PROPRIETARY AND BEST VALUE PURCHASES
(Exclusive Acquisition Justification (EAJ) Required)

*Best Value Procurement (Policy 17.1)*
*Proprietary Purchases (Policy 17.15)*

An Exclusive Acquisition Justification (EAJ) is required when a purchase is made from the only known supplier that meets your “definition of scope” or the single supplier that meets the best value criteria set out in *Texas Education Code 51.9335(b)*. When a proprietary or best value purchase is made, the EAJ form must be completed by the end user, signed by the department head, and reviewed and signed by the purchaser and the Director of Procurement.

It is the purchaser’s responsibility to research the information provided and/or the market, if necessary, to ensure the accuracy of the information provided on the EAJ. When reviewing the EAJ form the purchaser must identify the proprietary or best value nature of the purchaser.

The EAJ form is on the procurement website and the SFA Business Forms and must be completed by the department. When reviewing the EAJ the purchaser may need to request additional information for clarification. Generally the information on the EAJ form should provide information answering the following questions:

- What is proprietary about the product or service?
- Why are other products/services not satisfactory and only this one will work?
- What is it that this vendor or product provides that no other vendor or product can offer?
- What is the best value reasoning supported by *Texas Education Code 51.9335(b)*?

**Proprietary purchases** are typically related to OEM or unique specifications. There may be some other proprietary nature of the purchase which the department’s comments should support. The purchaser may make additional notes in the Comments section of the form.

**Best Value purchases** are typically related to compatibility with existing equipment, continuity of service/research, contractor/grantor requirements, or training requirements. There may be some other best value reason for the purchase which the department’s comments should support. The purchaser may make additional notes in the Comments section of the form.

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<th>NOTE:</th>
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<td>1. A proprietary product may be available from more than one source and is subject to best value procurement rules. When purchasing a proprietary product, the purchaser should review the manufacturer’s website to assist in identifying potential vendors to be solicited as the manufacturer may have a limited number of distributors.</td>
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<td>2. Do not confuse proprietary source with a direct publication which is an allowed Exempt Purchase.</td>
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**EMERGENCY PURCHASES**
(Exclusive Acquisition Justification (EAJ) Required)

*Best Value Procurement (Policy 17.1)*

An Exclusive Acquisition Justification (EAJ) is required when a purchase is made without following best value procurement practices due to an emergency situation. When an emergency purchase is made, the EAJ form must be completed by the end user, signed by the department head, and reviewed and signed by the purchaser and the Director of Procurement.

Revision: 08/01/2019
It is the purchaser’s responsibility to confirm that the information provided on the EAJ is accurate and meets the requirements for an emergency purchase. When reviewing the EAJ form the purchaser must identify the purchase as an emergency and may provide additional comments if needed.

The EAJ form is on the procurement website and the SFA Business Forms and must be completed by the department. When reviewing the EAJ the purchaser may need to request additional information for clarification. An emergency is defined as a situation requiring that a purchase be made more quickly to prevent a hazard to life, health, safety, welfare, or property or to avoid undue additional cost to the university. Generally the information on the EAJ form should provide information answering the following questions:

- What is the emergency?
- What caused the emergency?
- What are the risks to the university if the purchase is not made?

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<td>1. When an emergency situation exists based on the above definition, a purchase can be completed for any dollar amount, as the emergency situation supersedes all other procurement rules. However, when possible, the purchaser should attempt to follow the most appropriate procurement method; i.e., issue a solicitation via email or fax, post on ESBD, etc., when time exist and value can be added.</td>
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<td>2. Emergency purchases valued $500,000 or more should be brought to the attention of the Director so that board approval can be discussed with the Vice President of Finance Administration.</td>
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