

## ABS SOURCE SELECTION & PRICE REASONABLENESS (SSPR)

**Who should complete this Form?** The responsible requesting party in the department should complete this form to substantiate the appropriateness of the source selection and price reasonableness. This Form is subject to verification by the delegated manager. Several key requirements like source selection, competition, price reasonableness, use of small businesses, and conflicts of interest must be addressed appropriately.

**Why is this Form needed?** Federal, State and/or ABS regulations require orders to be documented for audit purposes. Requisitions/PO's are the system of record for campus procurement and the supporting documentation must be attached for compliance and audit preparedness. Providing the information in advance helps streamline the procurement process.

**What requirements must be met?** If the goods and/or services are Federally-funded, the applicable Federal requirements must be followed. Non-Federally-funded goods and services  $\geq$  \$100,000 must be purchased in compliance with the California Public Contract Code (PCC). (Per Uniform Guidance: "The non-Federal entity must use its own documented procurement procedures which reflect applicable State, local, and tribal laws and regulations, provided that the procurements conform to applicable Federal law and standards.") Mixed funds (both Federal and non-Federal) are subject to Federal and State requirements. The more restrictive requirement (either State or Federal) will apply.

**Section A** below outlines instructions for completing the SSPR Form; **Section B** includes definitions of terms and requirements for the form; and **Section C** contains links to policies, regulations and resources.

### A. COMPLETING THE FORM

Basic instructions for completing the form with simple explanations and references for requirements.

Terms used in each category are defined in more depth in Section B – DEFINITIONS, and are listed in the order in which they appear on the form, not alphabetically.

#### I. **SOURCE SELECTION** – This section must be completed for every form.

Refers to the process of selecting the most qualified supplier to contract with from one of three options: formal public bid, competitive proposal (informal quotes), or exempt from bidding. **Exempt from competition may include: sole source, professional or personal services due to their unique nature.**

The lists are grouped based on funding source because compliance requirements are different for Federal funds and non-Federal funds.

What type of funds are being used for this transaction?

- If Federal funds only, mark the box in the "Federal Funds" column that best describes how the supplier was selected.
- If non-Federal funds only, mark the box in the "Non-Federal Funds" column that best describes how the supplier was selected.
- If both Federal funds and Non-Federal funds, mark the box in the "Federal Funds" column that best describes how the supplier was selected. **(Mixed funds must follow Federal guidelines.)**

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Please note that later in this form you will need to provide supporting documentation of your selection in this section.

### II. **COMPETITIVE PROPOSAL** – Complete this section only if “Federal Funds: Competitive Proposals < \$100K” is checked in Section I.

- Due to federal requirement 2 CFR § 200.320(b), Competitive Proposals in the form of price or rate quotations from three (3) qualified sources is required. Please list them in the spaces provided and attach copies of those proposals to this form.
- If you are selecting the lowest-priced supplier, skip Sections IV-VI. If selecting a higher-priced supplier, please state your justification in Section III.

### III. **PRICE REASONABLENESS** – Complete this section if any of the following are checked in Section I: “Sole Source”, “Small Business”, “Professional/Personal Services.”

This section is required by the California Public Contract Code and FAR provision Subpart 15.4.

**1)** Required if Section III is applicable to your transaction. (Please refer to the Reasonable Price definition in Section B.)

**2)** Required **only** if you checked “Sole Source” and your transaction is funded by a Federal grant or cooperative agreement and your transaction total is equal to or exceeds \$250,000. The specific federal requirement is stated in 2 CFR § 200.323 and requires that the Supplier’s profit be listed as a line item to be discussed with Supplier and documented – email communication is acceptable. You may use a ‘Supplier Profit’ form to document Supplier profit. Please attach it to this form.

**3)** Required **only** if you checked “Sole Source” and your transaction is funded by a Federal contract and your transaction total is equal to or exceeds \$750,000. The specific Federal requirement is stated in FAR subsection 15.403-4 and requires that Suppliers submit certified cost or pricing data. If this item is applicable to your transaction, check the box, and complete a ‘Certified Cost Pricing Data’ form (posted, and attach it to this form.

### IV. **SOLE SOURCE** – Complete this section only if “Sole Source” is checked in Section I.

It is important to provide details regarding the unique circumstances and/or specifications that make this the **only supplier** capable of meeting your requirement and why other suppliers were not selected.

- If Federal Funds only, mark the box in the “Federal Funds” column that best describes how the supplier was selected.
- If Non-Federal Funds only, mark the box in the “Non-Federal Funds” column that best describes how the supplier was selected.
- If both Federal Funds and Non-Federal Funds, mark the box in the “Federal Funds” column that best describes how the supplier was selected. (Mixed funds must follow Federal guidelines.)

**Sole Source for Federal Funds:** Transactions exempt from competitive bidding...

One-of-a-kind:

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- Must possess specific features essential for completion of task or project; available from only one source in the world.
- Change of brands/manufacturers would compromise project continuity or integrity.
- Proprietary item for compatibility with existing equipment or systems, and available only from original manufacturer.

### Emergency:

- Poor planning is NOT an emergency; for Federal funds, it must be public exigency.
- Emergencies are allowable but only in rare circumstances.

### Awarding Agency Approval:

- **Required:** email or other written communication directly from awarding agency, specifically allowing ABS not to source the equipment services.
- Simply including budget line for exact model/supplier of equipment does not satisfy this option.

### No Competition: (only for Federal Grants and Cooperative Agreements)

- After soliciting multiple sources, competition is determined to be inadequate.
- No responses received or suppliers stating they cannot meet specifications.
- Efforts to solicit must be proven by including documentation with requisition.

### **Sole Source for Non-Federal Funds:** Transactions exempt from competitive bidding...

#### One-of-a-Kind:

- Possessing specific features essential for completion of task or project; available from only one source in the world.

#### Match Existing:

- Proprietary item compatible with existing equipment or systems and available only from original manufacturer.
- Change of brands/manufacturers would compromise continuity and integrity of project.

NOTE: The transactions below are exempt from competitive bidding, but the California Public Contract Code (PCC) does not classify them as Sole Source.

- Professional/Personal Services (for more information, see Section V below)
- Unusual and Compelling Urgency (for more information, see Section VI below)

Due to compliance requirements, the following **cannot** be justifications for a Sole Source selection:

- Pre-work with the selected supplier to customize equipment, thereby excluding competition
- Price and brand names are not allowable justifications
- Historical precedence or a claim of best price. Only current competitive bidding in the open market substantiates best possible pricing.
- If your transaction is Federally funded, geographical preference is not an allowable justification.

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**V. PROFESSIONAL OR PERSONAL SERVICES** – Complete this section only for transactions that are **not** Federally-funded, and if you selected “Professional/Personal Services” in Section I.

- Please refer to definitions in Section B.
- If your transaction does not fit one of those definitions, you **cannot** select “Professional/Personal Services” in Section I.

**VI. UNUSUAL AND COMPELLING URGENCY** – Complete this section only for transactions that are **not** Federally-funded, and if you selected “Unusual and Compelling Urgency” in Section I.

- Provide specific details on how failure to act immediately on this purchase might result in significant bodily harm, significant property loss or damage, violations of law or ABS policies, or cause significant liability to the University or members of the University community.
- Poor planning does NOT constitute an emergency!

**VII. EQUIPMENT SOURCE SELECTION** – Required for all equipment purchases.

- If purchase is prior to 90-day expiration, no documentation is necessary.
- If purchase is outside the 90-day expiration window, please attach documentation of exception approval.

**VIII. CONFLICT OF INTEREST STATEMENT** – This section must be completed for every form.

- Refer to Section B – “Conflict of Interest” definitions for details of the types of conflict of interest that are prohibited.
- This certification is very important and must be addressed on every form.

**IX. REPRESENTATION** – This section must be completed for every form.

- This form must be signed by the Responsible Requesting Party in the campus department that is authorized to accept responsibility for the information provided in this form as well as funds used for this transaction.
- The Responsible Requesting Party is the Department End User who has received budgeted/awarded funds to support procurement of goods and/or services.
- Please make sure you provide all of the information requested in this section so questions regarding this form may be directed appropriately.

### B. DEFINITIONS

Please refer to the following definitions for guidance in completing this form. NOTE: Terms are listed in the order in which they are used on the form, not alphabetically.

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**Source Selection:** Must be completed for every form. Refers to the process of selecting the most qualified proposal to contract with from one of three options: formal competitive bid, competitive proposal (informal quotes), or exempt from bid. Exempt from competition may include: sole source, professional, or personal services of a highly unique nature.

**Federal Funds:** The Federal government awards funds to principal investigators within UC for certain projects/purchases as indicated below. Such funds are governed by:

- *Uniform Guidance (UG)* - Governs transactions that are funded by a federal grant or cooperative agreement. Refer to [e-CFR 200.317 to 200.326](#) for details.
- *Federal Acquisition Regulations (FAR)* - Governs transactions that are funded by a federal contract. Refer to <https://www.acquisition.gov/browsefar> for details.

**Non-Federal Funds:** Funds awarded by the state, private institutions, or other entities to departments for certain projects/purchases.

**Formal Competitive Bid:** Must be obtained by a buyer with the delegated authority when the value is equal to or greater than \$100,000 for common goods and services.

**Competitive Proposals:** Informal quotes that are obtained by campus departments for Federally-funded purchases of less than \$100,000. Not allowable for non-Federally-funded purchases.

**Reasonable Price:** Back up your entries with listings, price histories, or other data – back up is key. An auditor should not have to question anything.

- Need not be the lowest price available but is one which offers the highest total value to the University.
- A price that does not exceed what would be incurred by a prudent person in the conduct of a competitive business.
- Can be established by market test, price or cost analysis, or the experience and judgment of the Procurement/Supply Chain Manager. Such judgment considers total value to the University.
- For transactions above \$100,000, reasonable price is established through formal competitive bid unless they are exempt from bid, in which case, a reasonable price is established via an adequate market test, set by applicable law or regulation, or supported by an appropriate price or cost analysis.
- The following are examples of how to substantiate Price Reasonableness, together with a discount (discount alone is not justifiable), in order of preference:
  1. Price competition - comparison of quotes
  2. ABS, State, or GSA contract pricing, or comparison with prices under existing contracts

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3. Prior price history with same vendor, same items (include Gateway PO number and \$ amount)
4. Comparison with current, or recent prices for a similar item(s) with another vendor
5. Market research, catalog or established price list (sales to general public - screen shot ok)

**Sole Source Goods/Services:** The **only** ones that will meet the University's needs because they are:

- Unique (characteristics and functions are such that only the particular goods or services will properly satisfy the University's needs and all other goods or services will be unacceptable for such needs);
- Available only from only one source
- Designed to match others used in or furnished to a particular installation, facility or location (inapplicable to Federally-funded purchases)

1. **Professional Services:** Highly specialized functions, typically of a technical nature, performed by a supplier that, with respect to the services to be rendered, most commonly:

- a. has a professional license;
- b. is licensed by a regulatory body; and/or
- c. is able to obtain professional errors and omissions insurance.

- Are of a nature that ABS would consider the supplier's experience, qualifications and skills to be more important than comparative cost when selecting a supplier.
- Examples of professional services include medicine and related medical services, and legal, accounting, architectural, and engineering services.

2. **Personal Services:** Technical or unique functions performed by a supplier that is distinctly qualified to render the services.

- Are of a nature that the University would consider the supplier's experience, qualifications and skills to be more important than comparative cost when selecting a supplier.
- Examples of personal services include specialized translation services, specialized technical editing, technical appraisals, transaction valuation, specialized coaching, interior decorating, and contracts with musicians, artists and others in the performing arts.

3. **Small or Diverse Business:** Organizations that are independently owned and operated, not dominant in their field of operation, with principal offices located in California, whose owners are domiciled in California, and:

- a. have either 100 or fewer employees
- b. \$14,000,000 or less in gross receipts
- c. a manufacturer with 100 or fewer employees, or
- d. a micro-business (a Small Business with less than \$3,500,000 in gross receipts).

- General rule of thumb: a business with not more than 500 employees.

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- Size standards by North American Industry Classification System (NAICS) is found in FAR Section 19.102.
- The Supplier must be registered as a Small or Diverse Business
- ABS may rely on written representation by the Supplier regarding its status.

**Conflict of Interest:** This section **must** be completed for every form. Conflict of Interest requirements from State, Federal and ABS Policy are outlined below.

2 CFR §§ 200.112 and 200.318(c)(1):

- The University is obligated to disclose any potential conflict of interest involving its employees, officers, or agents, any member of his/her immediate family or his/her partner.

ABS Policy:

- An employee's ABS and private interests must be separate
- ABS must avoid the appearance of favoritism in awarding contracts
- ABS cannot enter into a contract to acquire goods or services if an Employee-Vendor relationship (including near relatives\*) exists, unless the goods or services are not available commercially, as determined by your campus Procurement department.

\*Near Relative: The spouse, child, parent, brother, sister, son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law of an ABS employee, and step-relatives in the same relationship. *Near relative* also includes the domestic partner of an ABS employee and a relative of the domestic partner in one of the foregoing relationships.

The Political Reform Act:

- ABS employees are not able to participate in the making of a decision if they have a financial interest in the outcome of the decision.
- By definition, an employee has a financial interest in the contracts of his/her spouse or registered domestic partner.
- Additional factors requiring an employee to disqualify him/herself from participating in a decision-making process include investments, gifts, loans, or other financial ties to suppliers.

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### C. REFERENCES

1. California Public Contract Code (PCC):  
[http://leginfo.legislature.ca.gov/faces/codes\\_displayexpandedbranch.xhtml?tocCode=PCC&division=2.&title=&part=2.&chapter=2.1.&article=](http://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=PCC&division=2.&title=&part=2.&chapter=2.1.&article=)
2. FAR: <https://www.acquisition.gov/browsefar>
4. UG: [e-CFR 200.317 to 200.326](#)
5. Office of Federal Financial Management Memorandum – updated bid thresholds for Higher Education Institutions: <https://www.whitehouse.gov/wp-content/uploads/2018/06/M-18-18.pdf>