

Notice of Intent to Certify Sole Source

To: Interested Parties
From: David C. Johnson
CC: ITS Project Number 47062
Date: August 9, 2022
Re: Sole Source Certification Number 4489 to provide universal product code (UPC) management software for the Mississippi State Department of Health (MSDH)
Contact Name: Wesley Wright
Contact Phone Number: 601-432-8103
Contact E-mail Address: Wesley.Wright@its.ms.gov

Sole Source Certification Award Details

Regarding Information Technology Services (ITS) Sole Source Certification Number 4489 for the Mississippi State Department of Health (MSDH), please be advised that ITS intends to award GCOM Software LLC as the sole source provider of the UPC management software through August 31, 2025, in an amount not to exceed \$144,000.00. Please be advised that ITS will determine if additional enhancements, upgrades, or support are within scope during the certification period and may increase the spending authority accordingly. Should GCOM Software LLC change their name during this certification period, then ITS will determine if a recertification is necessary. For an explanation regarding Mississippi state law, policy and procedures for sole source procurements, refer to Attachment B: Sole Source Procurement Overview.

Sole Source Criteria

1. The product or services being purchased must perform a function for which no other product or source of services exist:

The MSDH WIC Program uses this software to collect UPCs and perform paperless monitoring activities related to the authorized grocery stores and pharmacies as required by federal and state guidelines. The UPCManager is the sole software program that can collect UPCs, allow MSDH to review and approve items based on federal and state guidelines, and upload the reports to the state system. MSDH uses the UPC management software to then track eWIC approved stores and WIC approved items for reporting purposes.

2. The purchaser must be able to show specific business objectives that can be met only through the unique product or services:

UPCManager is used by the WIC Program to collect UPCs and perform paperless vendor monitoring activities. UPCs are scanned at stores into the software for management, including storage, categorization, and approval/disapproval of the WIC UPC items. Paperless monitoring includes completing monitoring forms, capturing signatures, and providing copies of documentation to vendors on-site during monitoring visits and Level 3 certifications of transaction systems to ensure eWIC compatibility and approval.

3. The product or services must be available only from the manufacturer and not through resellers who could submit competitive pricing for the product or services:

UPCManager was developed by Honey Badger and sold to GCOM. GCOM warrants that no other company today has the knowledge, skill, or ability to provide maintenance for UPC Manager. The Vendor’s sole source certification letter is included as Attachment A.

Schedule

| Task | Date |
|----------------------------------|------------------------------------|
| First Advertisement Date | 08/09/22 |
| Second Advertisement Date | 08/16/22 |
| Response Deadline From Objectors | 08/23/22 at 3:00 P.M. Central Time |
| Notice of Award/No Award Posted | Not before 08/24/22 |

Project Details

The UPCManager software was purchased by the WIC Program in September 2018 to collect UPCs and perform paperless vendor monitoring activities. As the original procurement was under the \$50,000 threshold, the procurement did not go through ITS. The original contract was for the use of the software and initial training. The software is now owned by GCOM Software LLC (GCOM). The MSDH WIC Program continues to use this software for its intended purposes. Upon purchasing this software from Honey Badger, a maintenance contract was not purchased/established. At this time, a maintenance contract is needed for additional software support. MSDH currently need routine and ad hoc reports, addition and revision of forms, and support (i.e. answering of questions regarding functionality). To date, MSDH has spent \$23,661.00.

Submission Instructions and Format of Response from Objecting Parties

Interested parties who have reason to believe that the universal product code management software should not be certified as a sole source should provide information in the following format for the state to use in determining whether or not to proceed with awarding the Sole Source contract to GCOM Software LLC.

- 1.1 Interested Party Information
 - 1.1.1 Contact Name, Phone Number and email address
 - 1.1.2 Company Website URL, if applicable
- 1.2 Objection to Sole Source Certification

- 1.2.1 Interested parties must present specific objections to the Sole Source certification using the criteria listed above.
- 1.2.2 A statement regarding the Interested Party's capabilities as related to this Sole Source Certification Request.
- 1.3 Comments will be accepted at any time prior to Tuesday, August 23, 2022, at 3:00 p.m. (Central Time) to Wesley Wright at Wesley.Wright@its.ms.gov or at the Mississippi Department of Information Technology Services, 3771 Eastwood Drive, Jackson, Mississippi 39211. Responses may be delivered by hand, via regular mail, overnight delivery, e-mail or by fax. Fax number is (601) 713-6380. ITS WILL NOT BE RESPONSIBLE FOR DELAYS IN THE DELIVERY OF RESPONSES. It is solely the responsibility of the Interested Parties that responses reach ITS on time. Interested Parties may contact Wesley Wright to verify the receipt of their Responses. Responses received after the deadline will be rejected.
- 1.4 Interested Party responses should include the following information:

SUBMITTED IN RESPONSE TO
Sole Source Certification No. 4489-47062
Accepted until August 23, 2022 @ 3:00 p.m.,
ATTENTION: Wesley Wright

If you have any questions concerning the information above or if we can be of further assistance, please contact Wesley Wright at 601-432-8103 or via email at Wesley.Wright@its.ms.gov.

- Attachment A: Vendor Correspondence
- Attachment B: Sole Source Procurement Overview



Date: August 4th, 2022

Subject: UPCManager Sole Source Justification

To Whom It May Concern:

The purpose of this letter is to confirm that UPCManager is now a sole source product owned by GCOM Software LLC (GCOM). GCOM purchased all intellectual property rights in and to UPCManager. GCOM has personnel knowledgeable in the development, implementation, and maintenance of UPCManager. GCOM is the only company that has the knowledge, skill, and intellectual property rights to maintain and make enhancements to UPCManager.

UPCManager is mission critical software used by the Mississippi WIC Program for recording retail store visitations and inspections used in certification and program compliance. UPCManager has been successfully used by the Mississippi WIC Program since September 2018 and contains a vast collection of retailer and universal product lookup code (UPC) data. The Mississippi WIC Program is now in need of several modifications to UPCManager. No other providers, agents or dealers have the necessary knowledge to make the modifications without negatively impacting the retailer compliance functionality.

In conclusion, GCOM warrants that no other company today has the knowledge, skill, and ability to provide maintenance for UPCManager.

If you desire additional information, please contact me at Krushanu.Majmundar@gcomsoft.com.

Sincerely,

A handwritten signature in black ink, appearing to read "K. Majmundar", with a stylized flourish at the end.

Krushanu Majmundar
V.P. HHS Nutrition Programs
GCOM Software LLC

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Attachment B

The acquisition of information technology for all state agencies and institutions of higher learning (IHLs) is within the scope of the ITS law, found in Mississippi Code Section 25-53-1, et seq., and the policies and procedures established in accordance with this statute, found in the ITS Procurement Handbook posted on the ITS website (www.its.ms.gov).

ITS enabling legislation requires that information technology hardware, software and services be acquired in a manner that insures the maximum of competition among all manufacturers and suppliers of such equipment and services. Accordingly, ITS promotes full and open competition through the issuance of open specifications and the objective evaluation of Interested Party proposals to determine the lowest and best offering to meet an agency's or public university's business requirements. True competition protects the integrity and credibility of purchasing in the public sector and is essential in providing best value and adequate contractual protection for the purchasing entity. In certain limited situations, information technology acquisitions may be sole-sourced.

ITS utilizes the provisions of Public Purchasing Law for Sole Source and Emergency procurements of information technology. Mississippi Public Purchasing Law (Mississippi Code Section 31-7-13) specifies that noncompetitive items available from one source only be exempted from bid requirements (sole-sourced). ITS statute, in Section 25-53-5 (p), permits ITS to utilize provisions in Public Purchasing Law or regulations, when applicable.

Per Public Purchasing law, acquisitions must meet the following criteria to be authorized as sole source:

1. The product or services being purchased must perform a function for which no other product or source of services exists,
2. The purchaser must be able to show specific business objectives that can be met only through the unique product or services, AND
3. The product or services must be available only from the manufacturer and NOT through resellers who could submit competitive pricing for the product or services. The vendor's correspondence regarding this criterion for this project is included as Attachment A.

By policy as documented in the ITS Procurement Handbook, acquisitions of IT services must include the following information to be authorized as sole source:

1. An explanation about why the amount to be expended is reasonable, and
2. An explanation regarding the efforts by the purchaser to obtain the best possible price.

For state agencies, approval of all technology purchases with a lifecycle cost of \$5,000 or less, including sole source purchases, has been delegated to the agency. The ITS Procurement Limits Policies for Agencies (a section in the ITS Procurement Handbook) require a minimum of two competitive written bids or proposals for technology purchases with a lifecycle cost over \$5,000 but not over \$50,000 (not over \$25,000 for projects funded by the American Recovery and Reinvestment Act). Since, for single source items, the procuring agency will be unable to obtain two written bids, ITS must certify all sole source acquisitions of information technology with a lifecycle cost greater than \$5,000.

Institutions of Higher Learning (IHLs) or public universities have been delegated the authority to certify sole source procurements up to \$250,000 lifecycle cost under the ITS Procurement Limits Policies for IHLs (a section in the ITS Procurement Handbook). For the certification of sole source procurements delegated to the CIOs at public universities, the public university must follow ITS' Sole Source Procedure, including advertisement of the intent to award as sole source. Institutions certifying a sole source purchase must ensure the criteria listed above are met and documented in writing by the institution and the Interested Party prior to certifying a product or service as sole source. Sole source documentation must be reviewed and approved by the IHL's CIO for any sole-source certification

above \$5,000. All sole source documentation should be retained in the public university's procurement file. Sole source requests above \$250,000 lifecycle cost require ITS approval.

Other than the delegations outlined above, all sole source technology procurements must be certified by ITS.

ITS thoroughly reviews Sole Source Certification Requests, determining if competing products and/or services exist. If so, ITS conducts a competitive procurement. If ITS' review confirms the sole source, then a Sole Source advertisement is issued, giving other Interested Parties an opportunity to identify competing products and/or services. Based upon the results of the Sole Source advertisement, ITS will either certify the request as a sole source or conduct a competitive procurement.