. Purchase orders created under these circumstances should be coded in ERP financials as competed. The unit indicated on the justification form that this purchase met the "unusual and compelling urgency" exemption to competition category and stated that the COVID-19 Response Team had an urgent need to purchase informational materials and expediently distribute these to on-site staff during Phase 2 of reopening and beyond. However, the "Date Good/Services Required" field was left blank on the sole-source justification form.
- An NMNH unit Procurement Delegate improperly awarded a purchase order of \$46,708 for an individual to operate a micro-computed tomography instrument, which is used to provide x-ray scanning of museum objects. This individual had previously been awarded a similar contract in a competition, which was noted on the sole-source justification form. The form stated the following:

The previous iteration of this contract had only three applicants of which only two were qualified. Inquiries with our closest peer institutions have not shown anyone of comparable or better experience is available in the timeframe and scope of what we can offer.

The sole-source justification form did not specify which closest peer institutions they contacted for this purchase order or how they determined that anyone of comparable or better experience was not available.

According to the Director of OCon&PPM, sole-source justifications do not require that an exhaustive effort be maintained to ensure that no other vendor exists to fulfill the requirement. It requires that a reasonable effort be maintained and that vendors with the requisite skillset were not available.

However, training guidance states that the key feature of every valid sole-source is that only one source can meet the need. Knowing that one source can meet the need or that the program wants a particular vendor is not sufficient. The sole-source justification form has to show it is known that other vendors cannot meet the need.<sup>18</sup>

Further, the sole-source justification form stated:

It would be very burdensome and time consuming to have to compete another contract and re-teach another individual everything we have invested in [the vendor].

Vendor selection should not be made based on preference or to avoid training someone new. Because it was competed previously, the unit could have again competed this sole-source purchase order and avoided the appearance of vendor favoritism.

- An NMNH unit Procurement Delegate improperly awarded a purchase order of \$53,780 for a Corals Technician to an individual who had previously been awarded a similar contract through competition. The unit Procurement Delegate approved this purchase order as a sole-source, relying on the previous competition rather than requiring the unit to re-compete it. The sole-source justification form stated the following:

There is no other contractor with the same ability, experience gained through previous work with the Smithsonian Marine Station at Fort Pierce and sponsor, that could successfully complete the tasks necessary under the above referenced PO. Additionally, it is imperative that vendor is retained as contractor for this PO as this is a follow up work based on previous work she performed for the Smithsonian Marine Station at Fort Pierce and funded by the same entity.

Past experience with a vendor is not a substitute for conducting a search to try to identify other potential vendors. OIG reviewed the previous purchase order file documentation in which this vendor was selected as a result of competition with three qualified applicants in

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<sup>18</sup> Smithsonian *Simplified Acquisition Refresher* Guide (July 2020).

August 2019. According to the Deputy Director, OCon&PPM, a Contract Specialist at OCon&PPM reviewed a modification of this purchase order and informed the unit at that time that any future purchases needed to be competed and not designated as sole-source.

- An NMNH unit Procurement Delegate improperly awarded a sole-source purchase order for integrated pest management services at three NMNH facilities totaling \$141,440. Purchase order file documentation indicated that this vendor was the sole bidder for a prior purchase order for the same services. This purchase order had to be reviewed and approved by a Contract Specialist at OCon&PPM because the vendor was a former Smithsonian employee, and the amount of the purchase was above the unit Procurement Delegates' authority. The sole-source justification form stated the following:

The proposed contractor has been doing this work for us in a highly satisfactory manner, knows our facilities and collection locations well, understands our pest history and present pest issues well. The contractor is experienced in handling natural history collections and is trusted by staff to handle them in the absence of staff presence.

The sole-source justification form also stated that because of the COVID-19 pandemic, in-person onboarding was not practical at the time. According to the Director of OCon&PPM, the services were critical and ongoing and could not be suspended. Onboarding a new vendor would have been disruptive because the incumbent would not have been able to transition their specialized knowledge for handling specimens and collection items. However, the sole-source justification form did not select "unusual and compelling urgency" as the exception category for this sole-source purchase order.

The unit instead selected "requirements of special knowledge and experience" as the exception category. However, the sole-source justification form did not explain why the vendor's integrated pest management skills qualified as highly unique in comparison to other commercial companies that offer comparable services.

This same vendor had six contracts ranging from \$6,600 to \$120,640 for technical services (Molecular Technician, Greenhouse Technician, and Pest Inspection) with purchase order entry dates in ERP Financials from September 2016 through October 2019. The prior purchase order included a modification to add additional funds for an extended year of service by the vendor. The unit should have anticipated the need for these services in future years.

Failure to plan for the continuation of work does not justify urgency in sole-sourcing. Additionally, vendor selection should not be limited to those vendors with previous work experience with the Smithsonian.

- An NMAI unit Procurement Delegate improperly awarded a purchase order of \$13,960 for a consultant to help NMAI develop a program and process for virtual collections access (virtual training and virtual hubs to connect people and collections). The unit Procurement Delegate approved this purchase order as sole-source, relying on the previously awarded sole-source procurement. The sole-source justification form stated the following:

The work of the previous contract relates to the deliverables of the new contract which will contribute to the work efficiency and progress. These services could potentially be available from other vendors; however [the vendor's] combined and extensive experience of collaboration with Native community members, academic expertise in the fields of museum practice and applied anthropology, and digital initiative uniquely positions her since other vendors may lack the combination of expertise and extensive experience. Additionally, [the vendor's] previous work is complementary to this work.

Knowing that one source can meet the need or that the unit wants a particular vendor is not sufficient. The sole-source justification form has to show how it is known that other vendors cannot meet the need.<sup>19</sup> Past experience may provide a vendor with a competitive advantage, but competition should still be attempted. This purchase order was also reviewed and approved by a Contract Specialist at OCon&PPM because it involved a former Smithsonian employee.

- An NMNH unit Procurement Delegate improperly awarded a purchase order of \$35,007 for an individual to support the planning team for a two-and-a-half-day Bioanthropology Workshop in November 2021. This individual would help prepare materials for workshop participants and contribute to weekly progress reports and a post-workshop report, including a summary of the workshop proceedings, results, and recommendations. The unit Procurement Delegate approved this purchase order as sole-source under the "unusual and compelling urgency" exception to competition requirement category, relying on the following explanation:

[The vendor] was the only individual with necessary skill available to start in July 2021. [They have] the required experience in Anthropology, specifically with biological remains and ethics. [They are] aware of [Smithsonian] and NMNH Anthropology protocols. This project is extremely time sensitive and there is no other candidate who can complete these tasks in the required time frame.

The sole-source justification form did not provide any details on the search for other vendors, and it is unclear from the description of the services to be provided why any specialized skills would be required. The purchase order was created in ERP Financials on June 30, 2021, and the period of performance for the purchase order was August 2, 2021, through July 14, 2022. Several months of lead time prior to the November 2021 workshop for a supporting role does not support the use of the "unusual and compelling urgency" category to justify the sole-source procurement.

- On August 30, 2021, a unit Procurement Delegate for SERC improperly awarded a sole-source purchase order of \$50,000 for a workshop on the detection of non-native marine species. The workshop provider will disburse \$35,000 in honoraria to participants, spend \$5,000 for venue and food, and budget \$10,000 for logistical support costs. The sole-source justification form stated that "an urgent time requirement to obligate these funds

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<sup>19</sup> Smithsonian *Simplified Acquisition Refresher* Guide (July 2020).

in fiscal year 2021" met the "unusual and compelling urgency" exception to the competition requirement. The unit was spending expiring funds that needed to be obligated prior to the end of the fiscal year on September 30, 2021. The unit Procurement Delegate also approved the exception to competition "requirements of special knowledge and experience" based on the description of the vendor's "extensive experience and expertise in convening and supporting workshops in the Chesapeake Bay" and "extensive knowledge of SERC programs." There is insufficient detail to support what knowledge and experience meets the exception to competition requirement. Additionally, the requestor stated on the form that they were "in discussion with two universities" but did not specify which other vendors were considered and did not provide any details to compare cost reasonableness for the vendor selected. At OIG's request during this audit, an OCon&PPM Contract Specialist reviewed this purchase order and concurred that this was not appropriately sole-sourced based on the limited information provided.

- A unit Procurement Delegate improperly awarded a \$20,000 purchase order on behalf of AIB on November 12, 2020, for the creation of a promotional video for an upcoming exhibit opening a year later on November 20, 2021. Email communication from the sole-source justification form requester to the unit Procurement Delegate stated: "It is a sole source because the [vendor] is a winning video producer and is specifically needed for the kind of work [they] produce." However, the unit Procurement Delegate approved this purchase order as sole-source relying on the "unusual and compelling urgency" exception to competition requirement. Exhibits at the Smithsonian are generally planned well in advance, making it difficult to support an "unusual and compelling urgency" justification.<sup>20</sup>

For details about these nine purchase orders, see Appendix VII.

Administrative delays or urgency due to the lack of adequate planning or spending of year-end funds do not justify sole-source purchases. Using a variety of sources in procuring goods and services helps reduce the Smithsonian's reliance on any one vendor and avoids favoritism in awarding contracts. When multiple vendors compete, the Smithsonian can potentially acquire higher-quality goods and services at lower prices than it would in the absence of competition. Additionally, competition helps reduce the risk of fraud because it allows for periodic changes in vendors for goods and services.

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<sup>20</sup> The vendor's quote was dated October 13, 2020. The licensing agreement was signed by the vendor on January 11, 2021, and by the Smithsonian Contracting Officer on January 13, 2021. The period of performance was to begin when the licensing agreement was signed and was to be completed by March 22, 2021, a period of 10 weeks. The licensing agreement and scope of work for this video stated there would be a pre-production phone call with the AIB leadership team, four to eight weeks for production of the video, and three to six weeks for post-production editing.

## Five Purchase Orders Had No or Inadequate Information to Justify a Sole-source Procurement

Unit Procurement Delegates approved 5 of the 30 sampled sole-source purchase orders exceeding \$10,000 even though they had no or inadequate information to justify a sole-source purchase. As of May 10, 2022, these purchase orders processed by four units—NMNH, the National Zoo, Smithsonian Traveling Exhibitions (SITES), and Smithsonian Facilities—totalled \$67,668.

- A Smithsonian Facilities sole-source purchase order totaling \$13,606 for an annual software subscription lacked the required sole-source justification form. The unit Procurement Delegate did not know that a justification form was required. If the justification form had been completed, the sole-source purchase would have met one of the four allowable exception categories (products with special features).

The four other purchase orders had the required sole-source justification form but inadequately explained the need for the sole-source purchase, why the goods or services could not be provided by another source, or why the price was fair and reasonable. Without sufficient documentation related to other vendors contacted, availability, and pricing, OIG cannot determine if these purchase orders were appropriately sole-sourced. These purchase orders had values ranging from \$11,265 to \$15,732 and covered a variety of goods and services, including re-licensing archival films, a service agreement for cytometer equipment, and a portable veterinary radiograph unit.

For a complete list of the five purchase orders with no or inadequate information to justify a sole-source procurement, see Appendix VIII.

Unit Procurement Delegates in SITES and the National Zoo approved two inadequately justified sole-source purchase orders with the exception category of "products have special features available only from one source," as follows:

- The sole-source justification form did not provide basic information for a \$13,056 SITES purchase order for professional services related to the re-licensing of archival material from two films. For example, the "goods/services required" section field was blank, and the explanation of the circumstances was "exclusive licensing with one source." The only way to determine what was being purchased and if a sole-source procurement was appropriate was by reviewing an additional purchasing quote document provided to the unit Procurement Delegate but not noted on the sole-source justification form. Insufficient information was provided to explain how the price was determined to be fair and reasonable. The form simply stated that it was similar to other license agreements, but it did not provide any details about which agreements were reviewed.
- A National Zoo sole-source justification form did not explain how the price was determined to be fair and reasonable for a portable veterinary radiograph unit totaling \$11,265. The National Zoo explained on the sole-source justification form that the

radiograph unit was compatible with its imaging system and software and was the most lightweight and portable X-ray generator on the market although the justification also mentioned that other products were on the market.<sup>21</sup>

According to the Director of OCon&PPM, the justification clearly indicates that the vendor is the only company that provides goods compatible with existing equipment. As such, the needed product had special features available only from this manufacturer. The reference to other portable x-ray units was used for price reasonableness and was not a statement asserting that there are other products that possess the same features.

However, the Associate Director of OCon&PPM's Procurement Division, stated that if the Procurement Division staff had reviewed this sole-source purchase order, they may have requested which zoos were contacted and detailed price comparisons. Without adequate documentation, OIG cannot determine if the Smithsonian paid a fair and reasonable price for this purchase order.

A unit Procurement Delegate in Smithsonian Facilities approved one inadequately justified sole-source purchase order with the exception category of "unusual and compelling urgency" where only one source can meet the time requirement, as follows:

- A Smithsonian Facilities sole-source justification form did not adequately explain how the price was fair and reasonable for a purchase order of \$14,009 for a main steam valve and pilot valve for the National Air and Space Museum. The sole-source justification form clearly explained the circumstances and detailed having contacted several other companies that were not able to match the size requirements for the needed parts. However, no information was provided for the market research conducted. At OIG's request during this audit, an OCon&PPM Contract Specialist reviewed this purchase order and agreed that the unit should have better described how the price was determined to be fair and reasonable.

A unit Procurement Delegate in NMNH approved one inadequately justified sole-source purchase order with the exception category of "follow-on purchase requiring use of the previous source for compatibility with previous purchase," as follows:

- An NMNH sole-source justification form did not adequately explain why a \$15,732 sole-source purchase order for a three-year service agreement for cytometer equipment met the selected exception category. The sole-source justification form simply stated: "Only the manufacturer could provide the services needed for a Service Agreement for Equipment." According to the Director of OCon&PPM, it is apparent from the service and the equipment that this is a follow-on purchase. Only the manufacturer of the equipment could offer the required services.

However, the training materials specifically state that unit Procurement Delegates should scrutinize this type of sole-source justification. The materials also state that although a sole-source justification indicates that a manufacturer must be used for servicing

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<sup>21</sup> This purchase order was later closed with \$0 of goods received or invoiced.

equipment, other firms may be able to supply qualified mechanics, unless the item is under warranty.<sup>22</sup> OIG noted that the sole-source justification form did not state whether a warranty was involved or could be invalidated by using another service provider.

For examples of purchase orders with inadequately described determination for whether the price is fair and reasonable, see Table 2.

**Table 2. Four Sampled Sole-source Purchase Orders Inadequately Explained the Determination That the Proposed Price is Fair and Reasonable.**

Description of Goods or Service (UNIT)	Total Amount of Purchase Order, as of May 10, 2022	Limited Justification for Price Determination Given on OCon 103 Form
Professional Services for Re-licensing Archival Films (SITES)	\$13,056	"The price was determined fair and reasonable per comparing license agreements with similar footage."
Portable Veterinary Radiograph Unit (National Zoo)	\$11,265	"This price for the [X-ray] is comparable to other portable X ray units per discussion with other zoological institutions"
Main Steam Valve & Pilot Valve (Smithsonian Facilities)	\$14,009	"Searched GSA.gov for fair market value"
Service Agreement for Cytometer Equipment (NMNH)	\$15,732	"Price is in line with other orders for similar equipment service [PO#] and with results of market research"

Source: ERP Financials (Description of Good or Service, and Total Amount of Purchase Order Columns) and OCon 103 form for sampled purchase orders (Limited Justification Column).

Employees who participate in procurement at the Smithsonian are to ensure that adequate competition in contract actions occurs that achieves the best value for the Smithsonian.<sup>23</sup> Without adequate justification and approvals, Smithsonian management does not know whether these purchases, which totaled \$67,668, were adequately justified sole-source purchases or whether the Smithsonian paid a fair and reasonable price for these goods and services.

<sup>22</sup> Smithsonian *Simplified Acquisition Refresher* Guide (July 2020).

<sup>23</sup> SD 314, PCPM Part 1 (March 14, 2017).

## Two Sampled Sole-source Purchase Orders Were Modified to Exceed the \$10,000 Competition Threshold Without Required Justification

Two of the 30 sampled purchase orders exceeding \$10,000 did not have sole-source justifications because they originally had a total amount in ERP Financials that did not exceed the \$10,000 threshold requiring competitive bids, as follows:<sup>24</sup>

- Smithsonian Facilities approved a purchase order of \$9,059 to rebuild a walk-in cooling system on October 6, 2020, and then modified it on November 27, 2020, increasing the total amount to \$10,683.
- SITES approved a purchase order of \$10,000 for executive coaching professional services on February 26, 2021, modified the period of performance due to delays related to COVID-19 on September 7, 2021, and then modified it again on December 16, 2021, adding an additional \$15,000. According to the unit Procurement Delegate, the additional funds were for a continuation of executive coaching services. Because the work being done was the same as in the original purchase order, competition was not feasible. This modification raised the purchase order amount to \$25,000—the maximum delegated authority limit of the unit Procurement Delegate who approved and budget-checked this purchase order. If the modification had raised the amount above the unit Procurement Delegate’s delegated authority limit, it would have required review and budget-checking by OCon&PPM. Additionally, the \$15,000 modification would have required a sole-source justification on its own if it had not been added to the original purchase order of \$10,000.

According to OCon&PPM officials, a unit Procurement Delegate may make the decision to permit a modification exceeding \$10,000 to proceed without a sole-source justification if the dollar amount of the purchase is within their delegated authority. First, the unit Procurement Delegate would review the purchase order to determine what about the purchase has changed or what may not have been considered prior to the initial award. OCon&PPM review is required if a purchase order is modified to exceed a unit Procurement Delegate’s authorized spending limit.<sup>25</sup> For both of these sole-source purchase orders, the dollar amount was at or below the delegated authority of the unit Procurement Delegate.

Modifications like these that raise the purchase order dollar value above the \$10,000 threshold without a requirement that a sole-source justification be completed represent a gap in policies and procedures. OCon&PPM confirmed that they are concerned about such occurrences; however, they do not track or monitor modifications to purchase orders and instead deal with each occurrence as they become aware of it.

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<sup>24</sup> SD 314, PCPM Part 4 (March 14, 2017).

<sup>25</sup> SD 314: *Contracting* (March 14, 2022).

Without clear, written, and current procedures, an internal control structure is weaker because practices, controls, guidelines, and processes may not be applied consistently, correctly, and uniformly throughout the Smithsonian.<sup>26</sup>

For additional details of these sole-source purchase orders, see Appendix VI.

### **One Sampled Purchase Order Had a Sole-source Justification Form That Was Not Required**

Regardless of dollar value, stipends are exempt from competition and do not require the use of a sole-source justification form.<sup>27</sup> However, one sampled purchase order had a sole-source justification and was coded in ERP Financials as sole-source but was exempt from competition and did not require the use of a sole-source justification form. The coding in ERP Financials indicated that this was a regular purchase order when it should have been coded as a stipend.

It is important for unit Procurement Delegates to understand sole-source justification requirements—including exemptions—so resources are used wisely, and unit Procurement Delegates do not spend time reviewing and approving unnecessary paperwork.

A unit Procurement Delegate for the National Museum of African American History and Culture (NMAAHC) approved a purchase order of \$12,113 for an Internship Program. The sole-source justification form stated that the proposed price was fair and reasonable and that two interns would each receive a stipend. At OIG's request during this audit, an OCon&PPM Contract Specialist reviewed this purchase order and confirmed that this purchase order was for internship stipends and administrative support.

Because this purchase order award was for stipends, a category exempt from competition and sole-source justifications, a sole-source justification form was not required even though the amount of the purchase order exceeded \$10,000.

For additional details of this sole-source purchase order, see Appendix VI.

### **Training Has Insufficient Instruction on Sole-source Justifications**

Sole-source justifications are prepared by individual Smithsonian employees completing the OCon 103 form. These individuals are from a variety of units and backgrounds, and there are no procurement training requirements for them. There are training requirements for unit Procurement Delegates and OCon&PPM Contract Specialists approving sole-source purchase orders in excess of \$10,000; however, this audit shows that a majority of the unit Procurement Delegates included in the sample are not serving as effective gatekeepers of the sole-source procurement process.

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<sup>26</sup> Oklahoma State Auditor & Inspector Publication, *Top Ten Things to Strengthen Internal Controls in the Office* (2022).

<sup>27</sup> SD 314, PCPM Part 4 (March 14, 2017).

OIG's analysis of the required training for Procurement Delegates and OCon&PPM Contract Specialists found limited content related to sole-source justifications.<sup>28</sup> The initial required training classes (OCON21, 22, and 23) refer to the sole-source procurement policies and specify the use of an OCon 103 form.

The Smithsonian *Simplified Acquisition Refresher* Guide, part of the required Simplified Acquisitions Refresher training (OCON24)—taken on a recurring basis starting in year three—states that the sole-source justification must show how it is known that other vendors cannot meet the identified need. Knowledge that one source can meet the need or that the program wants a particular vendor is not sufficient. The materials also provide guidance on how to document market research, suggesting that subject matter experts in the Smithsonian or at other comparable organizations be contacted.<sup>29</sup> However, the results of this audit found that a majority of sole-source justifications had issues in these areas.

The Smithsonian *Simplified Acquisition Refresher* Guide outlines when a sole-source action may be justified and also mentions issues of inadequate justifications for sole-source procurements. It states that there is very little guidance on how to apply the criteria for justifying a sole-source purchase order. It instead relies on using common sense when determining when it would be unreasonable or unrealistic to seek competition. It emphasizes that unit Procurement Delegates should scrutinize all sole-source justifications. For example, unique products may be available from multiple vendors; alternative vendors may be able to service the equipment unless restricted by warranty; software changes can be performed by any qualified software firm if the Smithsonian has software rights; and extensive knowledge and experience from past work provides a vendor with a competitive advantage, but providing background knowledge to other vendors could lessen this advantage.<sup>30</sup>

However, the current procurement training materials do not provide an example of a completed sole-source justification form or guidance to demonstrate the level of detail required to complete the form. Considering the missing sole-source justification forms, inadequate justifications supporting sole-source purchases, and inappropriate unit review and approval identified in OIG's sampled purchase orders, training for sole-source procurement personnel could be improved. For the specific focus of each required training course, see Appendix IX.

According to the Deputy Director of OCon&PPM, Contract Specialists in OCon&PPM's Procurement Division have continued education as a part of their performance plan and receive close supervision.<sup>31</sup> However, it is unclear how this on-the-job training relates specifically to sole-source procurement.

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<sup>28</sup> OCON21 – Procurement Informational Briefing (4 Hours), OCON22 – Simplified Acquisitions (24 Hours); OCON23 – Advanced Simplified Acquisitions (24 Hours); and OCON24 – Simplified Acquisitions Refresher, every 3 years (8 Hours) are required. Two other courses unrelated to sole-source procurement are also required: OCON81 – Federal Procurement Database System (4 Hours) and OCON84 – Selecting NAICS Codes (2 Hours).

<sup>29</sup> Smithsonian *Simplified Acquisition Refresher* Guide (July 2020).

<sup>30</sup> Smithsonian *Simplified Acquisition Refresher* Guide (July 2020).

<sup>31</sup> OIG did not test training compliance as part of this audit.

Of the 20 unit Procurement Delegates interviewed during this audit, 13 expressed a need for additional training and guidance on sole-source purchases, and 5 specifically requested that examples of well-justified sole-source purchase orders be included in training and guidance offered by OCon&PPM.

## Monitoring Did Not Ensure Effective Controls for Sole-source Purchase Orders Exceeding \$10,000

OCon&PPM is required to conduct periodic compliance reviews of purchase orders to help identify compliance requirements that are not being met and to identify opportunities to strengthen internal controls. In 2016, OIG reported that compliance reviews had not been conducted since the requirement was established in 2011 and recommended that they be conducted and that the results of these reviews be reported to the Under Secretary for Administration.<sup>32</sup> The compliance reviews were to include: (1) determining whether required sole-source justification forms were complete and properly approved and (2) ensuring the accuracy of the competition data in ERP Financials.

OIG analysis showed that OCon&PPM has conducted annual compliance reviews since fiscal year 2017, but these reviews were not effective in ensuring that sole-source purchase orders exceeding \$10,000 had complete and accurate sole-source justification forms. These reviews also have not ensured the accuracy of the competition data in ERP Financials for purchase orders exceeding \$10,000. In addition, OIG found that OCon&PPM did not consistently comply with its procedures in conducting and reporting the results of its annual compliance reviews. As a result, management has been hindered in identifying systematic trends and correcting weaknesses and deficiencies. Moreover, OCon&PPM now has no written procedure for conducting these reviews because PCPM Part 1 was eliminated on March 14, 2022.

Based on discussions with OCon&PPM, the compliance review policy gap created by the elimination of PCPM Part 1 appears to have been an unintended consequence of the updated SD 314. A memorandum is provided to unit directors notifying them of the compliance procedures prior to the start of each compliance review; however, the information is limited.

## Compliance Reviews Did Not Effectively Ensure Complete and Accurate Justifications for Sole-source Purchase Orders

OIG's analysis of OCon&PPM annual compliance reviews for fiscal years 2017–2022 found that these reviews did not have a specific focus on determining whether sole-source justification forms were complete and properly approved. These reviews were conducted by OCon&PPM's Procurement Division through a combination of self-assessment questionnaires completed by individual units, comparison to ERP Financials system records, and on-site reviews.

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<sup>32</sup> OIG, *Acquisition Management: Oversight and Monitoring Would Improve Compliance with Policies for Sole-Source Purchases* (A-16-10, September 28, 2016).

OIG analysis of the documentation provided for annual compliance reviews conducted for fiscal years 2017-2022 identified the following:

- Sole-source purchase orders were not separately targeted for review. OCon&PPM officials said the ERP Financials report they use to select purchase orders for annual compliance reviews does not enable them to distinguish between competed and sole-sourced purchase orders. The units are tasked with identifying which purchase orders selected for review are sole-source when they complete the required *Unit Self-Assessment Questionnaire and PO Files Audit Checklist*.<sup>33</sup> Units are asked if the sole-source justification form is in the PO file, if the sole-source is acceptable, and if the price reasonableness is acceptable. However, this high-level of review simply identifies those purchase orders coded as sole-source but does not address the underlying issues with justification inadequacy and the root causes OIG found during this audit.
- OCon&PPM Procurement Division did not consistently make recommendations based on the results of the unit's compliance reviews and did not consistently require units to prepare corrective action plans for identified deficiencies.

Well-designed and effectively implemented compliance reviews help management to timely identify and remediate issues in the procurement process, including ineffective controls, and are especially important in high-risk areas such as sole-source purchasing.

### **No Annual Compliance Review Summary for Management was Provided Prior to Fiscal Year 2022**

OCon&PPM has been conducting annual compliance reviews since fiscal year 2017, but it did not summarize the results of these annual reviews or submit them to the Under Secretary for Administration prior to fiscal year 2022. OIG notes that this reporting, which is required in October of each year, was not completed until March 2023 while this audit was ongoing. Without a summary report of the annual compliance reviews, management is hindered in its ability to detect systematic trends.

OIG's review of the summary report for fiscal year 2022 found that it could be more clear and accurate. For example, it stated that unit self-assessments and on-site reviews did not reveal "any inappropriate procurement activity."<sup>34</sup> However, it also mentions that all four on-site reviews conducted identified missing or incomplete forms in official procurement files. In addition, the reviews identified two instances when employees with no delegated procurement authority signed purchase orders, and unit Procurement Delegates awarded two purchase orders that exceeded the dollar amount of their delegated purchase authority.

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<sup>33</sup> The methodology for how purchase orders are selected for the compliance reviews is not a documented policy or procedure.

<sup>34</sup> Report on Program Internal Controls for Ensuring Compliance with SI Contracting and Procurement Policies and Procedures (FY 22) (March 13, 2023).

The report also states that corrective action plans were requested from the units with non-compliance issues. However, only one of the three units with findings of non-compliance had an OCon&PPM request for corrective action plans to address the recommendations, and another unit without findings of non-compliance had a request for a corrective action plan.

Furthermore, there was no request to develop a corrective action plan for a unit when Procurement Delegates awarded purchase orders exceeding their delegated purchase authority without evidence that the purchase orders had been referred to OCon&PPM. There is also no evidence of suspension or cancellation of the delegated procurement authority for the non-compliant Procurement Delegates. According to the Director of OCon&PPM, there were no issues that would warrant decreasing or rescinding authority to a unit procurement activity.

Accurate and transparent reporting by OCon&PPM on compliance issues is critical for timely remediation of deficiencies and weaknesses and for ensuring the effectiveness of controls. Moreover, the Director, OCon&PPM, is required to periodically provide assurance to the Chief Financial Officer, Under Secretary for Administration, Secretary, and the Board of Regents that program internal controls are adequate for ensuring compliance with Smithsonian contracting and procurement policies and procedures. This assurance is to be achieved through periodic reviews of the operations of contracting and procurement programs in OCon&PPM and Smithsonian units.<sup>35</sup>

### **The Elimination of PCPM Part 1 Has Created a Gap in Policies for Compliance Reviews**

When this report was issued, there was no documented guidance for conducting annual compliance reviews or for providing summary reports to management. On March 14, 2022, OCon&PPM eliminated PCPM Part 1, which removed all of the guidance on compliance reviews from the procurement and contracting procedures manuals.

Based on discussions with the Director and Deputy Director of OCon&PPM, the compliance review policy gap created by the elimination of PCPM Part 1 appears to have been an unintended consequence of the updated SD 314. OCon&PPM is unsure why PCPM 1 was removed without simultaneously including the compliance reviews content in SD 314, in another PCPM, or on the OCon&PPM website. OCon&PPM noted that information is provided to unit directors in a memorandum notifying them of the compliance procedures prior to the start of each compliance review. However, the information given to unit directors is limited to explaining the various attachments that the units need to complete as part of the compliance review and indicating if an on-site visit by OCon&PPM will be performed.

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<sup>35</sup> SD 314: *Contracting* (March 14, 2022).

## Monitoring Has Not Ensured the Accuracy of Competition Data for Purchase Orders in ERP Financials

Consistent with a previous recommendation from a 2016 OIG audit report, OCon&PPM compliance reviews still did not ensure the accuracy of the competition data in the accounting system.<sup>36</sup> Inaccurate data in ERP Financials hinders the ability to identify trends in sole-source purchases, perform useful data analytics, and rely on data for monitoring.

OIG's analysis of the competition status for the 753 purchase orders included in compliance reviews in fiscal years 2017–2022 showed that roughly half the purchase orders had inconsistent competition data between ERP Financials, OCon&PPM's Procurement Division compliance review files, and Unit Self-Assessments. In addition, OIG did not find any evidence that the inaccurate competition data in ERP Financials identified in these compliance reviews were ever corrected. These inconsistencies were also documented in OIG's prior audit; OIG compared the ERP Financials data with paper files and found instances when ERP Financials indicated that a unit had sought competition for a purchase when it had not, and vice versa.<sup>37</sup>

In this prior audit report, OIG found that two-thirds of fiscal year 2014 purchase orders were not competed, according to ERP Financials data. At that time, OCon&PPM officials said sole-source purchasing should be the exception, not the norm. ERP Financials data continue to indicate a significant number of purchase orders as sole-sourced and heightens the need for OCon&PPM to monitor this key performance indicator. Effective monitoring of sole-source purchase orders requires reliable data to identify and mitigate risks before they result in serious noncompliance issues.

## Conclusions

This report has highlighted that sole-source purchasing is the rule rather than the exception. Sole-source purchase orders are a necessary part of the procurement process, but they should be used in limited situations and require thorough documentation and monitoring. Insufficient training, ineffective program management, and ineffective monitoring have created a weak control environment, allowing a high reliance on sole-source purchases in a decentralized process. Incomplete compliance reviews and summary reports have hindered the program's timely identification and remediation of issues identified in this audit—including improperly sole-sourced purchase orders, as well as missing, unauthorized, or inadequately supported sole-source justification forms. This report also noted gaps in policies for annual compliance reviews and purchase orders modified to exceed the justification threshold. Additionally, the report identified inaccurate competition data in the accounting system and the absence of consistent upward reporting of annual compliance reviews. Failure to fully address these issues could impact the Smithsonian's ability to effectively manage and oversee future sole-source purchases and compliance reviews.

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<sup>36</sup> OIG, A-16-10, September 28, 2016.

<sup>37</sup> OIG, A-16-10, September 28, 2016.

## Recommendations

To strengthen the control environment for Smithsonian sole-source purchase orders, OIG recommends that the Under Secretary for Administration ensure that the Director of the Office of Contracting & Personal Property Management takes the following actions:

1. Reinforce that OCon&PPM staff adhere to the policy that sole-source justification forms must be reviewed and approved by unit Procurement Delegates.
2. Develop and implement written policies and procedures for purchase orders that are modified to exceed \$10,000, the sole-source justification threshold.
3. Update training materials for Procurement Delegates approving the sole-source justification forms and develop guidance to assist requestors completing the forms, including the following:
  - a. examples for well-justified sole-source purchases for each of the four allowable categories for both goods and services and
  - b. detailed examples of what constitutes an adequate justification.
4. Revise and implement procedures to conduct compliance reviews and report to the Under Secretary on the results of these reviews, including the following:
  - a. determining whether sole-source justification forms were adequately justified and properly approved and
  - b. ensuring the accuracy of the competition data in the accounting system.
5. Develop and implement monitoring procedures to identify trends in sole-source purchasing. This could include (1) determining the specific reports that will be used for monitoring sole-source purchase orders, (2) establishing the frequency of the reports, and (3) identifying a list of individual directors and management officials who will receive reports. In addition, develop clear guidelines on what constitutes discrepancies and how they are identified, addressed, documented, and retained for future reference.
6. Revise the procurement procedures manual to clarify the responsibility of unit Procurement Delegates to review purchase orders and to ensure the accuracy of the data entered in the accounting system.

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## Management Comments and OIG Evaluation

OIG provided the Smithsonian a draft of this report for review and comment, and Smithsonian management provided written comments, which are reproduced in their entirety in Appendix X. In its written comments, management concurred with all of the recommendations and outlined actions planned to address them. OIG incorporated management's technical comments into the report, as appropriate, except as further discussed below.

In its comments, management said it wanted to clarify several points related to OIG's analysis of specific sole-source justifications. According to management, three sole-source purchase orders using specialized knowledge or experience as the exemption from competition category did not require that an exhaustive search for vendors be completed. These sole-source purchase orders were for (1) an individual to operate a micro-computed tomography instrument, (2) integrated pest management services, and (3) a consultant to help develop a program and process for virtual collections access. Management further stated that only a reasonable effort needs to be made to identify that no other vendors with the requisite skillset are available.

However, the training materials state that competition should be sought unless it is unreasonable or unrealistic to do so. The training says that knowing that one source can meet the need or that the unit wants a particular vendor is not sufficient. The sole-source justification form has to show how it is known that other vendors cannot meet the need.<sup>38</sup> Past experience may provide a vendor with a competitive advantage, but the Smithsonian should still attempt competition and consider alternative vendors.

A follow-on purchase for a service agreement for cytometer equipment was not adequately supported. According to OCon&PPM, only the manufacturer of the equipment could offer the required services. However, the training material specifically states that unit Procurement Delegates should scrutinize this type of sole-source justification. The training states that although a sole-source justification indicates that a manufacturer must be used for servicing equipment, other firms may be able to supply qualified mechanics unless the item is under warranty.<sup>39</sup> OIG noted that the sole-source justification form did not state whether a warranty was involved or could be invalidated by using another service provider. Without this detailed documentation, there is no evidence to support that this was a valid sole-source purchase.

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<sup>38</sup> Smithsonian *Simplified Acquisition Refresher* Guide (July 2020).

<sup>39</sup> Smithsonian *Simplified Acquisition Refresher* Guide (July 2020).

## Objective, Scope, and Methodology

The objective of this audit was to determine to what extent the Smithsonian Institution (the Smithsonian) had effective controls and monitoring over sole-source purchase orders created under Simplified Acquisition Procedures that were entered into the Enterprise Resource Planning Financials System (ERP Financials) in fiscal year 2021.

To accomplish the objective, the Office of the Inspector General (OIG) conducted interviews with Smithsonian managers and staff; reviewed policies, procedures, laws, regulations, and leading practices; examined the design and implementation of controls in place; reviewed documents from the purchase order files (such as sole-source justification forms, statements of work, purchase order information, quotes, and emails); and conducted data analysis. To assess compliance with applicable guidance for sole-source purchase orders, OIG conducted multiple steps to complete the audit. Additionally, OIG asked the Office of Contracting & Personal Property Management (OCon&PPM) to review the sole-source justifications for all of the purchase orders reviewed during this audit.

OIG also reviewed training materials related to Simplified Acquisitions (Simplified Acquisitions, Advanced Simplified Acquisitions, and Simplified Acquisitions Refresher) and Procurement Informational Briefing. OIG searched these documents for any mention of "sole" or "sole-source" justification.

To assess the effectiveness of controls for sole-source purchase orders under Simplified Acquisition Procedures requirements, OIG used a non-statistical random sample of 30 sole-source purchase orders of the 993 sole-source purchase orders coded in ERP Financials for fiscal year 2021.<sup>40</sup> The scope of the audit included sole-source purchase orders with a purchase order date entered into ERP Financials during fiscal year 2021 (October 1, 2020, through September 30, 2021) that exceeded the competition threshold of \$10,000. OIG assessed the extent to which the sampled sole-source purchase orders had appropriate justification to be sole-sourced and whether the required approvals were documented.

The initial universe of purchase orders pulled from ERP Financials for fiscal year 2021 consisted of 17,950 purchase orders, which totaled approximately \$497,424,674. After OIG removed Woodrow Wilson Center and OIG purchase orders, and identified exceptions to competition (utilities, stipends, collections acquisitions, etc.), the clean sample universe included the 993 sole-source purchase orders, which totaled approximately \$42,061,704 for fiscal year 2021.<sup>41</sup> The random sample covered 17 Smithsonian units.

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<sup>40</sup> OIG cannot project the results to the population because OIG used a non-statistical sampling technique.

<sup>41</sup> OIG did not look at purchase orders coded in ERP Financials as competed and did not test those for data coding accuracy; OIG did not perform a completeness test of sole-source purchase orders in ERP Financials.

To assess the monitoring of sole-source purchase orders, OIG obtained compliance review results for fiscal years 2017–2022 from OCon&PPM and evaluated the following:

- The extent to which OCon&PPM is conducting annual compliance reviews in accordance with Smithsonian’s procurement procedures manual and reporting the results of these reviews to upper management and the Under Secretary for Administration; and
- The extent to which the information gathered during the annual compliance reviews supports the information in ERP Financials.

In planning and performing this audit, OIG identified the following internal control components and underlying principles as significant to the audit objective, as shown in Table 3:<sup>42</sup>

**Table 3. Internal Control Components and Principles Significant to the Audit Objectives**

Internal Control Components and Principles Significant to the Audit Objectives	
Control Activities Principles	
•	Design Control Activities
•	Design Activities for the Information Control System
•	Implement Control Activities
Information and Communication Principles	
•	Use of Quality Information
•	Communicate Internally
Monitoring Principles	
•	Perform Monitoring Activities
•	Evaluate Issues and Remediate Deficiencies

Source: OIG analysis of internal control components and principles.

OIG conducted this performance audit in Washington, D.C., from January 2022 through March 2024 in accordance with generally accepted government auditing standards. Those standards require that OIG plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for its findings and conclusions based on the audit objective. OIG believes that the evidence obtained provides a reasonable basis for the findings and conclusions based on its audit objective.

<sup>42</sup> Internal Controls are defined in the Government Accountability Office (GAO), *Standards for Internal Control in the Federal Government* (GAO-14-704G, September 2014).

OCon 103: Sole Source Justification–Purchase Order File Documentation Form

<b>Smithsonian Institution</b>			
OCon 103			
<b>Sole Source Justification - Purchase Order File Documentation</b>			
<i>(Save and retitle a file copy of this fillable form for use. The copy may need to be transmitted to reviewing and deciding officials.)</i>			
<i>Note: Sole Source Justifications are required for all non-competed procurements that exceed \$10,000. Award document IS NOT to be budget checked and the vendor indicated herein IS NOT to be informed to commence providing the goods/services required until all required clearances are obtained and an appropriate official's approval is cited in Part 6, Review and Decision, on page 2.</i>			
<b>Part 1. Unit and Requestor Information</b>			
<b>a. Museum, Research Center, Office (Unit)</b>	<b>b. Department</b>	<b>c. Documentation Date*</b>	
<b>d. Individual preparing and requesting review and approval of this Sole Source documentation.)</b> <i>* A form OCon 104, Ratification of Unauthorized Commitment, is required if this justification is prepared and approved after the date the vendor began to provide goods/services.</i>	Name/Title/MRC No./Telephone No./Ext.:		
	Preparer/Requestor Signature:		
<b>Part 2. PO, Vendor and Procurement Information</b>			
<b>a. PO Number</b> <i>(include Federal or Trust indicator, FY, origin)</i>			
<b>b. PO Dollar Amount(s)</b>	<b>Total Amt.</b>	<b>Federal Portion</b>	<b>Trust Portion</b>
	\$	\$	\$
<b>c. Goods/Services Required</b> <i>(Text limited to space provided.)</i>			
<b>Date Good/Services Required:</b>			
<b>d. Is this PO likely to be modified/amended?</b>	<input type="checkbox"/> No	<input type="checkbox"/> Yes (explain on a separate page)	
<b>e. Vendor Information</b>	<b>Vendor Name:</b>		
	<b>Vendor Location:</b>		
	<b>City</b>	<b>State/Province</b>	<b>Country</b>
	<b>System for Award Management (SAM) Info:</b> <i>(form OCon 15 is required if vendor is not registered in SAM)</i>		<b>DUNS No.</b>
<b>Part 3. Check which one of the four allowable categories supports this request for exception to the competition requirements (sole source procurement) and explain why below. Be specific.</b>			
<input type="checkbox"/>	Products have special features available only from one source (e.g., proprietary software or other exclusive licensing agreements)		
<input type="checkbox"/>	Unusual and compelling urgency where only one source can meet the time requirement		
<input type="checkbox"/>	Follow-on purchase requiring use of the previous source for compatibility with previous purchase		
<input type="checkbox"/>	Requirements of special knowledge and experience (a justification Smithsonian allows for highly unique services such as scientific research or performances)		
<b>Explain the circumstances:</b> <i>(Text limited to space provided; attach add'l sheets if necessary)</i>			
<i>Note: OCon&amp;PPM acknowledges use of a particular vendor may be required based on the terms specified in a grant or other previously established agreement. If this is the case for your purchase, provide the grant source (name) and number and attach a copy of the page(s) of the grant that specifies this requirement.</i>			
<b>Proceed to page 2 to complete additional documentation needed for review and decision.</b>			
OCon 103, Sole Source Justification, PO File Documentation July 2021 (Rev.)			Page 1 of 2

<b>Part 4. How was it determined that the goods or services are not readily available from other sources? Be specific.</b>	
Provide details about the search for other vendors: <i>(Text limited to space provided; attach add'l sheets if necessary)</i>	
<b>Part 5. How was it determined that the proposed price is fair and reasonable? Be specific.</b> <i>(Example info: market research, price comparison to a previous purchase, current price lists, catalogs or advertisements, etc.)</i>	
<i>(Text limited to space provided; attach add'l sheets if necessary)</i>	
<b>Part 6. Review and Decision</b>	
<b>a. At the Unit:</b> <i>The unit Procurement Officer reviewing this Sole Source Justification may determine and decide if it satisfactorily supports approval only if the purchase price does not exceed the Procurement Officer's delegated purchasing authority. For requests over delegated purchasing authority this OCon 103 must be signed by the reviewing unit Procurement Officer and submitted to OCon&amp;PPM for review/decision (see Part 6.b). Include Approved requests in the unit procurement file.</i>	
Reviewing Unit Procurement Officer Signature:	<input type="checkbox"/> Approved at unit <input type="checkbox"/> Not Approved at unit <input type="checkbox"/> Sent to OCon&PPM for Review and Decision* <small>*transmit a PDF (w/signatures) and MSWord copy to OConHelp@si.edu.</small>
Reviewing Unit Procurement Officer Name and Title:	Date of Unit Procurement Officer Decision:
Reason(s) request <i>IS NOT</i> approved at the unit and/or referred to OCon&PPM: <i>(Text limited to space provided.)</i>	
<b>b. At OCon&amp;PPM:</b> <i>When review and decision must be by OCon&amp;PPM, this form must indicate appropriate reviews and acceptances of the information provided herein by signatures affixed in Parts 1 and 6.a. and sent to OCon&amp;PPM Help, Contracts and Procurement, Procurement, Purchase Order/Change Order. This Sole Source Justification must be approved before a PO/contract is budget checked or payment made. Include Approved requests in the unit procurement file.</i>	
OCon&PPM Deciding Official Signature:	<input checked="" type="checkbox"/> Approved at OCon&PPM <input type="checkbox"/> Not Approved at OCon&PPM
OCon&PPM Deciding Official Name and Title:	Date of OCon&PPM Decision:
Reason(s) request <i>IS NOT</i> approved at OCon&PPM: <i>(Text limited to space provided.)</i>	
<div style="display: flex; justify-content: space-between;"> <span>OCon 103, Sole Source Justification, PO File Documentation July 2021 (Rev.)</span> <span>Page 2 of 2</span> </div>	

Note: This form was updated in April 2022.

## Purchase Order Policies and Guidance

Smithsonian Directive (SD) 314: *Contracting* and the *Procurement and Contracting Procedures Manual* (PCPM) Parts 1, 2, and 4 provide guidance and requirements for contracting, including the justification of sole-source purchase orders and compliance reviews.<sup>43</sup> SD 314 includes the policies and responsibilities related to all forms of Smithsonian contracting, purchase orders, and any other commitment of Smithsonian resources, regardless of the source of funding. It sets forth the general policies related to purchase orders, and the PCPMs detail how to implement these policies and specific rules and procedures. SD 314 and the PCPMs apply to all Smithsonian units and together provide guidance to ensure that every Smithsonian employee adheres to the standards described in the documents.<sup>44</sup>

The Smithsonian has written key principles about competition into its contracting policy and accompanying procurement procedures manuals. Specifically, the Smithsonian aims to obtain a fair and reasonable price by requiring at least three competitive quotes for purchase orders greater than \$10,000, with limited exceptions.

A sole-source purchase order may be justified when only one source is determined to be available and capable to satisfactorily meet particular requirements for purchase orders that exceed the competition threshold of \$10,000.<sup>45</sup> When this occurs, project staff at Smithsonian units must prepare justifications for sole-source purchase orders and submit the justification to their unit Procurement Delegate for review in advance of award. They must include sufficient detail in the following three areas to support the sole-source justification:

- Four Allowable Categories Supporting Exception to Competition Requirements,
- Goods or Services Not Readily Available from Other Sources, and
- Determination of Fair and Reasonable Price.

If the unit Procurement Delegate determines that the justification adequately supports a sole-source purchase and that the dollar amount of the purchase does not exceed their delegated purchasing authority, they may approve and sign the sole-source justification form. When the purchase exceeds the delegated purchasing authority of any unit Procurement Delegate at the unit, or the unit Procurement Delegate wants a review and decision by the Office of Contracting & Personal Property Management (OCon&PPM), the unit Procurement Delegate submits the sole-source justification to OCon&PPM for additional review and approval.

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<sup>43</sup> SD 314, PCPM 3: *Contracts for Goods and Services* contains procedures to be followed for contracts other than simplified acquisitions that are covered in Part 2 of the PCPM, and revenue-generating contracts that are covered in Part 7 of the PCPM. Parts 5 and 6 are in "Reserved" placeholder status.

<sup>44</sup> The PCPM 1 does not apply to purchase card transactions.

<sup>45</sup> SD 314, PCPM Part 4 (March 14, 2017).

PCPM 1 included information on the organization of Smithsonian procurement and contracting activities, as well as general information regarding the administration and management oversight of the procurement and contracting activities. It also included information on the training requirements for the acquisition workforce and unit Procurement Delegates, levels of delegated procurement authority, and the management oversight activities, including the compliance review methodology. The section on conducting compliance reviews specified that the Director, OCon&PPM, shall conduct reviews of compliance with the procurement and contracting policies and procedures applicable at each unit under their purview at least once every three to five years.

These compliance reviews may consist of the following methods:

- self-assessments of delegated contracting/procurement function activities at Smithsonian units by unit staff,
- validation of unit self-assessments by OCon&PPM staff, and
- on-site compliance review by OCon&PPM staff with or without a Unit Self-assessment and/or validation by OCon&PPM of Unit Self-assessments.

PCPM Part 1 provided further detail on the stages of compliance reviews (self-assessment, validation, on-site compliance reviews), reviews of findings (reports), and any required corrective action plans. The content relating to conducting compliance reviews included the frequency of the reviews, the types of self-assessments performed by units, and on-site reviews conducted by OCon&PPM. It also described the stages of compliance reviews (for example, questionnaires to be completed, requests for entrance and exit conferences, the names of unit Procurement Delegates whose files would be reviewed, the specific files to be reviewed, and a list of unit employees who would be available for interviews during the on-site, etc.).<sup>46</sup>

As of March 2022, PCPM Part 1 – *Introduction and Acquisition Management Oversight* was eliminated.

PCPM Part 2 – *Simplified Acquisitions* details the procedures to be followed when purchasing goods and services that do not exceed the simplified acquisition dollar thresholds set forth in the PCPM.<sup>47</sup> It also provides guidance for staff at Smithsonian units who become involved in the procurement activities at their units and/or have responsibilities for awarding and managing procurements covered by this PCPM.<sup>48</sup>

PCPM Part 4 – *Procurement Contracting Special Handling* details justifications of sole-source contracts and the necessary procedures regarding documentation, review, and approval. It also lists the exemptions from sole-source justifications categories, including stipends.

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<sup>46</sup> SD 314, PCPM Part 1 (March 14, 2017).

<sup>47</sup> Smithsonian's Simplified Acquisition Procedures refer to the acquisition of supplies or services at or below the Simplified Acquisition Threshold of \$100,000 for most units.

<sup>48</sup> SD 314, PCPM Part 2 (March 14, 2017).

For a purchase order to be awarded as a sole-source, the sole-source justification must be supported by information that is reviewed and approved in advance of the purchase order award. The existence of one or more of the following circumstances may indicate that competition is not feasible and require documentation justifying a sole-source purchase order:

1. The products required have special features known to be available only from one source (for example, proprietary software or other exclusive licensing agreements);
2. Unusual and compelling urgency where only one source can meet the time requirement;
3. Follow-on purchase requiring use of the previous source for compatibility with a previous purchase; or
4. Requirements of special knowledge and experience (for example, when seeking specific research services).

Additionally, sole-source justifications must clearly reflect that the proposed price is fair and reasonable based on the following:

- market research,
- comparison of the proposed price with prices found reasonable on previous purchases,
- current price lists, catalogues, or advertisements,
- comparison with similar items in a related industry,
- personal knowledge of the item being purchased,
- comparison to an independent Smithsonian or other government estimate, and/or
- any other reasonable basis.<sup>49</sup>

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<sup>49</sup> SD 314, PCPM Part 4 (March 14, 2017).

Appendix IV

Twelve of 30 Randomly Sampled Sole-source Purchase Orders with Adequate Justifications

Date Purchase Order was Entered into ERP Financials	Total Amount of Purchase Order, as of May 10, 2022	Goods or Services Purchased	Unit	Allowable Categories Identified on OCon 103 Form to Support Exception to Competition			
				Special Features Available from One Source	Unusual and Compelling Urgency	Follow-on Purchase Requiring Compatibility	Special Knowledge and Experience
10/23/2020	\$16,362	Sheet Edging Machine to Produce Exhibition Components	Smithsonian Exhibits	●			
8/30/2021	\$20,600	Global Positioning System Tags for Giraffes	Smithsonian Conservation Biology Institute	●			
8/31/2021	\$11,102	Patented Key System	Smithsonian Tropical Research Institute	●		●	
12/9/2020	\$48,168	Instrument Maintenance Service Agreement	National Museum of Natural History	●			●
2/23/2021	\$15,000	Visual Art and 3D Design Specialist	Hirshhorn Museum & Sculpture Garden		●		
4/15/2021	\$33,043	Fabrication Services	Smithsonian Traveling Exhibitions			●	
7/15/2021	\$34,024	Software Subscription	Office of the Chief Information Officer			●	
8/20/2021	\$73,943	Additional copies of a book that has a shared copyright	National Portrait Gallery			●	
8/26/2021	\$14,490	Oversized Countertops	National Museum of African American History and Culture			●	
6/2/2021	\$74,880	Research Assistance	National Portrait Gallery				●
7/1/2021	\$32,760	Professional Services Researching and Cataloging Collection Items	Cooper Hewitt, Smithsonian Design Museum				●
7/26/2021	\$40,000	Asian Pacific American Music Learning Pathway Curator	Center for Folklife and Cultural Heritage				●

Legend: ● Selected Category

Source: Enterprise Resource Planning Financial System, *Sole Source Justification-Purchase Order File Documentation* (OCon 103) Forms, and other supporting documentation.

## Twelve Sole-source Purchase Orders with Adequate Justifications

OIG analysis showed that only 12 of the 30 sampled purchase orders included a sole-source justification that adequately justified the need for the sole-source purchase and was properly reviewed and approved.

**Products with Special Features Available Only from One Source.** Four units—Smithsonian Exhibits, Smithsonian Conservation and Biology Institute, Smithsonian Tropical Research Institute, and National Museum of Natural History (NMNH)—justified sole-source purchase orders using this category.

A unit Procurement Delegate from Smithsonian Exhibits adequately justified a purchase order of \$16,362 for a proprietary sheet-edging machine for producing exhibition components. This sole-source justification clearly explained why the unit needed the system components to assemble museum exhibition showcases and how this vendor was the only source available due to the proprietary nature of the machine. The price was fair and reasonable, based on prior purchase orders, documented market research, and the limitations of alternative material types.

A unit Procurement Delegate adequately justified a Smithsonian Conservation and Biology Institute purchase order for \$20,600 for Global Positioning System (GPS) tags for giraffes. This sole-source justification clearly explained why the unit needed these specific GPS tags and how the vendor was the only manufacturer for tags fitted for the unique bone structure of northern giraffe skulls. The price was fair and reasonable compared to prior purchase orders with the vendor and was less expensive than other GPS devices purchased in the past year from other manufacturers.

A unit Procurement Delegate from the Smithsonian Tropical Research Institute adequately justified a purchase order of \$11,102 for a patented key system. This sole-source justification clearly explained why the unit needed this particular key system, how purchasing directly from the factory eliminated the potential security vulnerability of purchasing through an intermediary vendor, and that the price was fair and reasonable based on eligible discounts.

A unit Procurement Delegate from NMNH adequately justified a purchase order of \$48,168 for a maintenance service agreement on a highly specialized instrument with proprietary components, hardware, and software. This sole-source justification clearly explained why the unit needed to have an agreement in place to maintain and repair the instrument and why the proprietary nature of the parts and instrument systems restricted potential vendors. The price was fair and reasonable based on other service contracts the unit has had for other specialized instruments.

**Unusual and Compelling Urgency Where Only One Source Can Meet the Time Requirement.** A unit Procurement Delegate from the Hirshhorn Museum and Sculpture Garden justified a sole-source purchase order of \$15,000 for a Visual Art and 3D Design Specialist using this category. In order to comply with the terms of the agreement, which had a period of performance starting February 16, 2021, and ending May 15, 2021, it was imperative that the

project began when the agreement was signed. This sole-source justification clearly explained the need to hire a Visual Art and 3D Design Specialist, why familiarity with Hirshhorn Museum and Sculpture Garden programs and the urgency to start the distance-learning program limited the search for other vendors, and it contained thorough market research on comparable pay for museum educators.

**Follow-on Purchase Requiring Use of the Previous Source for Compatibility with Previous Purchase.** Four units—Smithsonian Traveling Exhibitions (SITES), Office of Chief Information Officer, National Portrait Gallery (NPG), and the National Museum of African American History and Culture—justified sole-source purchase orders using this category.

A unit Procurement Delegate from SITES adequately justified a purchase order of \$33,043 for fabrication services. This sole-source justification clearly explained the need to replace and refurbish five copies of an exhibit and how the vendor was the only one with the time and floor space to perform the work. Additionally, as the original producer of the exhibit, the vendor holds all the construction drawings, graphic files, and replacement parts necessary to clean, reprint, and refurbish the exhibit. The price was also determined to be fair and reasonable based on past refurbishment work done by the vendor.

A unit Procurement Delegate adequately justified an Office of Chief Information Officer purchase order of \$34,024 for a software subscription. This sole-source justification clearly explained why the unit needed to use this particular calendaring product and how this vendor's customized product was suited for use across Smithsonian museums, complying with stringent security requirements. The justification also clearly explained how the price was determined to be fair and reasonable based on the original Technology Working Group assessment and market research performed at that time on other similar products.

A unit Procurement Delegate from NPG adequately justified a purchase order of \$73,943 for publication of additional copies of a book that has a shared copyright. This sole-source justification clearly explained why the unit needed additional copies of the book for the portrait tour and why the shared copyright limited the ability to consider other publishers. The price was below face-value, and the previous contract was competed and was awarded to this publisher after considering other vendors.

A unit Procurement Delegate from National Museum of African American History and Culture adequately justified a purchase order of \$14,490 for oversized countertops compatible with exclusively manufactured existing cabinetry. This sole-source justification clearly explained why the unit needed countertops compatible with existing collection storage cabinets, how the vendor is the exclusive manufacturer and supplier for the cabinets, and how competitor products are not compatible with existing cabinetry. The price was fair, reasonable, and comparable to vendors of other cabinet systems.

**Requirements of Special Knowledge and Experience.** Three units—NPG, Cooper Hewitt, Smithsonian Design Museum (CHSDM), and Center for Folklife and Cultural Heritage—justified sole-source purchase orders using this category.

A unit Procurement Delegate from NPG adequately justified a purchase order of \$74,880 for research assistance. This sole-source justification clearly explained why the unit needed this service and how, after considering six candidates recommended by five history professors, the vendor was the only individual with the specialized skills and experience required, as well as availability. The price was fair and reasonable and is less than what was paid for similar work on another exhibition.

A unit Procurement Delegate from CHSDM adequately justified a purchase order of \$32,760 for professional services researching and cataloging collection items. This sole-source justification clearly explained why the unit needed this service and how, after soliciting resumes and considering eight respondents, this vendor was selected based on qualifications. The price was determined to be fair and reasonable compared to the Federal government pay scale and to similar projects CHSDM has completed.

A unit Procurement Delegate from the Center for Folklife and Cultural Heritage adequately justified a purchase order of \$40,000 for an Asian Pacific American Music Learning Pathway Curator. This sole-source justification clearly explained why the unit needed a curator for this online education project. The vendor was one of two candidates considered and had the required knowledge of Asian Pacific Islander American music, music education experience, and availability to do the work. The network of ethnomusicologists is small, and the curatorial committee consists of long-time members of the Society of Ethnomusicology. The committee's identification of these two candidates indicates that there were no other qualified researchers. The price was fair and reasonable based on market research for similar pay rates for comparable educator positions.

Four of 30 Randomly Sampled Sole-source Purchase Orders with Other Issues

Date Purchase Order was Entered into ERP Financials	Total Amount of Purchase Order, as of May 10, 2022	Goods or Services Purchased	Unit	OCon 103 Form Completed	Allowable Category Supporting Exception to Competition		Sole-source Procurement Justification Areas			Other Issues Noted
					Special Features Available from Only One Source	Special Knowledge and Experience	Explaining the Circumstances	Search for Other Vendors	Price is Fair and Reasonable	
10/6/2020	\$10,683	Rebuild for a Cooling System	Smithsonian Facilities	○						Modified to Exceed \$10k Without Justification
2/26/2021	\$25,000	Executive Coaching Professional Services	Smithsonian Institution Traveling Exhibition Service	○						Modified to Exceed \$10k Without Justification
1/15/2021	\$12,113	Internship Program	National Museum of African American History and Culture	●		●	●	●	●	OCon 103 Form Not Required – Stipends Exempt from Competition
8/13/2021	\$57,023	Sea Lion Kelp Forest	Smithsonian's National Zoo and Conservation Biology Institute	●	●	●	●	●	●	OCon 103 Form Improperly Signed by an Unauthorized Employee

Legend: ● Completed/Selected Category/Adequate ○ Not completed

Source: Enterprise Resource Planning Financial System, *Sole Source Justification-Purchase Order File Documentation* (OCon 103) Forms, other supporting documentation, and the Office of the Inspector General determination for adequacy of sole-source justification areas and other issues noted.

Nine of 30 Randomly Sampled Sole-source Purchase Orders Were Improperly Sole-sourced

Date Purchase Order was Entered into ERP Financials	Total Amount of Purchase Order, as of May 10, 2022	Goods or Services Purchased	Unit	OCon 103 Form Completed	Allowable Category Supporting Exception to Competition		Sole-source Procurement Justification Areas			Other Issues Noted
					Unusual and Compelling Urgency	Special Knowledge and Experience	Explaining the Circumstances	Search for Other Vendors	Determination That Price is Fair and Reasonable	
2/8/2021	\$31,990	Office Administrative Support	Office of Advancement	○						Missing 103 Form; Vendor Favoritism; Per OCON Sole-source Not Appropriate
10/1/2020	\$13,255	COVID-19 Health and Safety Reminders	Smithsonian Facilities	●	●		●	●	●	Competition Not Documented; Urgency Not Supported
11/12/2020	\$46,708	Individual to Operate a Micro-Computed Tomography Instrument	National Museum of Natural History	●		●	●	●	●	Previously Competed; Vendor Favoritism
6/30/2021	\$53,780	Corals Technician	National Museum of Natural History	●		●	●	●	●	Previously Competed; Vendor Favoritism Per OCON Sole-source Not Appropriate
10/1/2020	\$141,440	Integrated Pest Management Services	National Museum of Natural History	●		●	●	●	●	Previously Competed; No Specialized Skills Required; Vendor Favoritism

Nine of 30 Randomly Sampled Sole-source Purchase Orders Were Improperly Sole-sourced (continued)

Date Purchase Order was Entered into ERP Financials	Total Amount of Purchase Order, as of May 10, 2022	Goods or Services Purchased	Unit	OCon 103 Form Completed	Allowable Category Supporting Exception to Competition		Sole-source Procurement Justification Areas			Other Issues Noted
					Unusual and Compelling Urgency	Special Knowledge and Experience	Explaining the Circumstances	Search for Other Vendors	Determination That Price is Fair and Reasonable	
2/9/2021	\$13,960	Consultant for Virtual Collections Access	National Museum of the American Indian	●		●	●	○	●	Previously Competed; No Specialized Skills Required; Vendor Favoritism
6/30/2021	\$35,007	Individual to Support a Bioanthropology Workshop	National Museum of Natural History	●	●		●	○	○	Urgency Not Supported; No Specialized Skills Required
8/30/2021	\$50,000	Workshop on the Detection of Non-Native Marine Species	Smithsonian Environmental Research Center	●	●	●	○	●	○	Special Knowledge and Experience Not Supported; Per OCON Sole-source Not Appropriate
11/12/2020	\$20,000	Promotional Video for an Upcoming Exhibit	Arts and Industries Building	●	●		●	○	○	Urgency Not Supported; Other Vendors Offer Comparable Services

Legend: ● Completed/Selected Category/Adequate ○ Inadequate ○ Not completed

Source: Enterprise Resource Planning Financial System, Sole Source Justification-Purchase Order File Documentation (OCon 103) Forms, other supporting documentation, and the Office of the Inspector General determination for adequacy of sole-source justification areas and other issues noted.

Appendix VIII

Five of 30 Randomly Sampled Sole-source Purchase Orders with No or Inadequate Sole-source Justification

Date That Purchase Order was Entered into ERP Financials	Total Amount of Purchase Order, as of May 10, 2022	Goods or Services Purchased	Unit	OCon 103 Form Completed	Allowable Category Supporting Exception to Competition			Other Required Justifications		
					Special Features Available from Only One Source	Unusual and Compelling Urgency	Follow-on Purchase Requiring Compatibility with Previous Purchase	Explanation of Circumstances	Determination of No Other Vendors	Determination Price is Fair and Reasonable
10/30/2020	\$13,606	Annual Software Subscription	Smithsonian Facilities	○						
10/15/2020	\$13,056	Professional Services for Re-Licensing Archival Films	Smithsonian Traveling Exhibitions	●	●			●	●	●
8/2/2021	\$11,265	Portable Veterinary Radiograph Unit	Smithsonian's National Zoo and Conservation Biology Institute	●	●			●	●	●
10/21/2020	\$14,009	Main Steam Valve & Pilot Valve	Smithsonian Facilities	●		●		●	●	●
7/14/2021	\$15,732	Service Agreement for Cytometer Equipment	National Museum of Natural History	●			●	●	●	●

Legend: ● Completed/Selected Category/Adequate ○ Inadequate ○ Not completed

Source: Enterprise Resource Planning Financial System, *Sole Source Justification-Purchase Order File Documentation* (OCon 103) Forms, other supporting documentation, and the Office of the Inspector General determination for adequacy of sole-source justification areas.

### Required Training Courses Addressing Sole-source Procurement

<b>OCON21 - Procurement Informational Briefing, 3-hour course</b>
Focuses on: Differences between Smithsonian contracting and purchasing, appropriate use of purchase cards, the Smithsonian Supplier Diversity Program, restrictions on purchasing, required competition, issues encountered when purchases involve intellectual property, how to ensure best value to the Smithsonian on goods and services purchased, supplier sourcing, and delegations of procurement authority and associated responsibilities.
<b>OCON22 - Simplified Acquisitions, 24-hour course</b>
Focuses on: Identifying supplier sources; statutory and regulatory requirements for purchasing; using GSA schedules; conducting market research; issuing oral and written requests for quotations; performing price analysis; inspection, acceptance, and payment; modifications, cancellations, and terminations; and the Smithsonian Supplier Diversity Program.
<b>OCON23 - Advanced Simplified Acquisitions, 24-hour course</b>
Focuses on: Common purchasing problems and how to avoid them; techniques for efficient and effective unit purchasing activities; online resources available for procurement delegates; and updates to Smithsonian purchasing procedures.
<b>OCON24 - Simplified Acquisitions Refresher, 8-hour course</b>
Focuses on: Simplified Acquisitions Procedures; processing unit requirements; Smithsonian procurement concerns; managing procurement problems; and updates to the Smithsonian purchasing procedures.

Source: The Office of the Inspector General review of Smithsonian Directive 314: *Contracting*, Procurement and Contracting Procedures Manual Part 1, and the Office of Contracting & Personal Property Management website.

Management Comments



**Smithsonian Institution**

Under Secretary for Administration

Date January 19, 2024

To Joan Mockridge, Assistant Inspector General for Audits and Acting Inspector General:

cc Thomas E. Dempsey, Director, Office of Contracting and Personal Property Management (OCon&PPM)  
 Meroe S. Park, Deputy Secretary, and Chief Operating Officer  
 Monique Chism, Under Secretary for Education  
 Kevin Gover, Under Secretary for Museums and Culture  
 Ellen Stofan, Under Secretary for Science and Research  
 Greg Bettwy, Chief of Staff, Office of the Secretary  
 Farleigh Earhart, Acting General Counsel  
 Robert Spiller, Assistant Secretary for Advancement  
 Porter N. Wilkinson, Chief of Staff to the Regents  
 Rick Flansburg, Deputy Under Secretary for Administration  
 Craig Blackwell, Chief of Staff, Office of the Deputy Secretary, and Chief Operating Officer  
 Doug Hall, Senior Advisor, Office of the Deputy Secretary, and Chief Operating Officer  
 John Lynskey, Director, Office of Finance and Accounting  
 Natascha Syré, Deputy Director, OCon&PPM  
 Catherine Chatfield, Enterprise Risk Program Manager

From Ron Cortez, Under Secretary for Administration 

Subject Response to the Formal Draft Report, Acquisition Management: Controls and Monitoring for Sole Source Purchase Orders.

Thank you for providing a copy of the Office of the Inspector General (OIG) draft audit report on the use of sole-source purchase orders at the Smithsonian. We want to express our appreciation for the dedication and hard work performed by the OIG staff, and we take very seriously the need to have proper and effective internal controls related to the Institution’s procurement operations.

**Section 1: Response to Recommendations**

We reviewed the draft report and are pleased that there were no findings of improper or potentially fraudulent procurements among the transactions the OIG auditors examined. We also recognize and agree that effective and monitoring over sole -source purchase orders created under the Simplified Acquisition Procedures is important. Accordingly, we concur with the IG recommendations that there are areas of improvement in monitoring.

To strengthen the control environment for Smithsonian purchase orders, OIG recommends that the Under Secretary for Administration ensure that the Director of the Office of Contracting & Personal Property Management take the following actions:

1. Reinforce that OCon&PPM staff adhere to the policy that OCon 103 Sole-Source Justification Forms must be reviewed and approved by unit Procurement Delegates.

**Comment:** Concur

**Actions Planned:**

Page 2

OCon&PPM will share the results of the audit with all staff in the Procurement Division and emphasize the requirement that all OCon 103 Sole-Source Justification (SSJ) Forms submitted to OCon&PPM must be reviewed and approved by unit Procurement Delegates prior to approval by OCon&PPM.

**Target Date for Completion: November 30, 2024**

2. Develop and implement written policies and procedures for purchase orders that are modified to exceed \$10,000, the sole-source justification threshold.

**Comment:** Concur

**Actions Planned:**

OCon&PPM will revise its Procurement and Contracting Procedures Manual to provide guidance for staff for purchase orders that, by modification, exceed the \$10,000 sole-source justification threshold.

**Target Date for Completion: November 30, 2024**

3. Update training materials for Procurement Delegates approving the sole-source justification forms and develop guidance to assist requestors completing the forms, including the following:
  - a. examples for well-justified sole-source purchases for each of the four allowable categories for both goods and services and
  - b. detailed examples of what constitutes an adequate justification.

**Comment:** Concur

**Actions Planned:**

OCon&PPM will update training materials for Procurement Delegates and develop guidance to assist requestors completing the forms.:

- a. OCon&PPM will develop well-justified sole source examples for each of the four allowable SSJ categories for both goods and services. These examples will be made available via the OCon&PPM Prism Website for future reference.
- b. OCon&PPM will amend existing training, or create new training, that will provide further detail of what constitutes an adequate justification.

**Target Date for Completion: November 30, 2024**

4. Revise and implement procedures to conduct compliance reviews and report to the Under Secretary on the results of these reviews, including the following:
  - a. determining whether sole-source justification forms were adequately justified and properly approved and
  - b. ensuring the accuracy of the competition data in the accounting system.

**Comment:** Concur

**Actions Planned:**

2

OCon&PPM will revise its compliance review procedures to specifically include the review of sole source procurements. The compliance procedures will examine the overall usage of sole source procurements as a percentage of all procurements within a unit to identify unit-specific trends of sole source procurements. The compliance procedures will also include reviews of select sole source procurements to examine the adequacy of grounds for the sole source, supporting documentation and the accuracy of competition data in the accounting system. The results of the compliance reviews will be provided to the Under Secretary for Administration.

**Target Date for Completion: December 31, 2024**

5. Develop and implement monitoring procedures to identify trends in sole source purchasing. This could include (1) determining the specific reports that will be used for monitoring sole-source purchase orders, (2) establishing the frequency of the reports, and (3) identifying a list of individual directors and management officials who will receive reports. In addition, develop clear guidelines on what constitutes discrepancies and how they are identified, addressed, documented, and retained for future reference.

**Comment:** Concur

**Actions Planned:**

OCon&PPM will work with the Office of the Chief Information Officer to:

- a. Develop a means to display ERP data for monitoring sole-source procurements.
- b. Develop reports that will provide information reflecting the frequency and use by SI Units on the instances of sole source procurements at the SI.

When reports on sole source purchasing are established, OCon&PPM will create an internal SOP that outlines:

- a. The level of frequency that will allow meaningful tracking and responsive actions, if necessary.
- b. Which individual directors and management officials will receive the reports.
- c. Guidance on what constitutes discrepancies and how they are identified, addressed, documented, and retained for future reference.

**Target Date for Completion: February 28, 2025**

6. Revise the procurement procedures manual to clarify the responsibility of unit Procurement Delegates to review purchase orders and to ensure the accuracy of the data entered in the accounting system.

**Comment:** Concur

**Actions Planned:**

OCon&PPM will revise its Procurement and Contracting Procedures Manual to clarify the responsibility of unit Procurement Delegates to review purchase orders and to ensure the accuracy of the data entered in the accounting system.

**Target Date for Completion: December 31, 2024**

**Section 2: OCon&PPM's response to the narrative of the audit**

The following summarizes our comments for clarification pertaining to the findings reported in the Results of the Audit section in the draft report

**Nearly Two-Thirds of Sampled Sole-Source Purchase Orders Did Not Have Adequate Justifications or Effective Review and Approval Controls (OIG Formal Draft - pages 9-23).****Nine of the 30 Randomly Sampled Sole-Source Purchase Orders Were Improperly Sole Sourced (OIG Formal Draft - pages 12-16).***Bullet 2 (pages 12-13) – OUSA Response*

We want to note that urgent and compelling circumstances dictated this procurement. The requirement for the items purchased was driven by the COVID-19 pandemic and was related to the needs of staff working on-site at that time. Given the urgency of the situation, the supplies were needed immediately. As such, the requirement was unusual and urgent and was an allowable exception to the requirement for competition. The statements from the Unit indicating the possibility of competition does not invalidate the grounds for the sole-source procurement.

*Bullet 3 (page 13-14) – OUSA Response*

The procurement was appropriately sole-sourced. The vendor possessed unique qualifications including required special knowledge and experience that satisfied the allowable category for an exception to competition, i.e., requirements of special knowledge and experience (a justification that Smithsonian allows for highly unique services such as scientific research or performances). The justification form adequately details the special knowledge and experience.

*“Over the previous year [Contractor] has both developed and received specific knowledge regarding the operation and x-ray tomographic scanning of museum objects using GE Phoenix vitomeix M micro computed tomography instrument.”*

Sole-source justifications based on special knowledge and experience do not require that an exhaustive effort be maintained to ensure that no other vendor exists to fulfill the requirement.

*Bullet 5 (page 14-15) – OUSA Response*

The work was required during the pandemic. The services were highly specialized as they involved specific experience and expertise in trapping and inspecting for insects in vulnerable collection areas. Furthermore, the proposed contractor had experience in handling natural history collections. These skills would not be available from other commercial companies. As such, the proposed contractor possessed special knowledge and experience which would be considered an allowable category for a sole-source procurement.

*Bullet 6 (pages 15-16) – OUSA Response*

The category cited by the unit for the sole-source procurement was “requirements of special knowledge and experience (a justification that Smithsonian allows for highly unique services such as scientific research or performances).” The sole-source

justification establishes that “NMAI required the expertise of a noted and experienced academic who understands how to work in collaboration with Native community members . . .” Further, the justification indicates the proposed contractor’s qualifications, experience and unique knowledge as related to the requirement.

*“[Contractor] has 20 years of experience of working collaboratively with Native community members, extensive networks in the museum anthropology field, and experience with digital initiatives including virtual training and virtual hubs to connect people and collections.”*

The proposed contractor possessed special knowledge and experience. The nature of the work is unique and could not be exactly replicated by another vendor. Further, sole-source justifications based on special knowledge and experience do not require that an exhaustive effort be maintained to ensure that no other vendor exists to fulfill the requirement.

**Five Purchase Orders Had No or Inadequate Information to Justify a Sole-Source Procurement (OIG Formal Draft - pages 17-20)**

*Bullet 3 (page 17) – OUSA Response*

The justification clearly indicates the product has special features available only from one source.

*“The MinXray HF100+ is the best/most powerful portable high frequency X-ray generator on the market and it is the only high frequency X-ray generator that is compatible with NZP’s imaging system/software.”*

*“Additionally, the MinXray HF100+ is the mostlight weight and ergonomic portable X-ray generator on the market (safest for personnel to operate).”*

As such, the justification established an allowable exception for the sole-source procurement. The reference to other portable x-ray units was used for price reasonableness and was not a statement asserting that there are other products that possess the same features.

*Bullet 5 (page 19-20) – OUSA Response*

The purchase order was for the servicing of an Accuri C flow Cytometer which is a highly specialized scientific instrument designed to measure cell characteristics. Servicing of this type of equipment is often only available from the manufacturer due to the unique characteristics of the equipment. Providing information on a warranty is irrelevant when only the manufacturer can provide maintenance. It is apparent from the justification form that this is a follow-on purchase. Only the manufacturer of the equipment could offer the required services.

In conclusion, we thank you for the opportunity to review and comment prior to the issuance of the final report. Please direct any questions you may have regarding the information included herein to Natascha Syre, OCon&PPM, for a coordinated response. Natascha may be reached via telephone at (202) 633-7269 or email to Syren@si.edu.

# OFFICE OF THE INSPECTOR GENERAL



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Visit OIG's website: <https://oig.si.edu>.

Write to:

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Smithsonian Institution

P.O. Box 37012, MRC 524

Washington, D.C. 20013-7012.

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