**Instruction – Justification for Proprietary Acquisition**

**(Sole Source)**

General Information

Enter today’s date, College/Division name, Department name, and Requisition Number with appropriate Business Unit.

Product/Service Information

Enter a brief description of goods/services to be procured. Enter Make/Model if it is for products. Then, enter the estimated amount.

Vendor Information

Enter Vendor Name, vendor contact person’s name, phone number, and e-mail. Indicate if the vendor is manufacturer, distributor, or service provider.

Justification

The department is required to provide a justification that supports their purchase under a sole source classification. Provide a through and detailed information in each box. Insufficient sole source justifications will be sent back to the department.

**Specifications/Unique Features**

This is where you describe special features of the goods/services. Describe how the goods/services will be used in your business function, compare them with standard goods/services, point out the differences in features, and explain why they need to be specific and unique in order to justify your purchase under the sole source category.

**Competing Products/Services**

You will provide possible vendors that provide similar items or items with similar functions. Then, provide reasons that their products/services are not satisfactory.

**Applicable Justification**

Checkmark the category best describe your justification.

* Sole Vendor

The named vendor is the only one that can produce required goods or services. For example, the vendor may be a manufacturer of specialized equipment that is not available by any other vendors.

* Proprietary

The named vendor is the only one that can provide required products or services that meets university requirements. For example, the vendor may be an only authorized distributor/service provider of particular products. In the Further Clarification section, you will need to explain how the requirements affect the vendor choice.

* Contractual

The named vendor needs to be utilized in compliance with the contract. For example, if you have a contract with a consulting firm, and the contract states that the firm will be using a software developed by a particular vendor for their analysis, the vendor will be used per the contract. In the Further Clarification section, you will need to explain the contractual requirements.

* Compatibility

The named vendor is the only one that can provide products or services that are compatible to the existing system or products. For instance, if you are expanding the open space in the student service center and need additional furniture, the vendor that provided customized furniture previously may be used the space will have the same type of furniture. In the Further Clarification section, you will need to explain why compatibility is critical.

* Best Value

The named vendor is the single supplier that meets the best value criteria in accordance with Texas Education Code 51.9335(b). The following are the factors considered to determine “best value”:

(1) the purchase price;

(2) the reputation of the vendor and of the vendor's goods or services;

(3) the quality of the vendor's goods or services;

(4) the extent to which the goods or services meet the institution's needs;

(5) the vendor's past relationship with the institution;

(6) the impact on the ability of the institution to comply with laws and rules relating to historically underutilized businesses and to the procurement of goods and services from persons with disabilities;

(7) the total long-term cost to the institution of acquiring the vendor's goods or services;

(8) any other relevant factor that a private business entity would consider in selecting a vendor; and

(9) the use of material in construction or repair to real property that is not proprietary to a single vendor unless the institution provides written justification in the request for bids for use of the unique material specified.

For example, your department has a database currently used by system-wide users. To change the vendor, considerable hours/costs are needed to research, modify, communicate, test, implement, and provide training for the new vendor products/services. There may be a significant adversities for business operations during the implementation period. In the Further Clarification section, you will need to provide a detailed cost and other value analysis and explain risks or consequences for not using the vendor.

Note for Construction Contracts:

All contracts for construction must be proceeded in accordance with Texas Education Code 51.778. Accordingly, sole source justifications may not be accepted.

Sec. 51.778.  COMPETITIVE BIDDING ON CONTRACTS**.**

1. Except as otherwise provided by this subchapter, all contracts for the construction or erection of permanent improvements at an institution are void unless made after advertising for bids for the contracts in a manner prescribed by the institution's board, receiving sealed competitive bids, and awarding of the contract to the lowest responsible bidder by the board.
2. If a contract awarded under sealed competitive bidding is to be recommended for award to other than the lowest bidder, any bidder making a lower bid than the recommended bid shall be notified of the recommendation for award and shall be allowed an opportunity before the award to present evidence to the board or its designated representative as to the responsibility of that bidder.

**Further Clarification (Required)**

This is where you provide additional explanation for the justification reason you selected (i.e., Sole Vendor, Proprietary, Contractual, Compatibility, or Best Value). Provide detailed and through explanations to substantiate your justification. The department must complete the information in the Further Clarification field. If the information is missing, Purchasing will send back the justification request to the department.

The form should be completed and e-mailed to the appropriate Purchasing e-mail box for the buyers assigned to your College/Division (see <https://uh.edu/office-of-finance/purchasing/faculty-staff-resources/buyer-designations/> for appropriate Purchasing e-mail address).