

## GUIDE TO SUBMITTING SOLE SOURCE JUSTIFICATIONS

**Definition of Sole Source Procurement:** Sole source procurement refers to those purchases where there is only one supplier that can provide the product you wish to procure. Usually these are unique products that cannot be found anywhere, however, only thru one supplier/manufacturer (ex., a proprietary designed).

By submitting a Sole Source Justification request, you, as the Requestor, acknowledge that the requested item is the only acceptable material, product, thing or service that can ensure the District's academic, curriculum and/or research meets the standards advocated by an identified academic standard (center or organization) and enables students to learn and participate in the field of said academic study, curriculum and/or reserach.

**What Constitutes a Valid Sole Source Justification?** The simple answer is: It must contain the facts that show there is only one source of supply for your purchase requirement. If your requirement is available from more than one source, it is not considered a sole source.

The Requester must furnish the following on the Sole Source Justification Form:

1. State the specific features or performance specifications that are essential or required. (i.e., Exterior / interior size or dimensions are only acceptable as justification if the space available is critical.) Please note: Sole source justifications, written by the vendor / manufacturer, are not acceptable. The Requester must complete the Sole Source Justification form.
2. The Requester must specify the names of vendors who can furnish similar products and which of these vendors were contacted, along with a description of the essential requirement(s) that other vendors cannot furnish.
3. If your requirements involve purchasing a commodity that must be compatible with existing equipment and is available from only one source of supply, the Requester must specifically explain this in the Sole Source Justification form and furnish the previous purchase order number(s) for the existing equipment.
4. A written quote must be furnished, which indicates what discount(s) the District is receiving. A quote indicating a discount does not negate the Buyer from performing a price analysis. If the discount amount or percentage is not given on the quote, the Buyer may need to contact the vendor for that information in order to complete a price analysis. (e.g., All purchases over \$3,000 or greater require three quotes – See Purchasing Guidelines). These requirements must be satisfied prior to a purchase order being issued.

Please remember that what the Requester would like to have does not constitute adequate justification for a sole source. A Requester's preference for one vendor/product following market studies, quotations, demonstrations / testing, does not constitute a sole source.

### **Next Steps:**

- Buyer will conduct a thorough market analysis/research to ensure no other vendor/product is available.
- Buyer will submit a Request for Quotes via Public Purchase
- If no responses, and research from Buyer presents the request to be a true Sole Source, Buyer will work with Requester to submit a Board Resolution and Communication to ensure proper protocol is legally met and approved by the District's Board.

Note: The timeline for a Sole Source could take up to 90 – 120 days.

### **Bidding and Proposals**

Purchase requests that meet or exceed the bid threshold (see Purchasing Guidelines) will require Purchasing to request bids from other vendors. If any of those other vendors reply with a bid that meets the essential requirements supplied by the Requester, Purchasing must then proceed with an Advertised Competitive Bid Process. See the following CA State requirements:

- PCC § 3400 states that a community college district cannot limit “the bidding, directly or indirectly, to any one specific concern,” when letting “contracts for the construction, alteration, or repair of public works”;
- Public Contract Code section 20651 states that a community college district is required to competitively bid any purchase of equipment with a contract value over \$86,000 or any procurement of public works with a contract value over \$15,000; and
- California law provides that, “Where competitive proposals work an incongruity and are unavailing as affecting the final result or where they do not produce any advantage . . . the statute requiring competitive bidding does not apply” (*Hiller v. City of Los Angeles* (1961) 197 Cal.App.2d 685, 694), and that public entities need not comply with competitive bidding processes where to do so would be impractical or futile and would not serve the purposes of competitive bidding. (*Los Angeles Dredging Company v. City of Long Beach* (1930) 2 Cal. 348; *Graydon v. Pasadena Redevelopment Agency* (1980) 104 Cal.App.3d 63.

We understand how complex a Sole Source Justification request can be. We strongly suggest that you please contact your division's assigned Buyer or [purchasing@avc.edu](mailto:purchasing@avc.edu) if you have further questions concerning sole sourcing.



# Sole Source Justification Form

In accordance with the following CA State requirements:

- PCC § 3400 states that a community college district cannot limit “the bidding, directly or indirectly, to any one specific concern,” when letting “contracts for the construction, alteration, or repair of public works”;
- Public Contract Code section 20651 states that a community college district is required to competitively bid any purchase of equipment with a contract value over \$86,000 or any procurement of public works with a contract value over \$15,000; and
- California law provides that, “Where competitive proposals work an incongruity and are unavailing as affecting the final result or where they do not produce any advantage . . . the statute requiring competitive bidding does not apply” (*Hiller v. City of Los Angeles* (1961) 197 Cal.App.2d 685, 694), and that public entities need not comply with competitive bidding processes where to do so would be impractical or futile and would not serve the purposes of competitive bidding. (*Los Angeles Dredging Company v. City of Long Beach* (1930) 2 Cal. 348; *Graydon v. Pasadena Redevelopment Agency* (1980) 104 Cal.App.3d 63.

If Requester deems its request to be a true Sole Source, Requester must provide a minimum of one (1) competitive quote that indicates discount(s) District is receiving along with completed Sole Source Justification form to Purchasing for review and approval. Competitive quotes are the best way to show that the price is “fair and reasonable”. If competitive quotes were not secured, then there should be an explanation of the method used to determine the reasonableness of the price and technical reasons for selecting the suggested supplier. Completion of this form does not guarantee an automatic approval of the “Sole Source” justification. Purchasing will make the determination if it is a justifiable sole source purchase. Please complete the following (additional pages may be attached for further documentation):

Purchase Requisition # \_\_\_\_\_ Date: \_\_\_\_\_  
 Requester’s Name: \_\_\_\_\_ Phone: \_\_\_\_\_  
 Department: \_\_\_\_\_ E-mail: \_\_\_\_\_  
 Requester’s Signature \_\_\_\_\_ Dean’s Signature \_\_\_\_\_

**NOTE: Sole Source Justification form must be submitted to the Purchasing Department for review and final approval. (See Guide to Submitting Sole Source Justification for details on process and timeline).**

**I am requesting this purchase as a sole source because (check if applies):**

- Vendor is sole provider of licensed or patented goods or services
- Match existing/compatible with my existing equipment:  
 SJDC ASSET # \_\_\_\_\_ Serial # \_\_\_\_\_
- As a replacement or repair part  to match existing equipment (standards)
- As an accessory or option
- As a component to be interfaced with the existing equipment

Vendor is a sole provider of factory-authorized warranty service

Maintenance is from the original equipment manufacturer

**The purchase will be used for:**  Classroom/teaching  Maintenance/repair

Other (specify) \_\_\_\_\_

**Name of Academic, Currulum and/or Research:** \_\_\_\_\_

**The purchase will meet the standards advocated by the following (provide the name(s) of center/organization):** \_\_\_\_\_



## Sole Source Justification Form

**What are the unique performance factors of the product specified (list each factor individually with an explanation of its purpose?)**

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**Why are these specific factors required?**

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**Names of other Vendors who can furnish similar products:**

<b>Vendor Name</b>	<b>Essential Requirement(s) Vendor Unable to Provide</b>
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**What other products have been examined and rejected and why?**

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**Why is the acquisition restricted to this good/service/supplier?**

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**Provide the background of events leading to this acquisition.**

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## Sole Source Justification Form

**Describe the uniqueness of the acquisition (why was the good/service/supplier chosen?)**

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**What other Community College Districts have utilized this vendor as a Sole Source Purchase?**

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**What are the consequence of not purchasing the good/service or contracting with the proposed supplier?**

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**What market research was conducted to substantiate no competition, including evaluation of other items considered?** (Provide a narrative of your efforts to identify other similar or appropriate goods/services, including a summary of how the department concluded that such alternatives are either inappropriate or unavailable, the names, phone numbers and addresses of suppliers contacted and the reasons for not considering them must be included or an explanation of why the survey or effort to identify other goods/services was not performed. Be sure to specify the reasons for not meeting specifications.)

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**Please describe and provide estimates and methodology for total ownership costs that will be required each year beyond this initial acquisition.**

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# Sole Source Justification Form

**Describe any cost savings realized or costs avoided by acquiring the goods/services from this supplier.**

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**What are the consequences of not having this sole source approved and going out for full and open competition?** (Describe in detail the impact to the department and to the programs)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

***Purchasing Department Use Only***

**Buyer's Sole Source verification research/results:**

\_\_\_\_\_ Confirmed (specify or attach backup documents)      \_\_\_\_\_ Denied (specify reason for denial)

Request for Quotes submitted date (Public Purchase): \_\_\_\_\_

Responses? Y  No

List responses: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Verified other Community College Districts that have utilized vendor as sole source

If responses ID'd as in-adequate, submit draft of Sole Source Justification Board Resolution and Communication to Requester for Board approval on: \_\_\_\_\_ (Month)

Buyer's name: \_\_\_\_\_ Date: \_\_\_\_\_

Purchasing Manager: \_\_\_\_\_ Date: \_\_\_\_\_



**ATTACHMENT 1- GENERAL SPECIFICATIONS**

List the general specifications for your Sole Source Justification request.

NOTE: Do not provide specifications from a specific vendor as this can disadvantage & limit the number of vendors who could provide a bid. It is imperative that the District demonstrates a fair and impartial competitive acquisition process.