

## **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 \_\_\_\_\_

Description of Item: Subscription to Hughes Satellite Internet Services to the Big Sur Branch Library for the sole purpose of providing public Wi-Fi service that is not connected to the Monterey County network.

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:        Hughes, An Ecostar Company  
Address:             11717 Exploration Lane  
City: Germantown    State: MD 20876  
Phone Number:      (301)428-2847 Fax: (    )  
Contact Person:     Kevin Grapes    Title: Senior Account Executive – Govt Solutions  
Federal Employer #: FEIN: 11-3735091

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?

HughesNet is the only service available in Big Sur that provides satellite service to the internet for businesses. Monterey County Information Technology researched available options and advised us that this is the only business service available.

- 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?

Big Sur has limited internet services offered in the area. Wi-Fi is a library service in high demand from all of our service areas. Because of security reasons, Monterey County ITD requires the library to provide Wi-Fi off of the County network through services like satellite and DSL that are not connected to the County Network. DSL service, which is used in several other libraries is not available in Big Sur. HughesNet is the only satellite service offered to businesses in the Big Sur area.

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

For security reasons, public Wi-Fi must be delivered off of the County Network through an isolated service like DSL or Satellite per County IT.

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

Yahoo, ATT, Sky Blue, Red Shift.

- e) Why are other sources providing like goods or services unacceptable (please give a full meaningful explanation)? Not offered in the Big Sur area to commercial customers. ATT requires connection to the County network.

- f) What are the unique performance features **REQUIRED** (not merely preferred), and how would your requirement be inhibited without this particular item or service? Service that can operate off of the County network is required and reasonable business solutions in the rural area, Big Sur are limited to HughesNet.

g) Estimated Costs:

\$4,477.56 (quote dtd 3/20/14)

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

No

Yes (Please describe)

MCFL would like to provide this service to the library patrons of Big Sur and the nearby areas, who has not had this service compared to other Branches where satellite wifi service has been available since a few years ago.

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

---

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.

*Chris Ricker*  
Requestors Signature

April 16, 2014  
Date

*Jayanti Addleman*  
Authorized Signature by Department Head

*April 16, 2014*  
Date

---

*Contracts/Purchasing Officer*

---

*Date*