



# Gig Harbor Fire & Medic One

**RESOLUTION 2020-03**  
**February 11, 2020**

A RESOLUTION OF THE GOVERNING BOARD OF PIERCE COUNTY FIRE PROTECTION DISTRICT FIVE DECLARING THAT PROCUREMENT OF THE U.S. DIGITAL FIRE STATION ALERTING SYSTEM IS A SOLE SOURCE PROCUREMENT AND WAIVING COMPETITIVE BIDDING OR OTHER PROCUREMENT REQUIREMENTS.

**WHEREAS**, the Board of Commissioners has been advised that the Fire Chief has been provided with a formal legal opinion by legal counsel that purchase of the U.S. Digital station alerting system is actually and legitimately limited to a single source of supply, because District Five has specified the purchase by brand name only; and

**WHEREAS**, therefore competitive bidding and/or competitive negotiation are not required and are impractical in this instance;

**NOW THEREFORE BE IT HEREBY RESOLVED AS FOLLOWS:**

Section 1.

U.S. Digital is the sole source of the station alerting system that the District has specified. The District has specified U.S. Digital by brand name, as being required, due to (1) an interest in having uniformity as between alerting systems in the various stations, and (2) the fact that U.S. Digital is the only platform used by South Sound 911, the District's dispatch agency, as it is the only system that interfaces with South Sound 911's computer aided dispatch system of hardware and software. Thus, this company is the sole source and therefore competitive bidding and competitive negotiation are impractical, not required and therefore hereby waived.

Section 2.

The legal opinion on this sole source procurement shall be maintained on file and attached to this Resolution.

*[Signatures on following page]*

Approved at a regular meeting of the Board of Fire Commissioners, Pierce County Fire Protection District No. 5, this 11<sup>th</sup> day of February, 2020.

Attest:

PIERCE COUNTY FIRE PROTECTION DISTRICT NO. 5



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District Secretary



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Chairman



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Commissioner



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Commissioner



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Commissioner



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Commissioner

Quinn & Quinn, P.S.  
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December 4, 2019  
*By Electronic Mail Only*

Eric Watson  
Gig Harbor Fire

**Re: Purchase of U.S. Digital alerting system; sole-source procurement**

Dear Chief Watson:

The purpose of this letter is to give you my recommendation as to whether Gig Harbor Fire & Medic One (hereinafter “the District”) may waive competitive bidding for purchase of a station alerting system from U.S. Digital for several of your stations. To fully answer your question, I shall (1) set forth the applicable law; (2) state the relevant facts as you have relayed them to me; and (3) apply the law to the relevant facts and give a recommendation. Ultimately, the District may waive competitive bidding in this case.

***Applicable Law***

A public agency may waive competitive bidding for purchases of equipment valued over \$40,000 when the equipment is “clearly and legitimately limited to a single source of supply.” See RCW 39.04.280 (1)(a). This is called the “sole source” exception. This exception may be invoked by resolution of the Board of the District.

The leading case on the sole source exception is still *Smith v. City of Seattle* 192 Wn.64, 72 P.2d 588 (1937). In *Smith*, the specifications called for bids for “true Mazda lamps only,” which were obtainable from only one source. After reviewing two divergent lines of authority, emanating from the highest courts of various states, the *Smith* court adopted the “liberal rule” of interpreting the sole source exception. The *Smith* court found that the public bidding statutes are meant to promote honesty and economy in the public interest, but not to deprive the public of procuring the “best article available.”

Quinn and Quinn, P.S.  
December 4, 2019  
Letter to Eric Watson Re Sole Source

In AGO 61-62, No. 24, the Washington State Attorney General (“AG”) pointed out that the holding in *Smith* is broad enough to support specification of *brand name* when the public interest is served thereby. The AG ultimately opined that a public agency may validly declare a sole-source purchase by “listing items by trade name, brand name, or name of manufacturer.” In AGLO 1971, No. 128, the AG referred to the *Smith* case when finding that a sole course procurement declared by brand name is acceptable if agency officials “have not drafted these specifications arbitrarily and capriciously, and are acting in good faith.”

***Relevant Facts***

The District seeks to purchase an alerting system for several stations, so that, when an alarm is in progress, and South Sound 911—your dispatch agency—wishes to tone out a call in the appropriate station or stations, it can do so in as efficient manner as possible. You have informed the undersigned that you already have the U.S. Digital alerting system in one of your stations. You have further informed me that South Sound 911 has told you that U.S. Digital is the supported and standard platform for digital dispatching. The Deputy Director of South Sound 911 has informed you that “U.S. Digital is the only fire station alerting system that interfaces with our CAD system and is operational at this time.” To me, this means that at the present time, only the U.S. Digital product or system that will work for you, as long as South Sound 911 is your dispatch agency. Therefore, you can legally specify that product by brand name.

***Application of the Law to the Facts and Recommendation***

Competitive bidding in this case would be impractical and therefore the District may waive competitive bidding. This is so for the following reasons:

- 1) U.S. Digital provides the only fire-station alerting system that you can use, as a “customer” of South Sound 911;
- 2) If you specify by brand name in this case, the District would be well within its discretion and clearly acting in good faith, and not arbitrarily and capriciously;
- 3) In the interest of uniformity, since you already have that system in one of your stations, purchasing the same system for the other stations would be recommended.

Consequently, in this case, a purchase of the U.S. Digital station alerting system would be clearly and legitimately limited to a single source of supply, pursuant to RCW 39.04.280 (1)(a). Therefore, the District may waive competitive bidding in this case, by resolution. I will provide you with a resolution to accomplish that. Please inform me if you have any questions or concerns.

Very Truly Yours,

Joseph F. Quinn