

## **SOLE SOURCE/SOLE BRAND JUSTIFICATION**

### **OVERVIEW:**

Contracts/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 County is bound by both federal and local laws as well as County Policies of which County Staff may be not be aware of. The lack of an effective means of communication between buyer and requesting departments can lead to both lost time in completing the requisition as well as possible adverse legal actions towards both the County and the requesting staff member. 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 sole source/brand justification is warranted and accepted by Purchasing, the requisition will be processed for the sole source/brand as requested.

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 process and 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 County better and/or be required by governing law.

In order for us to accept a request for sole source/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 as part of your requisition package for audit purposes.

### **SOLE SOURCE PURCHASING:**

On rare occasions there may be a need to purchase goods or services from one vendor/contractor without going to formal bid or requesting competitive quotations. This is known as "Sole Source" purchasing.

“Sole Source” purchasing is authorized by Monterey County Code 2.32.040, Emergency Purchases, and by Monterey County Code 2.32.070, Competitive Bidding Not Required.

A sole source may be designated when it is apparent that a needed product or service is uniquely available from the source, or for all practical purposes, it is justifiably in the best interest of the County.

“Sole Source” purchasing may be necessary under certain circumstances such as an emergency wherein the department head or other County Official who is authorized to sign requisitions may purchase items for the continuance of the department function, or that items purchased are necessary for the preservation of life or property, and that no authorized purchasing department personnel are immediately available to make the purchase.

The designation of a “Sole Source” supplier must be authorized by the County Purchasing Agent or Deputy-Purchasing Agent before the requirement for competitive quotations is waived.

### **PROCEDURE:**

Sole source/brand purchasing is an exception to the normal procurement function and requires a detailed justification. In processing sole source/brand requests for supplies, services and/or equipment, Purchasing adheres to and is governed by the principles set forth in both the Federal and State Laws governing public purchasing and the Public Contract Code, and by the adopted and approved County of Monterey Policies and Procedures. 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 County requirements and the format for submitting such requests are contained herein. Please make copies of the Criteria for Sole Source/Brand form for your future use.

The following factors **DO NOT** apply to sole source/brand requests and should not be included in your sole source/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
5. A request for no substitution submitted without justification. This is a sole source/brand request requiring detailed justification including established sole source/brand criteria

**County of Monterey  
Contracts/Purchasing Department  
JUSTIFICATION OF SOLE SOURCE/SOLE BRAND REQUEST**

Purchase Requisition Number \_\_\_\_\_ Date January 14, 2022

Description of Item: MALDI Biotyper Sirius System; Preventative Maintenance

1. Please indicate the following:

Procurement:         Goods  
                              Services

(Check One)

Sole Source: Item is available from one source only. Item is a one-of-a kind and is not sold through distributors. Manufacturer is exclusive distributor.

Sole Brand: Various sources can supply the specified model and brand and competitive bids will be solicited for the requested brand only. Meets form, fit and function- nothing else will do.

Note: Sole Source/Sole Brand Requests are not maintained as a standing request. Each request is for a single one-time purchase only.

2. Vendor Selection:

Preferred Vendor  
 Sole Source

Vendor Name: Bruker Scientific, LLC  
Address: 40 Manning Rd City: Billerica State: MA  
Phone Number: (949)381-8339 Fax: ( )  
Contact Person: Kira Farnsworth Title: Sales Representative  
Federal Employer #: 33-1064877

3. Provide a brief description of the goods/services to be purchased and why this purchase is being proposed under a sole source acquisition.

a) Why were product and/or vendor chosen?

The laboratory needs to purchase the Bruker MALDI Biotyper instrument to identify Mycobacterium tuberculosis complex and differentiate other related Mycobacterium species.

The Bruker MALDI can be used to identify other disease-causing, drug resistant bacteria faster and more accurately than manual methods currently used in our laboratory allowing health care providers to select appropriate treatment.

The Bruker MALDI Biotyper instrument the same instrument used by the Microbial Disease Laboratory at California State Department of Public Health and other local public health laboratories in California.

- b) What are the unique performance features of the product/brand requested that are not available in any other product/brand? For Services: what unique qualifications, rights, and licenses does the vendor possess to qualify as a sole source/brand request?

Bruker is the sole source manufacture or the MALDI Biotyper Sirius system which is based on Matrix-Assisted Laser Desorption/Ionization Time of Flight (MALDI-TOF) Mass Spectrometry to measure the proteomic fingerprinting of microorganisms.

- c) Why are these specific features/qualifications required?

MALDI-TOF technology is needed to identify clinically significant bacteria more rapidly and accurately.

The compact benchtop design of this system is a highly desirable feature. The Bruker MALDI biotyper significantly smaller in size to the Biomerieux Vitek MS, the only other comparable MALDI instrument on the market and is a stand-alone and not benchtop instrument. Since we have limited lab space, we wish to purchase a benchtop instrument.

- d) What other products/services have been examined and/or rejected?

Biomerieux Vitek MS

- e) Why are other sources providing like goods or services unacceptable (please give a full meaningful explanation)?

We lack lab space for the larger sized Biomerieux Vitek MS. The Bruker MALDI is a compact benchtop model, lighter in weight, and can be easily moved to another lab bench if needed. The Vitek MS will not fit on a benchtop.

- f) What are the unique performance features REQUIRED (not merely preferred), and how would your requirement be inhibited without this particular item or service?

Without this instrument, the laboratory may not be able to identify certain organisms accurately and in a reasonable timeframe.

- g) Estimated Costs: \$326,023.38

4. Is there an unusual or compelling urgency associated with this project?

No

Yes (Please describe)

The manufacturer of the current testing platform used to identify Mycobacterium species will phased out sometime this year.

**THE FOLLOWING TO BE COMPLETED BY THE REQUESTOR**

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I hereby certify that:

1. I am an approved department representative, and am aware of the County'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.
3. The information contained herein is complete and accurate.
4. There is justification for sole source/brand purchasing noted above as it meets the County's criteria.
5. A sole source/brand purchase in this case would withstand a possible audit or a vendor's protest.

DocuSigned by:  
*Donna Ferguson*  
9CF82F93586345F...

3/4/2022 | 10:37 AM PST

Requestors Signature

Date

DocuSigned by:  
*Albert J. ...*  
C7A30BA59CA8423...

3/6/2022 | 6:12 PM PST

Authorized Signature by Department Head

Date

DocuSigned by:  
*Debra R. Wilson*  
7B741937AA0D41B...

3/4/2022 | 10:33 AM PST

Contracts/Purchasing Officer

Date

DocuSigned by:  
*Stacy Satta*  
C0ECE1B99F444A9...

3/3/2022 | 1:52 PM PST

County Counsel  
Approved as to Form

Date