



HEREBY CERTIFY THAT:

- 1) I am an approved department representative, and am aware of the District's requirements for competitive bidding, as well as the criteria for justification for sole source/brand purchasing.
- 2) I have gathered the required technical information and have made a concentrated effort to review comparable and/or equal equipment. Copies are attached.
- 3) There is validity as to the information contained herein.
- 4) There is justification for sole source/sole brand purchasing noted above as it meets the District's criteria.
- 5) A sole source/brand purchase in this case would withstand a possible audit or a vendor's protest.
- 6) No Conflict of Interest exists: Pursuant to the California Public Contract Code (Sections 10516-10517), a CCSF employee is unable to enter into a vendor relationship with the CCSF, unless that employee has teaching or research responsibilities. Former CCSF employees cannot sell goods or services to the CCSF if s/he engaged in any part of the decision-making process while a CCSF employee for a period of 24 months after having left the CCSF. A former CCSF employee cannot enter into a contract with any CCSF department if s/he was employed in that department in a policymaking position in the same general subject area within the 12-month period prior to his or her retirement, up to a period of 12 months after such retirement. (a) no person, firm, or subsidiary thereof who has been awarded a consulting services contract may submit a bid for, nor be awarded a contract for the provision of services, procurement of goods or supplies, or any other related action that is required, suggested, or otherwise deemed appropriate in the end product of the consulting services contract.

**This form is required to be signed by a VC, ACP or Dean**

Signature: \_\_\_\_\_

Print Name & Title: \_\_\_\_\_

Date: \_\_\_\_\_

**PURCHASING OFFICE USE ONLY:**

APPROVED: \_\_\_\_\_ NOT APPROVED: \_\_\_\_\_

PURCHASING: \_\_\_\_\_ DATE: \_\_\_\_\_

COMMENTS: \_\_\_\_\_  
\_\_\_\_\_

## SOLE SOURCE JUSTIFICATION

### **A. OVERVIEW:**

Purchasing recognizes that departments often invest a great deal of time and effort in selecting a source or brand, prior to submitting a requisition to Purchasing. Even though the department's review process prior to the submittal of a requisition may be sound, departments may unknowingly discourage free and open competition by requesting a single vendor or product. Additionally, the college is bound by local and state laws of which faculty and staff may be unaware. The lack of an effective means of communication between Buyer and requesting departments can lead to lost time in completing the acquisition of a product or service. Purchasing can be an effective partner in a competitive review process given adequate time and involvement in your requirement definitions.

In an effort to expedite sole source/brand requisition requests through Purchasing, we would encourage you to review the Criteria for Sole Source/Brand form herein. If you feel your request meets such criteria, follow the instructions in filling out the form and attach it to your requisition. If the sole source/brand justification is accepted by Purchasing, the requisition will be processed for the sole source/brand indicated.

This is an internal review process. Departments are requested to use discretion in their discussion with vendors so as not to compromise any competitive advantage the Buyer may utilize, regardless of the acceptance or rejection of the sole source/brand justification.

Rather than merely a shift of the review burden, this process acknowledges the significant effort a department may undertake when identifying a vendor or brand, and provides you with the method by which to make your requisitioning efforts more efficient under sole source/brand conditions.

Purchasing will advise you when a particular competitive review process may both serve the District better and/or be required by governing law.

In order for us to accept a request for sole source/sole brand the certification, the form referenced herein should be made a part of your justification and be signed by an authorized department representative. This certification will remain on file for audit purposes.

### **B. PROCEDURE:**

Sole source/brand purchasing is an exception to the normal procurement function and requires a detailed justification. In processing sole source/sole brand requests for supplies, services and/or equipment, Purchasing adheres to and is governed by the principles set forth in the CA Education Code, Public Contract Code, and by the Board of Trustees. As such, our decision is final.

If you are requesting a particular vendor, brand or product, you must make this fact clear on your requisition. Such a request should not be made unless the

request is reasonable and appropriately justified to meet legal requirements and can withstand a possible audit. The District's requirements and the format for submitting such requests are contained herein. Please make copies of the Criteria for Sole Source/Sole Brand form for your future use.

The following factors **DO NOT** apply to sole source/sole brand requests and should not be included in your sole source/sole brand justification. They will not be considered and only tend to confuse the evaluation process.

1. Personal preference for product or vendor.
2. Cost, vendor performance, and local service {this may be considered an award factor in competitive bidding).
3. Features which exceed the minimum department requirements.
4. Explanation for the actual need and basic use for the equipment, unless the information relates to a request for unique factors (refer to questions 2 and 3 from the Criteria for Sole Source/Sole Brand form).
5. A request for no substitution submitted without justification. This is a sole source/sole brand request requiring detailed justification including established sole source/sole brand criteria.

**C. PURCHASE ORDERS AND CONTRACTS NOT REQUIRING BIDS:**

- A. **SOLE SOURCE:** The restriction contained in this policy requiring bids, shall not apply in cases where purchases or contracts are for items which may only be purchased from a single or sole source manufacturer or distributor and no reasonable similar alternative exists.
- B. **CONTRACTS NOT SUITED TO COMPETITIVE BIDDING.** Contracts which by their nature are not suited to award by competitive bidding shall not be subject to the competitive bidding requirements of this policy. These contracts include:
  1. Contracts for items that may only be purchased from a single or sole source or provider.
  2. Contracts for additions to and repairs and maintenance of equipment owned by the City which may be more efficiently added to, repaired or maintained by a particular person or firm.
  3. Contracts for equipment which, by reason of the training of City personnel or the inventory of replacement parts maintained by the City, is more compatible with the existing equipment owned by the City.
- C. **UTILITIES PURCHASE:** Utility services such as water, electric power, natural gas, telephone and telegraph, except when alternative supplies or services are available.
- D. **COURT FEES:** Witness and jury fees and other payments as may be ordered by the court.
- E. **MEDICINES OR MEDICAL SUPPLIES OR SERVICES:** Medicines or medical supplies or services which are not generic in nature and which would not be available from other sources through competitive bid or negotiation.
- F. **EMERGENCY CONDITION:** When a public emergency will not tolerate a delay for advertising or the solicitation of bids due to the urgency of the incident, and it is determined by the City Manager or the City Council that the situation meets the definition of an emergency situation which creates a threat to public health, welfare, or safety such as, may arise by reason of flood, epidemics, riots, equipment failures, infrastructure failures, earthquakes, or such other reason as may be declared an emergency by the City Manager or City Council formal bidding may be dispensed with. The existence of such condition must create an immediate need for materials, services, or construction that cannot be met through normal procurement methods, and the lack of which would seriously threaten the function of City Government, the preservation or protection of public or private property, or the health or safety of any person, and the following will apply:

1. Purchases under this paragraph shall be based on a need that is compelling and of unusual urgency, such as when the City would be seriously injured financially or otherwise if the personal property or services were not furnished by a certain time, and when they could not be procured by that time by means of advertising, bidding and or solicitations of quotations as previously provided.
2. Emergency procurement shall be limited to those supplies, services, or construction necessary to meet the emergency whenever practical; approval by the City Council shall be obtained.
3. The department for whom the emergency purchases are made shall, as soon as practical, file a written report with the City Manager, which shall contain the following information:
  - a. The conditions which created the emergency and a description of the threat to the health, welfare or safety of the public pursuant to finding that an emergency exists;
  - b. The basis for the selection of the particular contractor or supplier and a description of what efforts were utilized to identify and contact alternative suppliers or contractors;
  - c. The contractors or supplier's name and address, along with a list of the supplies, materials, services or construction procured under the contract.
  - d. Completed and signed purchase orders with attached invoices requesting payment for the emergency purchases.
4. The Chancellor shall review the report submitted and, if appropriate, shall declare the condition an emergency and shall approve the report and requisitions and authorize the payment of the emergency purchases.
  - a. The Chancellor is empowered to declare a state of emergency when, in her/his opinion, such condition(s), as set out above exist(s), and, when the amount to be expended to meet such emergency does not exceed \$25,000 unless it is in the case of a regional disaster.
  - b. Where the Chancellor finds and declares an emergency, under paragraph 4a, above, the Chancellor, in conjunction with the department for whom the emergency purchases are made, shall, as soon as practical, file a written report with the Mayor and City Council which shall contain the following information:
    - (1) The conditions which created the emergency and a description of the threat to the health, welfare or safety of the public pursuant to finding that an emergency exists;
    - (2) The basis for the selection of the particular contractor or supplier and a description of what efforts were utilized to identify and contact alternative suppliers or contractors;
    - (3) The contractors or supplier's name and address, along with a list of the supplies, materials, services or construction procured under the contract.
    - (4) Completed signed purchase orders with attached invoices requesting payment for the emergency purchases.

The CCSF's Board of Trustees shall review the report submitted, and if appropriate, shall ratify the City Manager's declaration of the condition an emergency, and shall approve the report and requisitions and authorize the payment of the emergency purchases.

G. STATE PROCUREMENT CONTRACTS:

1. Purchases, which are made from vendors who are under State of California Procurement contract, and when the price is that price (or a lower price than that) established by the contract awarded by the State after competitive bidding pursuant to the California Procurement Code.
2. Purchases which are made from vendors who, within the past sixty (60) days, have been under State of California procurement contract, and when the price offered is the price established by the former contract awarded by the State after competitive bidding pursuant to the California Procurement Code or less.

H. GOVERNMENT GOODS AND SERVICES: For goods and services made available by any federal, state or local unit of government, or association of government, when those goods or services were acquired in compliance with the provisions of this resolution.

I. FRINGE BENEFITS: Purchases of services or benefits that are part of any personnel fringe benefit agreements that are authorized by the City Council may be negotiated between the City and the service or benefit vendor.

J. CCSF OWNED CONCESSION OR RECREATION FACILITY: Notwithstanding the provisions of Section 9, below, purchases or contracts for supplies, materials or inventory to be used for resale at any City-owned and or operated concession or recreation facility.

K. PUBLIC AUCTION AND OTHER SIMILAR CIRCUMSTANCES: Supplies, materials or equipment which can be purchased at any public auction, closeout sale, bankruptcy sale or other similar sale, and it is found that a purchase at any such auction or sale may be made at a cost below the market cost in the community.

L. EXCHANGE OF SUPPLIES, MATERIAL, OR EQUIPMENT: Exchanges of supplies, material or equipment between the City and any other entity, which are not by sale or auction.

M. CALIFORNIA CORRECTIONAL INDUSTRIES DIVISION: Supplies, material or equipment produced by the California Correctional Industries Division.

N. CERTAIN PURCHASES: Certain purchases are not readily adaptable to the open market and formal bidding process. These purchases are generally for items where the competitive bid process or obtaining quotes is not applicable or where a check is required to accompany the order. Following is a list of allowable exemptions:

- Advertisements and Notices
- Courier/Delivery/Messenger
- Dept. Purchases under \$3,000
- Emergency Fuel Purchases
- Insurance Claims and Premiums
- Medical Payments (Physicians, lab)
- Membership Dues
- Payments to Other Governmental Units
- Petty Cash Replenishment
- Property Rentals
- Real Property/Easement Acquisition
- Subscriptions
- Trade Circulars
- Travel Expense/Advances
- On-going software upgrades/support services.