

GUIDANCE FOR WRITING PROPRIETARY JUSTIFICATIONS

Identify the criteria fitting the product or service you need. Write a justification memo with the guidance provided below. Be specific and thorough in the memo.

One-of-a-kind -The product has no competitive product and is available from only one supplier. Includes proprietary products, patented products, and prototypes. The item is a one-of-a-kind product which has essential unique design/performance feature providing superior utility not obtainable from similar products. The existence of limited rights in data, patent rights, copyrights, or secret processes; the control of basic raw material; or similar circumstances make the supplies or services available from only one source.

- Example: A Pharmaceutical drug, which is under a multiple year patent and is only sold directly by the manufacturer.
- Example: A one-of-a-kind oscilloscope that is available from only one source.
- Example: A supplier that possesses exclusive and/or predominant capabilities.

Used goods - Items needed by the University which become immediately available and are subject to prior sale.

Compatibility- The product must match an existing brand of equipment for compatibility and is available from only one supplier. Products that are an integral repair part or accessory compatible with existing equipment, products that although not an integral repair part or accessory, must be compatible with existing equipment, systems or a substantial parts inventory and compatibility is the overriding consideration.

- Example: Furniture required for the expansion of an existing workstation.
- Example: Educational supplies. Single source educational supplies, such as prepared film slides, instructional multimedia products, prepared motion picture film and printed test forms.
- Example: Holding an extra inventory of parts for a different machine would not be cost, space, or time effective.

Products which match existing equipment - A product which must be identical to an existing product to ensure consistency in results.

Item standardization - requirements have been standardized.
Equipment that include a part(s), which must meet a set specification.

- Justification Example:
Acme is the manufacturer of the university-owned test equipment. The additional switching, which must be compatible with existing equipment, is an essential enhancement in order to *[describe function]*. Only Acme sells the switching.

Replacement Part - The product is a replacement part for a specific brand of existing equipment and is available from only one supplier.

Components or replacement parts for which there is no commercially available substitute.

- Example: Repair parts that are proprietary.
- Example: Components of a major assembly.

Justification example:

Acme is the only manufacturer which has all the required firmware and schematics necessary to manufacture the part compatible with existing University-owned equipment, only Acme sells the part. The specifications necessary to manufacture the part are proprietary to Acme which is the original manufacturer of the [equipment]. [name of contact person] Acme certifies that the specifications are proprietary.

Warranty required service and/or parts.

- Example: Under the terms of a warranty, the original equipment manufacturer requires use of the specified service personnel and genuine or original equipment manufacturer's parts.

Justification Example:

The requested widgets are replacement parts for the Acme model [xx] [equipment]. Only Acme manufacturers/sells these parts for use in their [equipment]. *[describes why the parts are unique and discuss market survey to obtain equivalent parts from other manufacturers]*.

Delivery Date - Only one supplier can meet necessary delivery requirements.

- Delivery by a specific date is essential for the completion of a task or project.
[explain]
- Delays would cause an extreme increase in cost or detriment to the university.
[explain]

Project or Research Continuity - The product must comply with established standards and is available from only one supplier. Changing brands or manufacturers would compromise the continuity of the project.

- A product, equipment, part service or supplier that, due to technically constraining factors associated with a project or research, are needed to ensure the fairness and validity of the underlying project or research.
- The requested product is being used in ongoing experiments and use of another product could cast doubt on research results.
- Other investigators have used a specific product in similar research and, for comparability of results, the same product is essential.
- Products for instructional use. 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.

Unique Design - The product must meet physical design or quality requirements or demonstrated a unique capability to provide a particular function and it is available from only one supplier.

- Products that have specific features essential for the completion of a task or project.
- Products with physical design characteristics, which satisfy aesthetics requirements.
- Products where its practical to match existing equipment, e.g. office or school furniture.

Unique and innovative concept - A service that demonstrates a unique and innovative concept or, demonstrates a unique capability of the source to provide the particular services requested or proposed. In this context, the term does not mean that the source has a sole capability for performing the service.

In the approach that is unique. A service is considered unique and innovative when:

- It is the product of original thinking submitted by a single source.
- Contains new, novel, or changed, concepts, approaches, or methods
- Was not submitted previously by another; and
- Is not otherwise available within the university or state government.

Requirement by funding source - a product that is specifically and clearly required by a lender, grantor (such as the Federal government) or other provider of funds where the usage of those funds is specifically, explicitly and clearly restricted by the lender, guarantor or other provider.

Justification example:

WSU is the recipient of a grant from [Federal Government agency]. The grant requires that [equipment] *[describe make and model of equipment]* be used in the performance for the grant contract, the [equipment] is manufactured and sold only by Acme *{see One-of-a-kind}*

Legal monopoly - Circumstances may dictate that only one supplier can furnish the service such as utility services.

- Examples: electricity, water or sewage.

Authorized service provider - A specific service provider is required by previous contract.

- The contract for a product requires return of a defective product via a freight company specified by the contractor.
- A specific service provider is required by warranty.
- Example: Under the terms of a warranty, the original equipment manufacturer requires use of specified service personnel

Justification Examples

- The university - owned equipment at [location] is under a [duration] warranty with Acme, the original equipment manufacturer.
- Under the terms of that warranty, only Acme service personnel may repair the widget with genuine Acme parts.
- All service on Acme equipment in western Washington is performed by Acme, acting through its only authorized service technician [explain].