

## Section 2.15

### Proprietary Purchases

A **proprietary** product is one where the specifications or conditions of the proposed purchase allow only one product to be supplied, and preclude any other product or supplier from meeting the specifications. When the specification limits consideration to one product or supplier, you must include a written **Proprietary Purchase Justification** in the procurement file.

Proprietary justification is not needed for purchases of \$5,000 or less. If the estimated purchase price is \$5,000 or less, there are no special requirements for a proprietary purchase. Follow the instructions in Section 2.4, Selecting a Procurement Method.

#### **Proprietary Procurement Procedure**

Proprietary purchases may be considered as sole source or competitive.

**Sole Source:** Product or service is only available for purchase through the specific identified vendor. These vendors are usually the manufacturer.

**Competitive:** Specific products which are available for purchase through multiple dealers or distributors for the manufacturer or owner of the services.

The memorandum to file and/or letter should include:

- The justification of the need for the proprietary specification or scope of work.
- The reason competing products or services are not suitable.
- Any other applicable information requested by TPASS to further explain the justification.

#### **A Proprietary Purchase Justification for procurements of:**

Commodities: \$5,000 - \$25,000

Services: \$5,000 - \$100,000

The procurement file should include a justification as a "Memorandum to File", signed by the Agency Head or designee as provided in the Procurement Plan and include this statement:

"These specifications and/or requirements are being advertised under Section 2155.067, Texas Government Code. The procuring agency has on file an approved justification for the specifications and the reasons why competing products are not satisfactory. If a competing vendor believes it can satisfy these specifications, it should respond with its product and explain how the specifications will be adequately met."

#### **A Proprietary Purchase Justification for procurements of:**

Commodities: \$25,000 or more

Include a Formal letter on Agency letterhead with the Open Market Requisition submitted to TPASS at [open.market@cpa.texas.gov](mailto:open.market@cpa.texas.gov)

Services: \$100,000 or more

Include a Formal Letter on Agency letterhead with the solicitation documents submitted through CATRAD for delegated review.

The formal letter should include a justification, signed by the Agency Head or designee as provided in the Procurement Plan and include this statement:

“These specifications and/or requirements are being advertised under Section 2155.067, Texas Government Code. The procuring agency has provided a letter to the Comptroller providing a justification for the specifications and the reasons why competing products are not satisfactory. If a competing vendor believes it can satisfy these specifications, it should respond with its product and explain how the specifications will be adequately met.”

Address Letter to:  
Comptroller of Public Accounts  
Attn: Texas Procurement and Support Services (TPASS)  
P.O. Box 13186  
Austin, TX 78711