

Proprietary Purchase Justification

This form, or a formal justification on agency letterhead, may be used to document the Proprietary Purchase Justification.

A proprietary purchase is one where the specifications or conditions of the proposed purchase are proprietary to one vendor and do not permit an equivalent product or service to be supplied. The term "proprietary" refers to a product or service that has a distinctive feature or characteristic which is not shared or provided by competing or similar products or services.

When a specification for a proposed purchase is drafted so narrowly that there is only one viable product or one vendor eligible for contract award, the agency must document the rationale for the restrictive specification by placing a written Proprietary Purchase Justification in the procurement file.

For more information, reference the Texas Procurement and Contract Management Guide, Texas Government Code §2155.067, 34 TAC §20.209, and 34 TAC §20.25(b)(45)

Contact Information

Agency		Program/Dept/Division
Contact Name	Email	Phone #

Purchase Information

Competitive

The specified product or service is available for purchase through more than one vendor e.g., dealers, distributors, resellers, authorized service providers. Examples of competitive proprietary purchases include brand-specific replacement parts for equipment available through multiple Original Equipment Manufacturer authorized dealers and software that a software publisher makes available to the public through several resellers.

Sole Source

The specified product or service is only available for purchase through a single vendor e.g., manufacturer, publisher, service provider. Examples of sole source proprietary purchases include a back issue of a magazine available from only the publisher and an educational conference available from only the conference sponsor.

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Vendor Name		
Requisition Number (if known)	Purchase Amount	NOTE: Purchase amount includes <u>ALL</u> anticipated renewals and extensions

A. Describe the product or service the agency proposes to purchase, and provide a statement regarding the agency's business need and planned use.

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B. Explain why the agency specifications for the product or service are written as they are, and why those specifications are necessary to accomplish the agency's goal for the procurement.

C. State the reason that no other competing products or services will satisfy the need of the agency and provide examples of the technical, practical, or operational risks that would occur if competing products or services are selected. *(See Examples of Non-Compliant Proposed Proprietary Purchase Justifications below)*

Examples of Non-Compliant Proprietary Purchase Justifications

- "Our professionals have identified [vendor's product] as the most durable, safe, and efficient system of its kind."
- "[The vendor] has claimed their technology is proprietary and we agree."
- "[Vendor] is the exclusive patent holder of US Patents [X, Y, and Z]. No other manufacturer can legally produce [the product] with the same properties."
- "Our agency has performed research [on these products]. The manufacturer can provide [a range of products] that will enable [our agency] to [meet our statutory requirement]."
- This vendor is our incumbent and only their products will work with the equipment we already have.
- "Our staff tested [these products] against others, and only [the identified products] that passed our rigorous qualification process were placed on the agency's approved products list. We can only buy products on our approved products list; therefore, these products are proprietary."
- "The [brand] furniture purchased will be used to provide a comfortable and aesthetically pleasing work environment for employees' working in the office so they may provide customers frequenting the building excellent customer service in a welcoming atmosphere."

Agency Approval – Signature of an individual to whom signature authority has been properly delegated in the Agency Procurement Plan on file with the Statewide Procurement Division

Agency Approver Signature (REQUIRED)	Date (MM/DD/YYYY)	Printed Name