

# EXCLUSIVE ACQUISITION JUSTIFICATION FORM

## Template for Software Maintenance Agreement with Original Licensor

(For Noncompetitive Purchases Over \$15,000)

The competitive bidding process is the foundation of government purchasing. In rare situations though, due to the unique nature of some goods and services, competition may not be possible. It is the responsibility of the Purchasing Office to verify that competition is not required and that the acquisition will result in "best value" for the institution in compliance with Texas Education Code §51.9335(b).

In order to make this determination, the Purchasing Office buyer must understand the unique characteristic(s) of the good or service. This form is designed to assist faculty and staff in communicating the required information to Purchasing.

Answer the questions below as completely as possible. **Information on the form must be typed and alterations to the form will not be accepted. Completed forms must be emailed to the department's Purchasing Office [buying team](#).**

### GENERAL INFORMATION

Today's Date:		Estimated Dollar Amount:	
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Select anticipated contract type:

Business Contract

Purchase Order (PO)

Document ID#: \_\_\_\_\_

### CONTACT INFORMATION

DEPARTMENT INFORMATION		SUPPLIER INFORMATION	
Department Name:		Supplier Name:	
Contact Name:		Contact Name:	
Campus Phone:		Phone:	
Email Address:		Email Address:	

### TYPE OF JUSTIFICATION

**Proprietary and Best Value:** (as defined in *Texas Education Code 51.9335 b*)

Only known supplier that meets your "definition of scope." (Complete sections A and B.)

**Emergency:**

A purchase for which delay would create a hazard to life, health, safety, welfare or property.

(Complete sections A and C.)

**Professional Services:** (as defined in *Texas Government Code 2254.002*, e.a. Architects, Engineers, RNs, CPAs, Physicians, Land Surveyor, etc.)

Designated professional for which competitive bidding is not permitted. **Note:** To be used only when professional service providers have not been pre-qualified. (Complete sections A and D.)

**SECTION A - GOODS/SERVICES INFORMATION**

<p><b>PRODUCT MAKE/MODEL OR SERVICE</b></p>	
<p><b>DESCRIPTION OF REQUEST</b>  <i>Describe the good or service to be procured and how it meets your needs.</i></p>	<p>OEM – This purchase is for required maintenance/service/license renewal for current software.</p>

**SECTION B – PROPRIETARY AND BEST VALUE JUSTIFICATION**

<p><b>SPECIAL USE REQUIREMENTS</b>          (equipment only)</p> <p><i>To be compatible with existing equipment:</i></p> <p><i>For the repair, maintenance, or modification of existing equipment:</i></p> <p><i>For use as spare or replacement equipment:</i></p>	<table> <tr> <td>YES</td> <td>NO</td> </tr> <tr> <td>YES</td> <td>NO</td> </tr> <tr> <td>YES</td> <td>NO</td> </tr> </table>	YES	NO	YES	NO	YES	NO
YES	NO						
YES	NO						
YES	NO						
<p><b>REQUIRED FEATURES</b></p> <p><i>List the specific feature(s) or characteristic(s) that are <u>required</u>, which are unique to the good or service provided by this supplier. Describe the importance of the unique feature(s) as it applies to the intended use and project goals. Describe how the selected supplier meets these requirements.</i></p>	<p>To maintain integrity of our systems, software maintenance/licenses must be kept up to date and provided by the manufacturer/authorized representative.</p>						
<p><b>EVALUATION OF OTHER SOURCES</b></p> <p><i>Identify other sources that were evaluated (including the names, manufacturers, model numbers, etc.) and the reason they were found to be unsatisfactory for the intended use or in meeting project goals. (Attach copies of any quotes collected from other suppliers, if applicable.)</i></p>	<p>Due to the technical complexity of this software, only licensee’s service personnel are trained and experienced in providing service and maintenance, including new releases and upgrades, of this software. The university could lose daily business and/or risk current security levels if systems are not functioning properly.</p>						

<p><b>RISK ELEMENTS</b></p> <p><i>Describe any substantial risks that could not be overcome if the product or service was procured from another supplier.</i></p>	<p>The university could lose daily business and/or risk current security levels if systems are not functioning properly.</p>
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**SECTION C – EMERGENCY JUSTIFICATION**

<p><b>RISK ELEMENTS</b></p> <p><i>State the financial or operational damage/risk that will occur if needs are not satisfied immediately. (You must provide specifics when explaining any loss or damage.)</i></p>	
<p><b>SPECIAL CIRCUMSTANCES</b></p> <p><i>State why the needs were not or could not be anticipated so that goods/services cannot be purchased following standard procedures.</i></p>	
<p><b>SUPPLIER SELECTION</b></p> <p><i>State the reason and process used for selecting the supplier. (Attach quotes/proposals received from other sources, if applicable.)</i></p>	

In order to provide the required goods/services the supplier (check one):

**Requires a physical PO**

- The department must create a POINT Plus PB4 requisition document and submit an Exclusive Acquisition Justification Form to the Purchasing Office.
- The department contacts their Purchasing Office buyer team to expedite requisition processing.
- Purchasing Office buyer issues the PO to the supplier.
- Payment is made on a \*DEFINE VP1 payment voucher.

**Requires a verbal PO**

- The department must submit an Exclusive Acquisition Justification Form to the Purchasing Office.
- Purchasing Office buyer provides an emergency PO number to the department.
- The department provides the emergency PO to the supplier.
- Payment is made on a \*DEFINE VP2 payment voucher.

**Requires verbal approval from requesting department (no PO)**

- In the case where there is an immediate threat to The University of Texas at Austin and a supplier is on hand or can quickly mobilize to perform needed repairs (or the emergency occurs after normal business hours), the requesting department can give the go ahead for the supplier to start work.
- The department must submit an Exclusive Acquisition Justification Form to the Purchasing Office for review as soon as possible.
- Payment is made on a \*DEFINE VP2 payment voucher.

**SECTION D – PROFESSIONAL SERVICES JUSTIFICATION**

<p><b>SUPPLIER SELECTION</b></p> <p><i>Criteria used to select the supplier for these services.</i></p>	
<p><b>REASON FOR SELECTION</b></p> <p><i>Identify specific qualifications of selected supplier.</i></p>	

**CONFLICT OF INTEREST STATEMENT**

I, \_\_\_\_\_, the undersigned, hereby certify that the following statements are true and correct and that I understand and agree to be bound by the commitments contained herein. I am acting on my own accord and am not acting under duress. I am not currently employed by, nor am I receiving any compensation from, nor have I been the recipient of any present or future economic opportunity, employment, gift, loan, gratuity, special discount, trip, favor, or service in connection with this supplier in return for favorable consideration of this request.

Signature: \_\_\_\_\_  
(Primary User)

Date: \_\_\_\_\_

Title: \_\_\_\_\_

*(Note: Texas Government Code, Chapter 572, Subchapter C, Sec. 572.069 – CERTAIN EMPLOYMENT FOR FORMER STATE OFFICER OR EMPLOYEE RESTRICTED. A former state officer or employee of a state agency who during the period of state service or employment participated on behalf of a state agency in a procurement or contract negotiation involving a person may not accept employment from that person before the second anniversary of the date the officer's or employee's service or employment with the state agency ceased.)*

**DEPARTMENT APPROVAL – Dean/Chair/Business Officer\***

*By signing below, the department certifies that the information submitted on this form has been reviewed and this purchase has departmental approval. The final determination of approval shall be made by the Purchasing Office.*

Signature: \_\_\_\_\_  
(Dean/Department Head/Business Officer)

Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_  
(Dean/Department Head/Business Officer)

Title: \_\_\_\_\_

\*Departmental approver must be senior to the primary user.

*(Note: Texas Government Code Chapter 572, Subchapter C, Sec. 572.069 – CERTAIN EMPLOYMENT FOR FORMER STATE OFFICER OR EMPLOYEE RESTRICTED. A former state officer or employee of a state agency who during the period of state service or employment participated on behalf of a state agency in a procurement or contract negotiation involving a person may not accept employment from that person before the second anniversary of the date the officer's or employee's service or employment with the state agency ceased.)*

**PROCUREMENT APPROVAL – TO BE COMPLETED BY THE PURCHASING OFFICE**

DETERMINATION:

- Approved
- Not Approved

JUSTIFICATION FOR PROCUREMENT METHOD:

Proprietary

- Proprietary (i.e. Pharmaceuticals, Chemical Reagents)
- Original Equipment Manufacturer (OEM) Maintenance/Renewal
- Meets Unique Specification
- Direct Publication/OEM Software Renewal or Maintenance

Best Value

- Compatibility with Existing Equipment
- Continuity of Service/Research
- Contractor/Grantor Requirement
- Best Value

Emergency Purchase

- Emergency Purchase                      Emergency PO Number: \_\_\_\_\_

Professional Services

- Professional Services

Rationale for determination/comments:

Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
*(Buyer)*

Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
*(Senior Buyer - up to \$100,000)*

Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
*(Purchasing Management – \$100,000 - \$250,000)*

Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
*(Director of Purchasing – \$250,000 - \$1,000,000)*

Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
*(EVP & Chief Financial Officer - over \$1,000,000)*