

**Michigan Department of Transportation  
Local Agency Program**

**Procedure for Using Sole Source or Proprietary Items  
on Federally Funded Projects**

August 2012 (Revised July 2022)

Occasionally, a local agency needs to request a specific, proprietary, or sole source product for use on a federally funded construction project to maintain function, aesthetics, or logistics of a facility.

The Michigan Department of Transportation (MDOT) Road Design Manual Chapter 11.08 specifically addresses proprietary items for approval as a sole source item. The MDOT Road Design Manual can be found at this link: [MDOT English Road Design Manual \(state.mi.us\)](http://state.mi.us)

The MDOT Local Agency Program (LAP) procedure for reviewing and approving such requests for sole source specifications is as follows:

1. Submit a completed [MDOT Form 0304](#) to the LAP Staff Engineer for approval. Justification for the request could include, but is not limited to:
  - a) A description of how the proprietary product will benefit the public.
  - b) The unique needs that are being addressed and result in no equally suitable alternative.
  - c) Identified safety locations or critical decision points that would justify a higher standard.
  - d) An evaluation of the pool of potential products, and a description of why these products cannot meet the contracting agency's needs.
  - e) An estimate of additional costs, if any, incurred because of this proprietary product requirement.
2. Submit a draft special provision indicating which manufacturer(s) will be acceptable for the project, including the proposed specialty pay items associated with the work.
3. The LAP Staff Engineer will review the request and special provision, then indicate whether the request is acceptable or if additional information is required.
4. The local agency will revise and resubmit documentation until the request is acceptable.
5. The local agency will incorporate the sole source special provision into the final proposal and include the specialty pay item(s) with estimated cost in the final construction cost estimate.

FHWA policy prohibits contracting agencies from requiring the use of a patented or proprietary material, specification, or process, unless:

- The item is purchased or obtained through competitive bidding with equally suitable proprietary and non-proprietary products from multiple manufacturers unpatented items, or
- The contracting agency certifies either that the proprietary or patented item is either essential for synchronization with the existing highway facilities or that no equally suitable alternative exists, or
- The item is used for research or for a special type of construction on relatively short sections of road for experimental purposes.
  - In such cases, the contracting agency shall submit a request for experimental use on [MDOT Form 0304](#) to the LAP Staff Engineer and include a work plan outlining objectives, measurements, and evaluations of the experiment. MDOT and FHWA approval is required for experimental features.