Sole Source and Proprietary definitions

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Non-competitive negotiation for sole source procurement– the negotiation of the terms of a contract with only one provider.

1. Personal, professional and consultant service contracts may be obtained by non-competitive negotiation when the contractor is a state agency, a political subdivision of the state, and any other public entity in Tennessee, or an entity of the federal government. (See Section XVII. Subsections A. & B. of this policy and F&A Rule 0620-3-3-.03.)
2. Sole source or proprietary purchases may be allowed pursuant to the following:
   1. Sole Source Procurement - Sole source purchases are made only when items are unique and possess specific characteristics that can be filled by only one source. The vendor must furnish a letter indicating that it is the sole source and the letter must be signed by an authorized company representative.
   2. Proprietary Purchase - A proprietary product is one that is manufactured and marketed by a person or persons having the exclusive right to manufacture and sell the product. Marketing is generally controlled by franchises that may include competitive sales at wholesale or retail levels. When it is found that bids may be obtained from different franchises, bid invitations must be issued unless the estimated purchase is less than $10,000.
3. Factors to be considered in sole source and proprietary purchases include the following:

* 1. Whether the vendor possesses exclusive and/or predominant capabilities or the items contain a patented feature providing superior utility not obtainable from similar products.
  2. Whether the product or service is unique and easily established as one of a kind.
  3. Whether the program requirements can be modified so that competitive products or services may be used.
  4. Whether the product is available from only one source and not merchandised through wholesalers, jobbers, and retailers.
  5. Whether items must be interchangeable or compatible with in-place items.
  6. Whether the cost of conversion, including but not limited to disruption, re-training, and replacement precludes bidding competitively.
  7. Whether the product is to be used in an instructional setting and the intent is to provide instruction on the specific product or diversity of products.
  8. For personal, professional and consultant services, whether the use of non-competitive negotiation is in the best interests of the institution. (F&A Rule 0620-3-3-.03)
  9. Other justifications as approved by the Chancellor, President, Director