Exclusive Acquisition Justification (EAJ) Instructions

A. Introduction

Most purchases at The University of Texas Health Science Center San Antonio are made on a competitive basis. However, there may be times when competition does not exist or it is in the university’s best interest to use a particular product or service. Since these purchases eliminate competition, the university requires that justification be submitted with any purchase for non-competitive purchases over $15,000, or over $5,000 with the use of Federal Funds. The justification does not require departments to defend the need for the product or service, but it is necessary to:

1. Identify the unique features of the particular product or service.
2. Explain the need for the unique features of the product or service.
3. Explain why other products/vendors are not acceptable.

B. Types of Exclusive Acquisitions

There are four categories of purchases that require exclusive acquisition justification.

1. Proprietary (as defined in Texas Government Code 2155.067)
   Justification for a proprietary purchase is used when the goods or services are only available through a single source. The Purchasing Office establishes that the selection meets best value criteria. Some examples include:
   a. Equipment maintenance or repair parts from the original equipment manufacturer (OEM).
   b. Pharmaceuticals or chemical reagents that are only available through one supplier.
   c. Software or software maintenance that is only available through one software supplier.

2. Best Value (as defined in Texas Government Code 2155.067)
   Justification for a best-value purchase is used when it is in the best interest of the university to use the particular product or service, but there is actually more than one source available. The Purchasing Office establishes that the selection meets best-value criteria. Some examples include:
   a. Specific reagents used in long-term experiments. For continuity of research, a lab would need to continue using the same products for the duration of the experiment.
   b. Compatibility with existing equipment. A laboratory is purchasing a new component from a supplier to add to an existing piece of equipment to enhance its quality/performance.
   c. A contract or grant specifically names a supplier, product, or service that is required for the university to use.
3. **Emergency Purchase** (as defined in *Texas Government Code 2155.086*)

Justification for an emergency purchase occurs as the result of an unforeseen circumstance that requires an immediate response to prevent financial or operational damage to the university. If a situation arises in which routine compliance with procurement practice is impractical and not in the university’s best interest, an emergency purchase may be warranted to prevent a hazard to life, health, safety, welfare, or property, or to avoid undue additional cost to the university. Emergency purchases of goods or services are performed to restore a system to its original intended functionality and must not exceed the scope or duration of the emergency. The Purchasing Office will establish that the selection meets best value criteria.

4. **Professional Services** (as defined in *Texas Government Code 2254.002*)

Professional service providers must normally be pre-qualified based upon a Request for Qualifications (RFQ). The contract award is based on negotiation with the most qualified provider. When a professional service is required and no pre-qualification has been established, a contract award must be justified as an exclusive acquisition to establish that the selection meets best-value criteria.

   a. Professional service providers are normally licensed or certified and the scope of their services include:

      i. accounting
      ii. architecture
      iii. landscape architecture
      iv. land surveying
      v. medicine
      vi. optometry
      vii. professional engineering
      viii. real estate appraising
      ix. professional nursing

   b. A provider of professional services may not be selected on the basis of competitive bids, but rather on basis of demonstrated competence and qualifications to perform the service and for a fair and reasonable price.

C. **Procedure**

Departments must use the most current version of the Exclusive Acquisition Justification form available on the Purchasing web page, [www.uthscsa.edu/business/purchasing](http://www.uthscsa.edu/business/purchasing).

Answer the questions on the EAJ form as completely as possible. Attach completed and signed EAJ form to the PeopleSoft panel, “Edit Requisition – Review and Submit.” Scroll down to the “Header Comments” and select the “Attachments” button. Follow instructions to upload completed EAJ form. If more space is needed, attach additional page(s).

Should you have any questions, please contact the Purchasing Office at purchadmin@uthscsa.edu.