

COMPETITIVE EXCEPTION

The Competitive Exception Form is necessary whenever a request is made to waive the requirement of competition (formal bid process) at the current bid threshold of \$50,000. This also applies to any purchases that exceed \$50,000.00 aggregately during a twelve month period and single purchases valued below \$50,000 and when the "sole source" exception is requested.

The form should be submitted for purchases deemed to be proprietary or sole source and there is **only one vendor** available for purchase of items which do not lend themselves to the usual competitive bidding, such as: personal or consultant services involving technical, professional or specialized skills or training; facilities and services for conventions, workshops, seminars and special functions; the purchase of perishable goods; and the purchase of products or services needed for patient care, books, subscriptions, library materials.

The justification for such purchases must be in writing and must be based upon a need for some feature or characteristic (specification) that is unique to the requested product or service that cannot be provided by any other product or service

The waiving of formal bidding requirements does not mitigate the need to ensure purchases are competitively priced and the terms and conditions of the purchase are in the best interests of NSHE.

The Competitive Exception form must contain the following elements (as they apply to the specific request):

- Identification of the unique feature(s) or character(s)/specification(s) of the requested product that will serve as the basis for the proprietary/sole justification.
- If the product/service is specifically named in your grant, provide a copy of the section of the grant naming the requested product/vendor.
- An explanation of the need for the unique specifications. This explanation must address the critical importance of the unique specifications to the intended use of the product or service.
- If the product/service must be compatible with other equipment manufactured or services performed by the same vendor, provide the previous purchase order number used to procure the product/service.
- A reason stating why a competitor's product is not satisfactory. This section must relate to the explanation of need for the unique specifications and should serve to support a finding that the stated need cannot be met with competing products. Sufficient detail must be included to show that the marketplace has been canvassed to locate acceptable competitive products.
- Include substantiating data such as: companies contacted and the reason for elimination, technical data, etc. Since this is a request to depart from the procedure for competition, a request without support cannot be considered. The buyer may require additional information, and the Purchasing Department remains the final authority in the determination of a Competitive Exception acquisition.

The competitive exception is a justification of the need for something that is unique about the product or service that precludes competition. It is important to note that the price of a product is not acceptable justification for proprietary purchase. If there are two or more products that are acceptable, preserving the competitive bidding environment will help ensure that the department receives the best price.

The proprietary purchase procedure is a valuable tool that should be used whenever appropriate.

If a proprietary purchase is justified, the request should be processed accordingly, rather than by soliciting "competitive" bids and then attempting to disqualify bids received on other proprietary/sole source purchase procedure is an overt act that must withstand critical scrutiny.

Justifications must be objective and must avoid statements that cannot be substantiated.

The justification cannot be that competing products are not satisfactory. Statements regarding product quality that may be subjective should not be used. It is recognized that many purchases are based upon extensive investigative work done by the requestor before submitting the purchase request and that there are good reasons why one product will work and another may not. Remember, however, that the proprietary/sole source purchase procedure is an exception to competitive bidding requirements to be used whenever appropriate. It is not a mechanism for avoiding such requirements. To insure the timely processing of your request, the information provided must be thorough and complete.

Complete the Competitive Exception Form and submit it with a requisition to purchasing for review and approval.

COMPETITIVE EXCEPTION REQUEST

Date

Competitive Exception Justification for Purchase Requisition No.

Campus/Department

I/We have thoroughly researched and determined that the vendor/brand requested in this documentation is the **only** acceptable vendor/brand for the product/services that will fit my/our particular requirement and **there are no other vendors** who sell the good or services requested (*If more than one vendor is available to purchase the goods/services requested, the competitive exception does not apply*).

Check all boxes that apply

Used Equipment *

Auction, Closeout, Bankruptcy or Similar*

Emergency *

Prototype (test purposes)

Only Approved Source

Professional Expertise

Donor Specific

Supplier Qualifications

Proprietary Item(s)

Standardization

Qualified Products List

Follow Up Work

Other (Explain Below)

**Requires approval from the Senior VP of Business & Finance per NSHE Chapter 5 Fiscal Procedures*

The product/service is required to:

Description of features or capabilities unique to the vendor/brand being requested as related to project requirements:

List all sources investigated to determine that no other source exists for similar products/services capable of meeting requirements, for example, Internet sites, professional publications, etc.*

**(Must be exhaustive of all sources for the products/services being purchased. If all sources are not investigated, send complete specifications with the requisition and Purchasing will issue a competitive solicitation.)*

Provide a side-by-side comparison of the features/service of all other vendors/brands considered.

I CERTIFY UNDER THE PENALTIES OF PERJURY THAT THE ABOVE STATEMENTS ARE TRUE AND PRECISE AND THAT I HAVE NO FINANCIAL OR OTHER BENEFICIAL INTEREST IN THE VENDOR.

Requestor signature

Printed Name

Title

Telephone

E-mail

For questions on this form call the Controller's Office at 775-673-7158 or 775-673-7005.

Send completed form to:

Truckee Meadows Community College
Controller's Office
7000 Dandini Blvd., RDMT 318
Reno, NV 89512

Fax: 775-673-7085