

## **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**  
**General Services- Contracts/Purchasing Division**  
**JUSTIFICATION OF SOLE SOURCE/SOLE BRAND REQUEST**

Purchase Requisition Number : N/A \_\_\_\_\_ Date: October 14, 2021

Description of Item: Contracts and Purchasing Academy Revision

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: Darryl L. Sink & Associates, Inc  
Address: One Cielo Vista Place City: Monterey State: CA 93940  
Phone Number: (831) 640-8348 Fax: ( ) \_\_\_\_\_  
Contact Person: Darryl L. Sink Title: President  
Federal Employer #: \_\_\_\_\_

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?

On February 25, 2014, the Board approved an Agreement with Darryl L. Sink & Associates, Inc. (DSA), for the development of a Monterey County Contracts & Purchasing Academy in order to improve and create greater efficiency in the contract development and management process. DSA is well acquainted with the ethos of the

County of Monterey and maintain the original documents for the Contracts/Purchasing Academy.

- 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?

DSA's is a locally based consulting group providing a seasoned team of industry experts with 32 years of experience in the development of training programs. The County has worked with DSA in the recent past and was impressed with the work product. Additional references were contacted and found them to be pleased with DSA's work quality.

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

Significant parts of the CPA have become obsolete and the method of delivery is out of date. The required changes to the CPA exceeded what Contracts/Purchasing resources could deliver in a timely manner. In addition, the Purchasing Manual requires updating and DSA will provide consultation toward this end.

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

N/A

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

The County has worked with DSA in the recent past and was impressed with the work product. Additional references were contacted and found them to be pleased with DSA's work quality.

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

The development of the academy focuses on developing solutions to assist in resolving high-level organizational needs; such as increasing productivity and efficiency throughout the contract and purchasing lifecycle, increasing the consistency of contracts and related documents across the County's twenty-seven (27) departments, minimizing the development and approval processing time for contracts, and to increase the likelihood of more favorable pricing and terms in county-wide contracts. In addition, there is a need to update the Board approved Standard Operating Procedures (SOP's) and Purchasing Manual to assist staff in the development of contracts in a more formal and consistent manner. Finally, new processes and procedures have been implemented that require CPA and Purchasing Manual inclusion to assist County employees in developing the necessary skills and knowledge required for the development and accountability of the contract process.

g) Estimated Costs:

The project total NTE amount is \$198,200.

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

- No  
 Yes (Please describe)

The last presentation of the CPA occurred in Summer, 2019. Unfortunately, the Covid pandemic halted the delivery of CM's instructor-led classes as well as a C&P's plan to revise the CPA in early 2020. In May 2021, the Civil Grand Jury provided findings and recommendations in support of the CAO revising the CPA and the Purchasing Manual. The scope of the CPA changes and updates to the Purchasing Manual exceed C/P resources to deliver these items in a timely manner.

**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.

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Requestor's Signature

*Debra R. Wilson*

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10/17/2021 | 2:03 PM PDT  
Date

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Authorized Signature by Department Head

*Dwayne Woods*

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10/18/2021 | 8:24 AM PDT  
Date