



Office of State Procurement

Proprietary, Sole Source, & Used Equipment

Agency Quarterly Training
June 19, 2019



Objectives

- What does Proprietary mean?
- Documents needed for a Proprietary request
- Submitting a Proprietary request in LaGov and ProAct
- Language added to a Proprietary bid
- What is a Sole Source Purchase?
- Requirements and processing a Sole Source
- Sole Source form
- Used Equipment
- Required documents needed for Used Equipment



What does Proprietary mean?

?



Proprietary Specification is a specification that cites brand name, model number, or some other designation that identifies a specific product to be offered exclusive of others in accordance with RS 39:1655.



What does Proprietary mean cont.?

- Only one product will meet the State's needs due to compatibility, standardization, or maintainability.
- The products are available from more than one source.





Compatibility

- Cameras
- Scantron sheets for Scantron Machine
- Motorola Parts – Motorola Radios





Standardization - Consistency

- Uniforms
- Furniture – Cubicles
- Training – All staff “uniformed”





Maintainability

- Warranty
- Maintenance Agreements
- Certified Technicians





Documents needed for a Proprietary Purchase?

- Agency submits a justification on agency letterhead to the Office of State Procurement stating why only one brand name or item is suitable for their needs and the unique characteristics.
- The use of Proprietary specifications must be justified and approved in writing by the Chief Procurement Officer or designee higher than an analyst.
- Agency will submit a shopping cart in Doc Tracking or ProAct selecting the necessary box to notify the Office of State Procurement that they are requesting a Proprietary purchase and attach the justification letter.





What's missing in this Proprietary letter

June 07, 2019

Office of State Procurement



We would like to purchase a Service Agreement from ArjoHuntleigh for the 6 shower trolleys that were purchased with this Vendor since they have the necessary manufacturer parts and the needed skills and training to service their products.

Sincerely,



Good Proprietary Justification Letter



Date: October 10, 2018

Re: Proprietary Purchase

is requesting approval for a proprietary bid on eleven (11) loimage fixed box color IP cameras with built in analytics. These cameras are needed to replace cameras that were destroyed by a lightning strike. The price on these cameras is estimated at a total price of \$9284.00.

Per Loimage SC-1DN-A is required per the following reasons. The Main Prison perimeter fence camera system was built in 2010 using loimage cameras. Since that time, has purchased these cameras from the LaTech state contract. LaTech no longer has these cameras on state contract, but can still obtain them. Our camera system uses the loimage cameras to track up to five (5) objects (coming over the fences) at one time and our servers for this system use a program called Transact server, which are all based on the loimage cameras. If we use any other cameras other than the loimage camera, we would have to replace all of the existing 101 cameras already being utilized and upgrade the software. The new cameras we are requesting must be compatible due to programming in the servers.

Your consideration is greatly appreciated.



Requests made in ProAct

submittal

checklist

comments

history

Procurement Documentation Submittal [Transmittal# 14629]

Current Status: Awarded

Assigned To: [REDACTED]

Date: Tuesday, February 19, 2019

From: [REDACTED]

Contact Information: [REDACTED]

* Org Unit: [REDACTED]

* LaGov Number: 1000193691 | Resubmittal: ☐ Previous Number: --

* Brief Description: HACH Water Testing Supplies

* Requisition Amount: \$34,268.27

Current Status: Awarded [See Checklist tab for purchase order(s).]

* Type of Procurement: ☐ Agency Term Contract ☐ One Time Buy ☒ Service/Maintenance/Blanket Order

* LaGov Capital Asset: ☐ Yes ☐ No

Special Conditions: If applicable, select all of the options below that also apply to your purchase over \$5,000.

- | | |
|---|--|
| ☐ Source Purchase | ☒ Proprietary Purchase |
| ☐ Authorized Dealer Repair or Parts | ☐ Renewal/Repurchase |
| ☐ Change Order | ☐ Exempt per Small Purchase Executive Order |
| ☐ Rental | ☐ Vehicles |
| ☐ Labor & Materials Project/Construction | ☐ Printing |
| ☐ Confirmation | ☐ Emergency |

* = Required for Submission to OSP

Required Documentation

Purchases Over \$5,000

Cost estimate (if available) from recommended vendor to include the name, address, and contact information

Proprietary Purchase

Proprietary justification letter from Agency Head of designee

Other Attachments (if unable to attach in LaGov)

Description

File

Form B.pdf

HACH Quote.pdf

Delivery Addresses.pdf

Updated Specifications.pdf

Justification Memo.pdf

Justification Memo

Uploaded

2/19/19 8:48:49 AM ([REDACTED])

2/19/19 8:48:42 AM ([REDACTED])

2/19/19 8:48:37 AM ([REDACTED])

2/19/19 8:31 AM ([REDACTED])

2/19/19 8:12 AM ([REDACTED])

Uploaded in LaGov

☐

Uploaded in LaGov

☒

Cancel Request



Requests made in Doc Tracking

Details for item 0001 / 0000000001 / 320 Mini Loader 20 HP KOH Rubber Track

Item Data	Account Assignment	Notes and Attachments	Delivery Address/Performance Location	Sources of Supply / Service Agents	Approval Process Overview	Related Documents	Control Agency	Agency
OSP/OSP-PC Status: Created		Professional Services Purchase						
Commodity & Service Procurement		Contractor is a Profit or Non-Profit Corporation: ☐						
LA Gov Process Type:		Contractor is a Profit Corporation Whose Stock is NOT Publicly Traded: ☐						
Renewal/Repurchase: ☐		Contractor is Out-of-State Corporation: ☐						
Doc #:		Legal Approval: ☐						
Proprietary Purchase: ☐		Date:						
Exempt per Small Purchase Executive Order: ☐		Emergency Pre-Approval: ☐						
Exemption # per Executive Order:		Sole Source Pre-Approval: ☐						
Labor & Materials Project/Construction: ☐		RFP Approval: ☐						
Cost Estimate: 0.00								
Printing: ☐								
State Printing unable to process: ☐								
Statutorily Mandated; State RS #:								
Authorized Dealer Repair or Parts: ☐								
Vehicle:								
LPAA Approval Number:								
Request for RFP Process: ☐								
Emergency Procurement: ☐								



Language added for a Proprietary ITB

A Proprietary Solicitation must state that the specifications have been approved as proprietary and that bids for only the specified brand/model will be considered and must be competitively bid.

In the header of the Solicitation the bid will read:

“In accordance with LA. R.S. 39:1655, items _____ and _____ have been approved as proprietary and only the Brand(s) Number(s) specified will be considered for award.”





Example of a Proprietary Solicitation

To register as a vendor, access the following link:

https://lagoverpvendor.doa.louisiana.gov/irj/portal/anonymous?guest_user=self_reg

Please include a W-9 form with your bid if you are newly registered. Do not register again if you are already registered in the system. You will need a LaGov Vendor ID and Password in order to submit an online bid.

Bidders are invited to submit bids via the Online Bid Response Link on Page 1 of this bid invitation. Online bidding instructions are attached to this bid invitation.

Please print all attachments to ensure all documents related to this solicitation are reviewed prior to bidding.

All documents associated with this solicitation should be included in the bidder's submission.

Bid Documents Include:

Attachment A - Special Terms and Conditions - Pages 1-6

Attachment B - Line Item Responses - Page 1

Attachment C - Online Bidding Instructions - Pages 1-11

Bid delivery instructions for the Office of State Procurement:

Refer to Page 1 in Attachment A – Special Terms and Conditions

=====

PROPRIETARY

In accordance with LA. R.S. 39:1655, AGFA CR-15 X DIGITIZER X-RAY MACHINE has been approved as proprietary and only the brand numbers specified will be considered for award.

=====

LINE	Description	Quantity	Unit	Unit Price	Extended Amount
1	Product Category:42201800 X-Ray Machine AGFA CR-15 X DIGITIZER X-RAY MACHINE Grid line suppression, square marker, and black borders Export patient images to CD/DVD Variable Speed and resolution: 80 plates per hour @ 200 micrometer pixel 50 plates per hour @ 150 micrometer pixel 40 plates per hour @ 100 micrometer pixel Digitizer Type: Single cassette feed Throughput: Up to 102 plates/hour (depending on size and resolution) Display:	1	EA		

Header
Language of
the ITB



Language added for a Proprietary ITB cont.

The line on the Solicitation also has language that states:

“This item has been approved as a proprietary purchase and only the brand and model specified will be considered.”

Finally the Special Terms and Conditions in Attachment A will also state:

“In accordance with LA. R.S. 39:1655, items _____ and _____ have been approved as proprietary and only the Brand(s) Numbers(s) specified will be considered for award.”





Example of a Proprietary Solicitation

Fax bid: 3000012826 Date: 05/29/2019 T-Number:	Bidder:	Page 4 of 8
---	----------------	--------------------

LINE	Description	Quantity	Unit	Unit Price	Extended Amount
	***** This item has been approved as a proprietary purchase and only the brand and model specified will be considered. *****				

Line
Item
language





Example of a Proprietary Solicitation

Attachment A – Special Terms and Conditions

RFX No. 3000012826

TITLE: X-Ray Machine - DOC - DWCC

PROPRIETARY:

IN ACCORDANCE WITH LA. R.S. 39:1655, AGFA CR-15 X DIGITIZER X-RAY MACHINE HAS BEEN APPROVED AS PROPRIETARY AND ONLY THE BRAND NUMBERS SPECIFIED WILL BE CONSIDERED FOR AWARD.

FREIGHT INCLUDED

UNIT PRICE SHOULD BE INCLUSIVE OF ANY FREIGHT CHARGES. BID SHOULD BE F.O.B. AGENCY - TITLE PASSING UPON RECEIPT OF GOODS.

FAILURE TO COMPLY WITH THIS REQUIREMENT MAY DISQUALIFY YOUR BID.

SUFFICIENT INFORMATION:

SUFFICIENT INFORMATION SHOULD BE ENCLOSED WITH THE BID IN ORDER TO DETERMINE QUALITY, SUITABILITY, AND COMPLIANCE WITH THE SPECIFICATIONS.

PROVIDE SPECS & LITERATURE

IF BIDDING OTHER THAN SPECIFIED, SUFFICIENT INFORMATION SHOULD BE ENCLOSED WITH THE BID IN ORDER TO DETERMINE QUALITY, SUITABILITY, AND COMPLIANCE WITH THE SPECIFICATIONS. FAILURE TO COMPLY WITH THIS REQUEST MAY ELIMINATE YOUR BID FROM CONSIDERATION.

*** FAILURE TO COMPLY WITH THIS REQUEST MAY ELIMINATE YOUR BID FROM CONSIDERATION.

Attachment
A - Special
Terms &
Conditions
Language



SOLE SOURCE





What is a Sole Source Purchase?



It's a purchase available from only one source, usually the manufacturer, and is not sold through distributors. The State does not recognize distributor territories.

Or

Where compatibility is the paramount consideration, where a sole supplier's item is needed for trial use or testing, resale, utility services, breeding stock and other livestock on a selective basis.





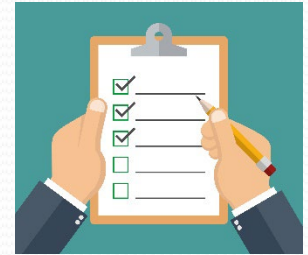
La. R.S. 39:1597

A contract may be awarded for a required supply, service, or major repair without competition when, under regulations, the chief procurement officer or his designee above the level of procurement officer determines in writing that there is only one source for the required supply, service, or major repair item.





Requirements



- Agency submits letter stating why no other product is suitable or acceptable for their needs, the unique characteristics, and a statement that it is sold by only one known supplier
- Agency obtains and submits a letterhead statement from sole source vendor (not from a sales representative) declaring that product is sold only by his company and not sold through a distributor network
- The vendor must provide the agency with a firm price quote, and a signed notarized or published price list



PRODUCT CONTROLS

May 17, 2019

RE: Try Me Products authorized purchasing, start-up, commissioning, and servicing

To Whom it May Concern,

This letter is to state that Product Controls is the authorized factory trained company that can handle purchasing, start-up, commissioning and servicing on all Try Me Products.

Product Controls is the exclusive company to provide all of these services in the territory which encompasses the entire state of Louisiana.

Please contact us with Product Controls with any questions of the Try Me Products System.

Respectfully,

Mr. Product Controls
Owner





TRY MY PRODUCTS

**RE: Try My Products authorized purchasing, start-up,
commissioning, and servicing**

To Whom It May Concern,

**This letter is to confirm with you that Product Controls is the
authorized factory trained company who can handle purchasing,
start-up, commissioning and servicing on all Try Me Products.**

**Product Controls is the exclusive company to provide all of
these services in the territory, which encompasses the entire
state of Louisiana.**

**Thank you for your attention in this matter, and please do not
hesitate to call if you have any problems or questions.**

Respectfully,

**Mr. Try My Products|
Lead Sales Representative**





TRY AGAIN PRODUCTS

May 23, 2019

RE: Try Again Products – Sole Source

To Whom It May Concern,

This letter is to confirm with you that Try Again Products' entire product line is of proprietary technology. Our products can only be purchased directly through Try Again Products. We do not use distributors.

We customize our products to meet customer requirements. Only certified Try Again Products technicians are authorized to install and service our products.

Please do not hesitate to call if you require any other information regarding Try Again Products.

Respectfully,

Mr. Try Again Products
VP, Business Development





Proceed with Caution

- Agency must show that other similar goods or services cannot perform the desired objectives
- Agency must investigate other manufacturers and show why they don't meet their needs
- Vendor sole source declaration must be signed, dated and clearly state they do not sell the product through distributors
- A firm fixed price quote must have a date the prices are good through
- A notarized quote is not a notarized price list and published price lists do not need to be notarized
- Obtain and submit all required documents to avoid delays in processing





Processing

- Agency submits all required documents to the Office of State Procurement.
- The Office of State Procurement determines if the procurement satisfy all requirements in La. R.S. 39:1597
- The Office of State Procurement ensures the price is fair. The State should not pay full list price on a sole source procurement.
- The State Procurement Analyst does an independent research before making a recommendation
- The purchase is approved by the Chief Procurement Officer or designee.





If there is a reason to doubt that the purchase is sole source, it should be bid.



Entering in ProAct

Procurement Documentation Submittal [Transmittal# 15304]

Current Status: Assigned to Buyer

Request submitted to OSP for review by Randall Price on Monday, May 20, 2019 at 8:10:37 AM.

Assigned To: [REDACTED]

Team: Commodity Team 2

Assign

Date: Monday, May 13, 2019

From: [REDACTED]

Contact Information: [REDACTED]

* Org Unit: [REDACTED] - CENTRAL OFFICE/[REDACTED]

* LaGov Number: 1000199063 | Resubmittal: ☐ Previous Number: --

* Brief Description: [REDACTED]

* Requisition Amount: \$856,820.77

Current Status: Assigned to Buyer

* Type of Procurement: ☐ Agency Term Contract ☐ One Time Buy ☒ Service/Maintenance/Blanket Order

* LaGov Capital Asset: ☐ Yes ☐ No

Special Conditions: If applicable, select all of the options below that also apply to your purchase over \$5,000.

☒ Sole Source Purchase

☐ Authorized Dealer Repair or Parts

☐ Change Order

☐ RFP

☐ Labor & Materials Project/Construction

☐ Confirmation

☐ Proprietary Purchase

☐ Renewal/Repurchase

☐ Exempt per Small Purchase Executive Order

☐ Vehicles

☐ Printing

☐ Emergency

* = Required for Submission to OSP

Required Documentation

Sole Source Purchase

- Firm, fixed price quote
- Published price sheet from the vendor or signed and notarized typed listing of prices
- Sole source letter from vendor indicating the unique feature(s) of the product and the fact that there are no distributors for the product
- Sole source justification letter and Justification Form from Agency Head or designee

Other Attachments (If unable to attach in LaGov)

Description File

PKG FOR

SC

Uploaded in LaGov

☐
☐
☐
☐

Uploaded
5/20/19 8:1

FY19 - SOLE SOURCE - 13 MA5/13/19 9:3



Sole Source/ Proprietary Form

SOLE SOURCE/PROPRIETARY PURCHASE

Shopping Cart/Order No.: _____ Agency: _____

Indicate if sole source or proprietary: Sole Source ☐ Proprietary ☐

Sole Source/Proprietary Product or Service: _____

Vendor name, address and telephone Number: _____

Sole source and proprietary purchases are allowed by the Louisiana Procurement Code (La. R.S. 39:1551 ~~et seq~~) when certain conditions exist. This form may be used to justify sole source or proprietary purchases for unique products, services or conditions or you may write a letter that addresses each point. This will become a part of the permanent record for this purchase.

A **sole source** justification represents a request from the end user for the Office of State Procurement to waive the bid process in accordance with La. R.S. 39:1597 and L.A.C. 34:I.901-907. For the purpose of this form, the particular item or service is available from only one supplier (usually the manufacturer) and is unique in that no other will be suitable or acceptable to meet the need.

A **proprietary** specification justification represents a request from the end user to limit the specification to describe a product proprietary to one supplier in accordance with La. R.S. 39:1655 and meets the definition and use described in L.A.C. 34:I.309. A proprietary purchase is similar to a sole source when no other product or service is suitable or acceptable to meet the need, but there is more than one potential bidder because the manufacturer has chosen to sell their product through multiple distributors. A proprietary purchase is considered competitive and the solicitation shall include language indicating the purchase has been approved as proprietary and not invite bids for equal products.

1. Explain specification requirements and how or why ONLY the designated product/service meets the need. Cite the qualities/features that make this product or service unique in meeting the need.

2. Specifically name, by manufacturer and model or service provider, other products or services investigated (if fewer than two, explain).

3. State specifically why and how other products investigated are deficient in meeting the need.

4. Sole Source - Obtain signed letterhead quotation and declaration of sole source from corporate marketing (not sales representative) stating product or service is not sold through distributors, attach a notarized or published price list or retail price verification for the item(s), and submit all documents to the Office of State Procurement.

OR

Proprietary - Submit this justification form with your Shopping Cart to the Office of State Procurement.

Signature and Title of Requisitioner _____

Date _____

Additional Approval signature (if required) _____

Date _____





Entering in LaGov

Details for item 0001 / 0000000001 /

Item Data	Account Assignment	Notes and Attachments	Delivery Address/Performance Location	Sources of Supply / Service Agents	Approval Process Overview	Control Agency	Agency
Identification							
* Configurable Item Number: 0001							
Configurable Item Number is External: ☐							
Control Key: Material functional							
Item Type: Material ▼							
Product ID:							
* Description:							
Catalog:							
Product Category: GM_ONLY DO NOT USE - GM MATERIAL GROUP							
Order as Direct Material: ☐							
Organization							
Purchasing Group: Show Members							
Further Properties							
Supplier Product Number:							
Option Type: ▼							
LA Gov Process Type: ▼							
LA Gov Special Funding: ▼							
Currency, Values and Pricing							
Order Quantity / Unit: 1.000							
Ordered Quantity / Unit: 0.000							
Open Quantity / Unit: 1.000							
Price / Currency: 0.00 USD Price Unit 1							
Service Master Record: Display							
Service and Delivery							
Incoterm Key/ Location:							
Location / Plant: 230100 Dept of Culture, Recreation and Tourism							
Unloading Point: 2-160							
Storage Location:							
Goods Recipient: 234980 LAPORCHIA WELLS							
Delivery Date: 05/28/2019							



Sole Source Checklist

Agency requirements

Letter signed by the chief procurement officer or the head of a purchasing agency (if agency is exempt from OSP or a non-exempt agency when purchase is w/in their DPA) on letterhead to Include:

- _____ Justification/explanation of why specific product/service/repair is the only one that will meet their need. What qualities or features make it unique to meet their need? Is the uniqueness substantially related to the intended purpose, use and/or performance?
- _____ Agency must show that other similar goods or services cannot perform the desired objectives. What other manufacturers did they investigate and why they don't meet their need.
- _____ Statement that the sole provider is the only known source.

Vendor requirements

Letter from the sole source vendor on signed letterhead. This should be from the national marketing representative (not a salesman). Letter is to include:

- _____ Firm price quote
- _____ Statement that they are the only known supplier of the product/service/repair
- _____ Statement that they do not sell this product(s) through distributors
- _____ Provide a published price list or signed & notarized typed listing of manufacturer's prices

Purchasing Agent/Officer

- _____ Does the procurement satisfy all requirements in R.S. 39:1597 and L.A.C. 34:1901-907?
- _____ Determine if all of the above information from agency and vendor has been provided.
- _____ Determine that price is fair. You may negotiate in a sole source procurement. We should not pay full list price on a sole source procurement. At least ask for a discount.
- _____ Do your own independent research before making your recommendation. Does the internet support the single supplier statement and uniqueness of the product. Review any journals or product information housed at your desk. If not found to differ, approval should be based on agency representation.
- _____ If appropriate, research statutes specific to the product or service or agency.
- _____ If you have reason to doubt that it is a sole source, the purchase is to be bid.]



Used Equipment

REVISED STATUTES 39:1645

The purchase of Used Equipment falls under “Conditions for the Use of Sole Source Procurement” as defined in the Rules and Regulations: Title 34, Chapter 9; Section 905 (B)

As a general rule, an agency should procure new equipment, but it may be necessary or advantageous to purchase used equipment.



Used Equipment

The most common reasons are:

- **The inability to secure new equipment**
- **The lack of adequate funds for new equipment**
- **Used equipment that will satisfy the agency's need is available at a substantial savings.**





What is required for Used Equipment?

Agency will submit a letter stating the following information for a Used Equipment Purchase:

- Price of Used Equipment versus New Equipment
- Plan for maintenance and repair of equipment including cost
- Savings that will accrue to the State by purchasing used equipment
- Statement of fact that procedures set out in Louisiana Procurement Code will result in the loss of opportunity to purchase the equipment.



Example of a Good Used Equipment letter:

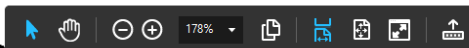
██████████, Director
Office of State Procurement
P.O. Box 94094
Baton Rouge, LA 70804-9095

Dear ██████████,

In accordance with the provisions of La. R.S. 39:1600, Other procurement methods, this is to request approval to purchase 2006 Genie model S-60 self-propelled 60-64' telescopic boom lift from United Rentals in Baton Rouge, LA. This equipment has only 1382 hours of use and is in good working condition. The vendor is not charging delivery on this purchase. This boom lift will be used at ██████████ (██████) by multiple departments including the Maintenance Department and the Communications Department. ████████ is in constant need of a lift for various maintenance building projects and repairs to cameras and fences. The facility has had to rent equipment on numerous occasions to maintain the security and safety of personnel, offenders, facility and the public. Purchasing this used lift will eliminate the on-going rental costs and the required bidding time. The cost of the **used boom lift is \$25,000.** A **new lift** would be approximately **\$86,900.00.** Purchase of this equipment used will result in a **savings of approximately \$61,400.00.** There will be **no additional cost for maintenance.** ████████ **Maintenance Department will take care of any routine maintenance and or repairs.**

Your approval of this used equipment purchase as soon as possible is requested as following procedures set forth in the Procurement Code would result in the **loss of the opportunity to obtain the equipment at this price.**

Your favorable response is appreciated.





Example of a Used Equipment letter missing required information:

Ms. Director
Office of State Procurement
P.O. Box 94095
Baton Rouge, Louisiana 70804

What's Missing from this Letter?

Dear Ms. Director:

In accordance with the provisions of La. R.S. 39:1600, other Procurement Methods, this is to request approval to purchase one (1) used Case IH Maxxum 125 Tractor. This tractor will replace the existing older tractor at the agency. The maintenance after the warranty period expires will be conducted by the agencies tractor repair shop.

Your approval of this used equipment purchase as soon as possible would be appreciated.





Office of State Procurement

Reginald Dumas, State Procurement Supervisor

Reginald.dumas@la.gov 225-342-5504

Shawn Hoover, State Procurement Supervisor

Shawn.hoover@la.gov 225-342-8011

OSP Phone Number: 225-342-8010

Purchasing Helpdesk: DOA-OSPhelpdesk@la.gov

